

AUDIO_BEACON FEN_ CAH1_SESSION 1_11.11.25

Thu, Nov 13, 2025 10:19AM • 1:38:06

00:05

Right. Good morning everyone. It is now 10am and it's time for this hearing to begin. I would like to welcome you all to the composed requisition hearing for the beacon fan energy Park project. Can I just confirm that everyone can hear me clearly? I

00:24

And can I also confirm with production 78 that live streaming or recording of this event has commenced? Yes. Thank you very much

00:32

for those people watching the live stream. Can I also advise that, should we at any point adjourn proceedings this morning, will have to stop the live stream in order to give us clear recording files as a result, at the point at which we recommend the meeting and restart live stream, you'll need to refresh your browser page to view the restarted stream. I will remind you of this again. Should we need to adjourn? My name is Andre Pinto and I have been appointed by Secretary of State for housing, communities and local government as a single examining inspector to examine this application. You will hear you also hear me being referred to as the examining authority. I will be reporting to the Secretary of State for energy security and net zero with a recommendation as to whether development cassette order should be made. I'll now deal with a few housekeeping matters for those attending in person. So can everyone set all devices and phones to Silent please?

01:27

I would also like to point out that the nearest facilities are actually outside of this room and to the right, and there are no fire equation tests planned for today. Should the fire alarm sound. Please make your way to the nearest fire exit door using the fire doors marked in this room, and head downstairs. The fire evacuation assembly point is to the front of the building in the car park.

01:53

Today is a hybrid event, meaning that some of you are present with us at the hearing venue, and some of you are joining us virtually, using Microsoft Teams for those people observing and participating through teams. Can you please make sure that you stay muted unless you are speaking, if you are participating virtually and you wish to speak at the relevant point proceedings, please use your hand up function. Please be patient, as we may not get to you immediately, but I will invite you to speak at the appropriate time. I will also make sure that however you decide to attend today, you'll be given a fair opportunity to participate. Are there any questions on what I have just set out?

02:34

I can't see any hands raised in the room or online, so I assume that there are no questions

02:41

in addition to the live stream, a recording of today's hearing will be made available on the back and fan energy Park section of the national infrastructure planning website. As soon as practicable after the hearing has finished. With this in mind, please ensure that you speak clearly into a microphone, stating your name and who you are representing each time before you speak. If you are not at the table with a microphone, there is a roving microphone, so please wait for one of those to be brought to you before you speak.

03:10

If you are attending virtually and you don't want your image to be recorded, you can switch off your camera. For those in the room who don't want to be recorded, please stay behind the cameras and away from the camera and recording line.

03:27

A link to the planning inspectorates. Privacy notice was provided in notification for this hearing. I assume that everybody here today has familiarized themselves with this document, which establishes how the personal data of our customers is handled in accordance with principles set in data protection laws.

03:47

Please speak to Noel magom If you have any questions about this. This meeting will follow the agenda which was published on the beacon for energy part information page of the planning inspectors website on the third of November 2025

04:00

A it would be helpful if you had a copy of this in front of you. And I'm going to ask if anyone does not have access to this agenda online or in the room, raise your hands please.

04:17

I don't see any hands raised online or in the room, so I assume that everyone has access to that agenda. So item one is welcome introductions and arrangements for the composer acquisition hearing. Item two will outline the purpose of the composer acquisition hearing. Item three will cover the applicant's case for composer acquisition to prior possession.

04:38

Item four will cover site specific issues for the applicant. Item five will cover site specific representations by affected parties. Item six will be site specific issues for states or undertakers. Item seven will be a review of issues and actions arising. Item eight any other business. And item nine will be the closure of the hearing. Are there any questions on the.

05:00

Agenda before we move on.

05:05

If you have any questions to those following online, please raise your hand. I

05:12

can't see any hands raised, so I assume that no one has any questions. So I will move us on to introductions then.

05:21

So I'm going to ask those of you today who are participating in the meeting to introduce yourselves. When I state your organization as name, could you introduce yourself, stating your name, who you are representing in which agenda item you wish to speak on. If you're not representing an organization, please confirm your name, summarize your interest in the application and confirm the agenda item upon you which to speak. And could I also please ask everybody to confirm how they wish to be addressed? ie Mr. Mrs. Miss or miss. And can I start with the applicant? Then, please

05:58

Good morning, sir. My name is Ian Mark. I'm the solicitor from Herbert Smith, three hills, Kramer LLP, appearing on behalf of the applicant today. So I'll introduce the people to my right and left, in the interest of speed for you. So to my right is Mr. James Hartley bond, who's the project development director on behalf of the applicant. To my left is Leon Kuller, who's also a solicitor from Herbert Smith, three hills, Kramer LLP, and to his left is Mr. James Davi, who's a senior surveyor from ardent the land agents for the scheme. So I think it'll primarily be myself, Leon and James, who will be speaking today to the various agenda items as appropriate. And Mr. Is fine on behalf of all three of us, if there are any other members of the applicant team who we draw upon to give evidence, I'll ask them to introduce themselves at that point.

06:46

Thank you.

06:50

Thank you. Mr. Mac sorry. Could I just ask you to introduce again the gentleman standing to your left, please? Sure that's Mr. Leon kulo,

07:02

also a solicitor from HSF, Kramer, and the gentleman like the next Mr. To Mr. Collot, please, Mr. James Davy,

07:11

who's from ardent who are the land agents for the scheme.

07:19

Thank you very much. That's very helpful. Thank you.

07:26

Okay, in that case, then I will, then now ask interested parties to introduce themselves. So I believe we have a representative from Icj Mountain farms limited I think Mr. Mountain,

07:47

yes, that's right. My name is Matthew mountain, representing Icj Mountain farms. I'd like to speak at section three, the applicant's case for compulsory acquisition and temporary possession.

08:07

And Mr. Mountain, am I right in assuming that, as per your request, which I think you have submitted to us earlier, that due to time differences in your location, you would like to speak earlier in the agenda, if that's at all possible, as soon as possible, is that the case still

08:25

it is the case. Yes, okay. Thank you very much. And you mentioned that you wanted to speak in item three, correct?

08:32

That's right, yes, okay,

08:37

that's fine. I would probably guess from your representation to us as well, that you'd have an interest in item three and item five. But considering your request and time difference, I'll probably take those items together as they concern you. Mr. Mountain, if I have no objections from the applicant, okay, I have confirmation that the applicant does not have an objection that. So I'll take those two items from you, Mr. Mountain, if that's all right, then,

09:06

thank you. Yeah, thank you. And I believe that we also have a representative from Vic, which drove energy center limited. I believe Mr. Ewing's

09:18

Good morning. Yes, Mr. Thomas Ewing's here. I'm a solicitor at Ashfords LLP, and representing bickridge drove energy center limited, and I'd like to speak to item five. Please. Item five.

09:35

Okay. Thank you very much for that.

09:38

In addition to the people that I have called so that would be all of the people representing the applicant, and actually the two interested parties and aps that I have mentioned. I don't have anyone else

registered to speak today. Can I just check if there is anyone else that would like to speak today that is in the room with us?

09:57

No, there's no one else. And can I ask if there is anyone.

10:00

Online that would like to speak at this hearing.

10:05

Raise your hand please. If you

10:09

do, I don't see any hands raised, so I assume that we only have the requests and people that I have called now. So I propose that I move us on then

10:21

to the next item.

10:29

So next item is item two. Purpose of the hearing. So let me briefly explain the purpose of this, compulsory acquisition hearing.

10:39

The compulsory acquisition hearing is the application for proposed development includes a request for an order granting development consent to authorize compulsory requisition of land, or compulsory requisition of an interest in or right over land. This hearing is to enable the examining authority to hear and probe the applicant's strategic case in respect of the application. In addition the examining authority, we also hear individual objections from affected persons who are interested parties with a legal interest in the land or rights over land which the applicant is seeking, powers of compulsory requisition and or temporary possession.

11:16

This hearing will help me to consider whether relevant legal and policy tests applicable, as set out in the detailed agenda to compulsory requisition and temporary possession. Proposals have been met.

11:28

I will also hear from any affected, showing the takers and any concerns that they might have in relation to those topics. Is that clear to everyone in the room and everyone online. If it's not clear, please raise your hands.

11:45

I don't see any hands raised, so I assume that it is clear to everyone. So as previously, as previously mentioned, the agenda for this meeting was published in advance of this hearing on the beacon fencil

Project Information page of the planning Inspectorate website. Today's hearing will be a structured discussion led by the examining authority.

12:06

Excuse me,

12:08

please be assured that I am familiar with what you have already submitted to us so you don't have to repeat in length anything that you have already put to us in writing. Submissions carry equal weight, regardless of the format in which they are put to us.

12:23

Due to the short amount of time between deadline three submissions and publication of today's hearing, the published agenda did not include submissions made at deadline three. However, all efforts have been made to review all relevant submissions before, submitted before submitted by this deadline, and I will add some of the deadline three documents to the items as I go through them. If that's acceptable to everyone.

12:51

Are there any comments on item two?

12:57

Any comment in the room or online? If there are raise your hands please.

13:05

I don't see any hands raised. So I will move us on to Item three, then the applicant's case for CA and TP. So in this item, I will want to discuss the applicant's case for compulsory acquisition in temporary possession, CA and TP, including how the relevant statutory and policy tests under the Planning Act, 2008

13:24

and development for communities, local government guidance related to ca would be met, identification of the powers sought in the purpose the applicant strategy and criteria for determining whether to seek powers for CA of land, CA of rights or TP of land, consideration A lot of alternatives to composed requisition and auto prepossession of land, including cabling route and human rights consideration, a key of key written submissions that will inform my questions has been included in the agenda published in anticipation of this hearing. As it is a long list, I do not propose going through it in detail now, but can I ask if anyone has any comments they would like to make on the list published in the agenda

14:05

in the room or online. If anyone has any comments, please raise your hands. I don't

14:12

see any hands raised, so I assume that no one has any comments to make on that list I would, however, like to add to the list that was circulated with the agenda, the latest version of statement of commonality that will be rep 3006,

14:29

or 0007007,

14:32

actually too many zeros there. Apologies. Lcj Mountain farms limited submission. That's rep 3015,

14:41

and the applicant's response to other parties. Deadline, two, submissions, that's rep 3016,

14:50

any questions on that? Or shall I start with questioning? If there are any questions, please raise your hands online or in the room.

14:58

Don't see any hands, right?

15:00

So I will kick off with my first question. So my first question is for the applicant. So

15:08

considering the relevant sections of the Planning Act which I went through in detailed in my agenda, can the applicant please start by explaining its strategy and criteria for determining whether to seek powers for the CA of land, CA of rights, or TP of land, and how that strategy was deployed in this project. Please. Thank you.

15:30

Thank you, sir, the applicant. So if it helps, I'll I'll aim to provide this brief general overview, and generally by reference to the matters you've highlighted in that agenda item, tend to principally do so by cross reference to the text within the documents that we've submitted, and not repeat large swathes of that text, but obviously just interrupt me as we go through and ask for any further information or clarification as we come to it, if helpful. Okay. Thank you. So. So the statement of reasons the latest version of which is version two, which is document reference as 013,

16:04

is the primary application document which sets out the applicant's compulsive acquisition case, including how we consider the relevant statutory and policy tests have been met, and particularly how we consider that the compelling case in the public interest for the applicant to be granted those powers is made out in protect in protect in particular, and by way of example, at paragraph one, point 5.1, the statement of the reasons the applicant states it requires the powers of compulsory acquisition to ensure that the proposed developments can be constructed, operated, maintained and eventually

decommissioned, so that the government's policies in relation To the timely delivery of new renewable energy generating capacity designated as a critical national priority. In this instance, in the overarching national policy statement for energy, which is NPS en one and achieving the UK's Net Zero targets are met, the applicant considers that in the absence of these powers being granted, there would remain a risk the order land would not be fully assembled, and that the proposed development would not be delivered, meaning the government policy objectives would not be achieved. The

17:07

statement of reasons should be read in conjunction with the book of reference, the latest version of which is document reference, rep two, Dash 008,

17:16

the land plans which are rep two, Dash 002,

17:21

the Crown's land plan, which is a PP 009

17:25

and the draft DCO, which is rep 2004,

17:29

which all interrelates and all also relate to the compulsory acquisition powers sought by the applicant and the need for the proposed development

17:37

in addition the detailed land and rights negotiation. Thracker, again, latest versions of which are rep two zero 11 and rep two zero 12, in their different formats, describe the progress of negotiations with landowners to seek, by voluntary agreements, the necessary rights to carry out the proposed development in parallel to seeking powers of acquisition in the order the

17:58

applicant had regards to the department for communities and local governments. So dclg, as they were then known, compulsive acquisition guidance in 2013 which outlines what applicants must demonstrate to be awarded the compulsive acquisition powers when they were preparing the statement of reasons, in particular in respect of the separate limbs identified in that guidance, the statement of reasons sets out in Section Five and six that the land is no more than reasonably required for the development in Section 6.1 and 9.5

18:28

that there's compelling evidence that the public benefits of the scheme outweigh private losses in Section 5.4

18:36

how all reasonable alternatives to compulsive acquisition have been considered in sections four, five and nine, that the interference with landowners rights is legitimate, necessary and proportionate. In sections three and four, that the applicant has a clear plan for how the land will be used through sections 5.5 and with reference to the funding statement, which is a P, P, dash, 043, that there was a reasonable prospect of funding being available. And finally, through section nine, that the acquisition is justified in terms of any potential interference with human rights. In particular, articles one six and eight of the European Convention on Human Rights as transposed into domestic law through the Human Rights Act 1998

19:20

regarding the identification of the powers and their purpose. Section 4.3, of the statement of reasons sets out the categories of land powers which the applicant is seeking in the draft DCO So just

19:32

as a point of administration. But please note the article referencing in the statement of reasons following our last update to the DCO, which introduced a new article, 12 means we're one out of sync. Now we'll correct that in the next update to the statement of reasons. But it means, when you look at that statement of reason sections, by comparison to the DCO, you kind of need to allow for one up each time. So by reference to the land plans and the DCO, these includes permanent acquisition of all interests in land, including three holes, which is asked.

20:00

23 that applies to the order land, which is shown edged red and shaded pink on the land plans

20:06

permanent acquisition or creation of new rights and imposition of restrictive covenants, which is article 27 the applicant's powers of compulsive acquisition are limited to the acquisition of existing rights and benefits of covenants and creation of new rights and imposition of covenants in respect of land specified in schedule eight of the draft DCO, which is shown edged red and shaded blue on the lands plans. And finally, temporary use of land, which is an article 32 that permits the applicant to take temporary possession of any part of the order land where it hasn't yet exercised powers of compulsory acquisition and to carry out the activities specified in that article, specified plots for any temporary possession are authorized as shown, edged red and shaded green on the land plans.

20:50

There were other ca related provisions in the DCO cerpl. I'm sure if we'll come on to those on the in the DCO hearing, but those are the principal powers that I think are most Thank you. Yes, I just wanted to for you to highlight the strategy now, Mr. Mountain, if you are with us online now that we have understood the applicant's general approach and strategy to CA and TP, can I invite you to participate now and

21:20

comment is you requested?

21:24

Yes. Thank you. Lcj Mountain farms. Lcjm supports delivery of the beacon fend project in principle, today, I'm not asking you to decide compensation. I'm asking you to test for our plots whether one, permanent compulsory acquisition rights are truly necessary and proportionate. And two, whether there are reasonable, less intrusive, intrusive alternatives in terms of both routing and the type of rights taken, our clear preference is a voluntary, least rights agreement that avoids recourse to compulsory powers in our land, I have three points and three corresponding requests to the panel point one of three. My first point is about consistency with the applicant's own evidence on fragmentation and the effects on the highest and best use of our land at issue specific hearing one

22:12

in Eb, 2006,

22:15

shows that at 36 minutes, 50 seconds, to 37 minutes, 40 seconds, the applicant described our land holding as non contiguous, and said developing fragmented land is difficult from 37 minutes, 59 seconds to 40 minutes, 34 seconds, their technical witness went further explaining that non continuous, non continuous sites require extra inter array cabling, can require additional substations, and that non continuity impacts viability, despite that, the cable corridor now proposed in the development consent order by selects our rectangular holding west, east and on its longest axis for about 3.2 kilometers, it creates exactly the kind of fragmentation the applicant themselves said was problematic for deliverability and viability on their own logic, this is not minor disturbance. It sterilizes the highest and best use within our operational corridor. Tell us the potential of the retained land to host lawful, higher value projects. There is clear evidence recorded at the time of that prejudice on this exact land on the 12th of May 2025, at 1048, IB void confirmed that we could, in their words, move swiftly to completion on a 400 megawatt, best collated co located with 49.9 megawatt of solar on the corridor land. Around six hours later, at 1653, IB voit withdrew. We understand the applicant was engaging with ib voits Around this time. We do not allege improper conduct, and we accept that particular commercial opportunity has now fallen away. However, the sequence shows two important things, first, that this land was capable of supporting a bankable highest and best use scheme.

24:00

And second, the uncertainty around the export corridor has already undermined that use the permanent corridor now sought would, over the life, over the Project Life, foreclose comparable opportunities on our holding. From a valuation perspective, that sequence evidences loss of bankability and opportunity, plus the sunk costs we incurred in reliance on a deliverable scheme. We hold records made at the time, emails, signed heads of terms, near final option and lease drafts and invoices showing that we have incurred over 20,000 pounds of professional fees developing that scheme in good faith on this exact land request, one to the extent you consider it relevant and within your remit, we respectfully invite the panel to ask the applicant to, one, confirm when and how they engage with IB VoIP between the ninth and 13th of May 2025

24:50

two, confirm whether that engagement concerned routing across lcj and land. Three, explain why permanent operational rights across our longest accessed are.

25:00

Still said to be necessary and proportionate on our land in light of the bankability impact evidenced by that sequence, this goes directly to your tests around necessity, proportionality and whether compulsory acquisition on our plots is genuinely a measure of last resort. Point two of three, my second point is that there is a credible, available, lawful alternative route across our holding, which we have already tabled and which has already underpinned a practical cable solution of our farm in November, 2021 when we offered 516, acres of solar and best land. And again, in August, 2025 when the beacon fence South fell away and we offered 618 acres of solar and best land, both offers were in extremely low residential density area on mainly grade three A and 3b land all within a very short distance of the point of connection. In each case, we proposed a shorter north, south edge of field cable alignment across our land. In summary, it a, shortens the trench length across our block B, on our understanding of the book of reference across the lcjm to bickerfen section, the applicants option one engages with a greater number of private landowners and on south edge of field route by engaging with the existing AGR three cable crossing concept, and then running down vicarage drove our route would consolidate the corridor onto fewer ownerships in that stretch, in broad terms, replacing five separate interests east of the South 40 foot and one to the west of the South 40 foot, which is my parents, with only two additional landowners further west of lcjm. On that understanding, there appears to be a net decrease of around four affected landowners across this section

26:44

see it reduces environmental interaction by avoiding around 1.2 kilometers of longitudinal occupation alongside local Wild's life site, 4722, it is also important that the panel is not misled by how free holders are counted. Lcjm holds around 1000 acres in a single land registry, title LL, 5575,

27:06

if for purely estate management reasons, we have divided that same land into five or six titles. Nothing on the ground would change, but a freehold account based on title numbers would make it appear that more parties are affected. We do not is fair or sensible for one farm business to bear a greater infrastructure burden simply because it has historically chosen to hold its land in a single coherent title under the applicant's current option. One on other land, the corridor enters lws, 4722,

27:34

the construction compound four sits within that lws and there is roughly 1.19 kilometers of heavy goods vehicle activity within the lws longitudinally along it. By contrast, our north, south edge of field route mirrors the geometry of the applicant's own option three. It runs north, south and then west, east, along little hell drove for about 2.4 kilometers and crosses local wildlife site. Lws, 4490,

28:01

the old 40 foot at right angles only with no longitudinal occupation. For context, lws 4489,

28:09

called mill drain lies exactly 274

28:12

meters to the south of the little hell drove section, and that is also on our farm. And lws 4520,

28:19

Willow farm drain lies exactly 177, meters to the north. Crucially, that edge of field capable concept is not hypothetical. On our land in 2021 as part of the AGR three solar and best project, we agreed a cable crossing carve out on our farm, which the applicant has seen that carve out already demonstrates in contractual form, how a cable can cross our holding on an edge of field, least rights basis, protecting future solar and best layouts while still delivering a connection. We presented that configuration to low carbon in 2021 as part of the 516

28:55

acre offer, and again in August 2023 when beacon Fen South fell away with our solar acreage neatly fitting the excess best headroom of 200 megawatts. It follows that a workable integrated cable solution on our land has already been designed and documented the applicant's choice not to follow that geometry is therefore a route to selection issue, not a constraint inherent to lcjm. There is also a cumulative corridor. Point. Lcjm already hosts the Viking link, interconnected through this part of the farm. We are not starting from a blank slate. Option one would impose a second long, east, west, high voltage corridor across the same rectangular block and even the same field on our farm, further fragmenting it and concentrating strategic infrastructure and compulsory rights on a single holding

29:45

our north, south edge of field. Alternative would one pull the new corridor off the center of our block and towards existing field boundaries to reduce the length of route running alongside lws, 4722,

29:58

and key drains and.

30:00

Three, moderate the cumulative burden of multiple major energy corridors across the same farm. In short, there is an alternative route that would

30:09

better respect environmental designations, reduce agricultural fragmentation and cumulative corridor impact on our holding and still delivers the project's objectives. Request. Two, we respectfully suggest that it would assist the panel if the applicant were asked to produce a brief like for like alternatives matrix comparing one the adopted cable route, option one and two, LC James, north, south, edge of field route as offered in 2021 and 2023 and reflected in the AGR three cable crossing carve out for each option, the matrix should also set out the number of separate private landowners engaged between LC, JM and the point of connection, so that the panel can clearly see whether our route increases or reduces the number of affected parties in this section. In doing so, we asked the applicant to set out clearly the basis on which they say our route affects 17 or 18 freeholders compared with 12,

and whether that count is by title number or distinct ownership. So that the panel can test whether the remains, whether that remains accurate in light of current agreements and the AGR three carve out, we suggest that matrix, that such a matrix could, in a single table, compare one total corridor length and total corridor length across private land. Two, percentage edge of field routing. Three, number of affected landowners from Icjn to the point of connection. Four, local wildlife site interaction length and area affected on our land and elsewhere across the scheme. Five, agricultural land classification, including best and most versatile land. Six, public rights of way. Seven, water course interactions, distinguishing right angle from longitudinal crossings. Eight, construction logistics and nine, the minimum evidenced operational width required over the project life. This would give you a clear proportionate basis to test whether the chosen route and the permanent rights sought over our plots truly represent the least harm, least right solution, as policy expects, particularly in light of the existing Viking link burden on our farm. Point three of three,

32:12

my third point concerns the type and width of rights proposed over our land and the potential for coexistence within any operational corridor we fully accept the need for temporary possession of sufficient width to construct the cable with soils and drainage reinstated to an agreed standard and crop loss, including any yield tail, compensated in the normal way. Our concern is with the permanent 12 meter operational easements sought across our plots. From a lease rights perspective, we question why the applicant needs a full 12 meter permanent corridor on our land once construction is complete, rather than a temporary possession to build the circuit followed by b, an operational right confined to the as built, cable alignment, plus the evidence safety standoff see exercised on reasonable notice for maintenance. D, time limited to the life of the project and E falling away on decommissioning, that approach would still allow the applicant to operate and maintain its infrastructure safely, but with significantly reduced unnecessary long term sterilization of our land, particularly given the existing Viking link infrastructure already constraining parts of our holding in parallel, we are grateful that the applicant has agreed to explore with Blake cloth grid consultants whether a parallel private wire duct could be installed within the corridor, subject, of course, to all necessary safety clearances, thermal ratings and manufacturer and transmission owner standards, if technically feasible, that kind of coexistence solution would preserve the ability to integrate future lawful uses, such as final demand or private wire connections within the same physical corridor consistent with the good design and least rights principles in en one and lan three, without compromising the export cables. Request three. We therefore ask the panel to one, invite the applicant to explain, plot by plot why permanent 12 meter operation, operational rights are sought on our land after construction, rather than temporary possession, plus a narrower, time limited operational strip based on the as built line and evidenced standoff and two, if the Blake cleft works confirms that a parallel, parallel, private wire duct can safely coexist to encourage easement wording and as built plans that expressly safeguard space for that duct within the permanent corridor that would ensure compulsory powers, if granted at all over our plots are no more than necessary and preserve reasonable future integration options.

34:34

Our unique position on heads of terms, we understand that as matter stands, Icjn, about 1/3 of the cable route to the point of connection is the only land interest on the project where heads up terms are labeled in discussion, but low carbon have marked our section as not expected to complete before the

close of the examination. That is not because of any reluctance on our part to engage. Over the last two years, we worked up and then lost a co located solar and.

35:00

Scheme on this corridor land incurring over 20,000 pounds in professional costs, we have put forward a reasonable alternative route and a leased rights operational structure, building on AGR three cable crossing carve out. And the applicant has had cited that since 2021,

35:15

we cannot speak for the commercial history of other affected landholdings. However, from the material in the examination, Icm is in a different position on the facts. Our holding is one, very close to the bigger bend point of connection. Two on extensive grade three A and 3b land and three in large coherent blocks that have already been taken by a mainstream developer to near completion for a 400 megawatt best co located. Co located with 49 megawatt of solar, with signed heads of terms, final near option and lease drafts and significant professional spend. We are not aware from the public examination record of any of the land holding on this project where the proposed cable corridor cuts to a site with that level, level of evidenced near bankable, highest and best use. The reason we remain unresolved is that the applicant still seeks permanent 12 meter rights, which, on our plots alone, would bisect and sterilize land that has already been shown capable of a materially higher bankable use, and would layer a second major power corridor over a farm already hosting biking link, rather than adopt the edge of field alignment and the narrower, time limited operational rights we have repeatedly offered. In other words, we are not trying to block this scheme. We are asking that on our land, it is delivered in a way that is proportionate least rights and consistent with the applicant's own evidence and national policy. Settlement status. In closing comments for the record, we remain committed to pursuing a voluntary leased rights agreement so that compulsory powers are not required over our plots, a counter form voluntary agreement has been drafted but not yet exchanged. It will follow this hearing and will be influenced by how the outstanding points are addressed. If it is accepted, there should be no need to exercise compulsory acquisition powers over our plots.

37:01

In summary. One, the current corridor unnecessarily fragments and sterilizes the highest and best use of our land, as supported by the applicant's own evidence on fragmentation. Two, there is a realistic alternative route already reflected in the AGR three cable crossing carve out, which reduces environmental, agricultural and cumulative corridor harm and three on our plots, the applicant has not yet justified by permanent 12 meter operational rights are needed rather than temporary possession and at narrower time limited operational rights, potentially with coexistence through a private wire duct. We therefore ask the panel to one test rigorous, rigorously the necessity and proportionality of the permanent rights sought over our plots. Two, seek the like for like alternatives matrix I have described. And three, encourage a leased rights coexistence, friendly structure for any operational rights over Icm land. Thank you.

37:59

Thank you, Mr. Mountain,

38:02

that is a very detailed exposition intervention that you have done for us today. Thank you very much for that.

38:10

As I'm sure that you understand, I think it would be much easier for all of us to actually address those items if you submitted in writing. So I would ask you to please submit it in writing for the next deadline, please, which will be deadline for on Friday, the 21st of November.

38:32

And before I ask the applicant to comment on some of the key points that you have just made today. Can I just confirm Mr. Mountain in terms of

38:48

of the fragmentation of the land that you have mentioned?

38:54

Are you? Are you? How does that link? Do you think it will lead to blight or any sort of significant economic impact for your enterprise, your agriculture enterprise, on that land. And if you do, do you have any sort of information besides the one that you have already submitted to us on, I believe, rep 2051, in rep 2052,

39:23

in rep three, zero 15.

39:26

To support that,

39:29

I have given the IB void episode because it evidences that this particular land can support a serious, bankable scheme, and that uncertainty around the export corridor has already undermined that use.

39:42

So I'm providing evidence. I already have evidence, and I'm presenting that

39:48

I understand that I am just I'm just wondering, if you have any evidence in terms of what will be the effect on the agricultural enterprise of option one?

40:00

One is the applicant is proposing, if you have any information

40:07

on the economic impact that that will have,

40:11

I submitted in my written representation one, deadline one and deadline two, photographic evidence of the same field that low carbon seek to come through, which Viking link came through. I also submitted an NVDI vegetation satellite imagery of the crop, of preview of subsequent crops on that cable corridor and how they were really badly affected. So I remember

40:37

Mr. Mountain. I reviewed that evidence, and I believe that the evidence is persuasive in terms of land being more prone to flooding and being water logged, which I think was what the pictures were demonstrating. So I have reviewed that information, and I am mindful of that. However, my question has got to do with terms of economic impact, and my question is very simple. It's just to do if you have done any calculations, or you have any idea of what the economic impact of option one would be on your land in terms of highest and best use. Or I think you're asking just in terms of agricultural

41:17

effect on an agricultural business. Exactly I am, I am asking in terms of the effect on your agricultural business, yes,

41:27

yes. Well, the flooding represents serious loss of income, because obviously that is poor soil structure. And I also submitted the pre construction and post construction soil reports, which were conducted by a PhD soil scientists, which showed that the topsoil was significantly worse after reinstatement of the same field that low carbons seek to occupy

41:48

and out of soil, poor soil structure. This put this very poor financial returns. I haven't actually got quantifiable data, qualitative data, but yes, you strongly believe and have the evidence to pick it up that will have a negative

42:06

impact on your enterprise. Thank you. Thank you very much. Mr. Mountain, right.

42:12

Could I start by asking the applicant if would like to make any general comments, and then there are some specific issues that I want to address as part of this representation, please. Thank you. So yeah, for the applicant. So that's, that's what we'll do. We'll, we'll, um, I'll try and give you sort of a general, general feel for, for the approach. And then my colleague, Mr. Cooler to my left will pick up on some of Mr. Mountains specific points. But as he knows it's and as Mr. Mountain knows, a lot of this is in his d3 submission, or will be in his d4 submission. So I think that we don't pick up, you can assume that we'll we'll do our best to address in in writing subsequently.

42:46

So so the the Africans primary strategy for securing the necessary land rights to deliver the proposed development has been to secure the land on a voluntary basis wherever possible. And the success of that is evidenced by the fact that voluntary agreements have been reached or terms agreed for the whole of the solar array area, 97% of the land area of the bespoke access corridor, and 60% of the land area for the cable Route corridor that can be seen visually on the voluntary negotiation status plan, which we submitted into the examination on Friday in anticipation of this hearing. And that's document reference as dash 030 and which my colleague, Mr. James Davey, I'm sure, will speak to in more detail at probably the next agenda item when we come to it, where

43:28

there remains a need for CA powers, the applicants considered what rights and interests are required to carry out the works planned in that area, and has limited the scope of the powers sought to temporary possession powers, or CA rights, where, where that is all that's necessary. Again, those are shown by the area shaded green for temporary possession, blue for CA of rights on the land plans. In broad terms, you can see that the blue is where we've got the bespoke access road in the cable recorder with the green for the temporary construction compounds, where the applicant is seeking full compulsory acquisition powers of land that's to ensure that it has adequate powers to secure the land required to deliver the proposed development, that includes over areas for which voluntary agreements have been concluded to ensure that the applicant maintains a route to delivery in the event that the freehold owners do not comply in terms of those options, for whatever agreements to grant the necessary leases and or where private rights need To be cleansed from the land, where these would otherwise hinder delivery.

44:25

In terms of the alternatives, we spent some time with this in the original highest age one hearing. So I don't want to be labor all of those points. But as a brief overview, the applicant's primary strategy was to secure the land on the voluntary basis wherever possible, thus avoiding the need to exercise the CA powers that fed into its initial site selection and refinement exercise, including for the cable Route corridor in respect of a solar array area, as noted in the site selection report, which was appendix two to the planning statement, which is a PP 277 it was one of the applicants print.

45:00

Principles of site selection, that the site would have willing landowners so that the land could be acquired voluntarily, avoiding the need for large scale compulsory acquisition. So that's reference. Paragraph two, point 1.3, of the site selection report. Section 4.4, of the site selection report notes, in respect of the potential alternative sites, how the number of land titles and discussions with relevant land owners informed that site selection process in respect of the cable Route Corridor appraisal, which is a PP 079,

45:30

that notes that the appraisal process sought to minimize the number of affected land interests as part of the considerations in selecting the final cable Route Corridor that's in paragraph two, point 1.4,

45:41

as explained in the summary of the options analysis from that document, which is from paragraph 4.3, point 42 onwards, where there was little distinction between the routes when considering other relevant factors. General preference for the shortest route was applied. Now, picking up on some of the points that were made, it's important to note that the cable Route corridor that dictates the the applicant's Red Line boundaries is larger than both the eventual working width for the construction of the cable route and the permanent easement once the cable route is installed, the corridor is, on average, circus, 75 meters wide, extending further in certain areas where additional constraints have been identified, the more flexibility is considered preferable, that flexibility is necessary to guarantee the deliverability of the cable route once further surveys post consent have been carried out, ensuring that any constraints identified can be avoided to the extent possible within that alignment. Once the alignment is ascertained, the working width during construction will be limited to 30 meters, and the eventual permanent easement will be up to 12 meters. Paragraphs two point 8.2, and six point 14.4, of the outline construction Environmental Management Plan, which is rep 2017, secure those widths. So picking up on the challenge around why the easement, the permanent easement needs to be 12 meters, I think that's something we're happy to provide further clarification on in writing afterwards, if that'll be helpful. But as a general summary, we don't consider that either the construction width for the 30 meters or the permanent 12 meters are outliers from an industry perspective. And we think they're, they're common across forms of development. But I appreciate that by itself, isn't a reason, and so we will, we will give some more evidence on that to both you and Mr. Mountain in response. And then finally, just on the bespoke access corridor for completeness as well that the same considerations underlie the appraisal of the routes for that as per paragraph two, point 1.5, at the bespoke access road appraisal, which is a PP zero is zero. Bespoke routes were considered, having regard to the availability of lands, as for the cable record of the bespoke access corridor ensures the necessary degree of flexibility within which to cite the eventual roads. And before I hand over to Mr. Killer just picking up on the assertions around IB voids. So I mean, for clarity, we did seek to have engagement with the developer in that scheme. They were listed as a potential interest within the book of reference upon applications. So as would be expected, we reached out to them to discuss any potential interface arrangements that might be necessary. As far as I understand it, the meeting was not taken up by that developer. We obviously don't know what decision they made or why, why that decision was made, that that's up to that developer, as they're entitled to do. So we won't be able to offer any further clarification information on that, other than to confirm that we sought to engage in good faith. Thank you very much. Mr. Mac I would like to I would like

48:28

to explore a little bit further in terms of one of the key points that you have mentioned in response to Mr. Mountains intervention, which is to do with the

48:40

applicant strategy, relying heavily on securing volunteer agreement for the CA of land. However, clearly Mr. Mountain has not agreed to the CA of land.

48:52

We are now on deadline four of this examination, and actually we have been receiving representations from Mr. Mountain

49:01

consistently. Saying that this is not going to be something, that

49:08

there is any sort of possibility at the moment of it being agreed on a voluntary basis.

49:15

And Mr. Mountain has actually submitted several times, evidence which I have reviewed and I found actually to be quite persuasive in terms of other options that might have less significant impacts on the land owners and less environmental impacts than the option that the applicant has considered,

49:41

therefore, I'm still not clear in terms of what the key reasons are for the applicant to keep option one, as you are proposing, because if one of the key reasons is the CA

49:56

of voluntary agreement for compulsory acquisition.

50:00

Yes, I don't think that that's a reason any longer that can justify the proposal of option one, because clearly I don't think that that is going to it's very unlikely that it will happen unless negotiations between yourselves and Mr. Mountain change significantly. So I think that we need to rely on other pieces of evidence in order to justify your proposal for option one, and having reviewed all of the evidence that Mr. Mountain has submitted, I do think there is a strong case here for us to look at the environmental impacts of both those options. So I'm not still 100% clear in terms of how we can actually justify that option one, particularly in the context of the CA of land.

50:48

Thank you, sir. I suppose before passing over to my colleague, Mr. CO you'll have seen that the responses that we provided to Mr. Madison in terms of their submissions, so we would hope that those would have been similarly persuasive. So if you are not yet persuaded, then hopefully the submissions we make today can address some of those concerns. I think it would help us after this evidence, if we could have a steer as to which limbs in particular you remain less convinced by, so that we can make sure that we supplement those properly. Because, well, if I understood your responses correctly up until this point, they rely very heavily on your overall strategy, which is to be expected of you getting voluntary agreement for the CA of land. However, it does seem to me, from the evidence presented so far into the examination that that's not a very likely outcome. Therefore, I do think that we need to explore the other routes for evidence and for justification of your options. With that in mind, I

51:46

I note that Mr. Mountain, in his previous submissions to the examination in action today's intervention has suggested a series of I believe he mentioned a matrix comparing the outcomes of options.

52:03

Obviously, I have instructed Mr. Mountain to please submit in writing his examination, and I think that maybe to assist in this project, in this point,

52:14

I would request the applicant to take away an action from today, which would be to review those suggestions submitted by Mr. Mountain in terms of the matrix, and provide me with an analysis of what the applicant thinks that they can do

52:30

alongside suggestion that Mr. Mountain board.

52:36

I will review that, and I will actually get back to the applicant as quickly as possible on that specific issue, so that in order to give the applicant more time to obviously do the work that will be to actually create the matrix, will that be acceptable?

52:52

Thank you, sir, yeah. I mean, we, we noted that request. And Mr. Mountains, well, previous submission, but most, most, most particularly mentioned in the deadline for resubmission. So we will consider what is what is possible. So you'll, you'll appreciate that there is, within the confines of the examination, potential challenges around quantitative assessment of some of these points, because it relies on particular data being available that might not be available. But we will certainly do what we can to allow you to have a meaningful consideration of this, and we'll let you know what is possible in return, if that's it, certainly Mr. Mac, I appreciate that. Hence why I'm suggesting that you review the submission. You come back to the xi with a list of the issues that you think can be comparable and can be included in that matrix, and then I will review that, and I will submit my answer, my my comments on that shortly after. So I do appreciate that it might not be feasible to do everything, but I would like us to consider what can be done, and I would like to review that so that we can move this issue forward. Mr.

54:02

Mount, mountain, I would just like to come back to you on this point and just check if there is anything in addition to what you have submitted earliest today that you would like to say in light of the discussions that I have just had now with the applicant,

54:21

obviously, in my submission. Just now, I've made some suggestions that could populate the matrix, so obviously that can be read with with the submission of the written script. So that's my input from my side.

54:34

Okay. Thank you very much. Mr. Martin, would you mind if we just before we moved on? I think it's just important to clarify from our options perspective, CA is one factor, and, you know, a driver to secure voluntary agreement, but it wasn't the determinative factor in its own right. And it would help if we could

just briefly summarize some of the other considerations we gave to that that won't change the action that we take away to substantiate the detail you're looking for. But I think it would.

55:00

Help for the purposes of this examination, just for you to hear that from us orally, as opposed to just the writing that we've given you so far as well, please,

55:09

certainly. But can I ask you to keep it briefly considering the context of this hearing, but I do take on point, to take on board your point in terms of it's a concern that has been raising his this hearing, so you want to address that. So that's fine, but if I could ask you to just do it briefly, please, thank you. Thank you.

55:30

Thank you, sir. Leon Kue, for the applicant. I think just as a brief point on the CA, point actually itself. I think it's important to put on the record that in relation to the cable Route Corridor. It can be seen from paragraph 5.1, point 10 of the cable Route Corridor appraisal document. That's a P, P 079,

55:49

that the only alternative, as we understand it, to have been put into the examination for the cable route from Mr. Mountain would impact a greater number of land interests, that being individual land owning entities, and that's the 18 or 17 freeholder figure that's been put into the examination was referenced by Mr. Mountain.

56:09

And as far as the applicants aware, no information that specifically breaks down Mr. Mountain's objection to that point has been put before the examination. And so from the applicant's perspective, there is no alternative route that's been advanced that has a lesser impact on land rights than the route that the applicant is pursuing. So I think that's just an important point of framing to put on the record in relation to the other factors. You sir will be aware from the applicant's cable Route Corridor appraisal document that the proposal by Mr. Mountain for the alternative route was concluded by the applicant in its assessment when it compared that route against its option one, to introduce additional potential impacts on other lwss, other than lws 4722, which is the particular lws that has been the subject of Mr. Mountain's submissions to date, but also across other factors such as non designated heritage assets and public rights of way. And so again, the applicant is not aware that Mr. Mountain has put submissions in to counter the points that were concluded within that document that suggested that the applicant's cable Route Corridor was preferable to the mountain alternative across those factors. So I think, as you say, we can draw this out in greater detail in response to your action point, but it's just important to put on record those factors were a key consideration for the applicant. Thank you, Mr. Collot, no, I appreciate that. But as you said, I think that this will be better off

57:39

done in writing, so that there is a clear audit trail of that, and I would actually like to see the actual comparison, particularly in terms of the number of people that would whose lands rights would be

affected by the different options, because obviously you I accept the statement that the applicant has put forward in response to that, but There is Mr. Mountain statement as well, which clearly contradicts that in the fore. I think that we need to, we need to actually

58:09

see some evidence of that, so that we know more easily where the difference lies really thank you very much. Can I just ask that we have a quick break now I'm being called away. Is everyone okay with that if I just have a two minute break now at the moment,

58:32

and I will resume this hearing shortly. Thank you for those online as well. We will have a two minute quick break. Thank you. Bye.

1:02:16

Hello, can I check if everyone can hear me? Please?

1:02:23

Clearly, yes, those online as well,

1:02:27

I believe so. Yes, I'm receiving positive sense apologies for that. I was told quite quickly that we should break at 11 o'clock for two minutes, two minutes for remember, stay

1:02:41

and thank you very much for doing that. I appreciate the break.

1:02:49

So before we had the quick

1:02:54

break for remember stay, I think that we have sort of finalized the conversation that we were having in terms of Mr. Mountains representation in the applicant's response, and I think that we have a way forward, and the applicant has taken the actions away that we have discussed.

1:03:13

So unless there is anything else on this issue, I would like to move us on on my next questions, please.

1:03:27

If there are no further questions on this issue, then if there are, please raise your hands. Mr. Mountain, if you have any further questions and you can hear me clearly, please raise your hand and let me know.

1:03:43

Mr. Mountain, yes,

1:03:47

yeah, I have no further questions. Thank you. Okay, thank you very much for confirming that that's helpful. Thank you very much. Mr. Mountain,

1:03:57

right. So my next question is to the applicant and following from the first question, which was explaining strategy and criteria for determining

1:04:08

strategy for CA of land, CA of rights and TP of land, I also wanted to ask if the applicant could Please explain its approach to category three persons. Please,

1:04:22

especially, I am asking for the applicant. So just for clarity, do you mean the approach to identifying category three interests? Okay, if you can move one second just to confirm my colleague to my link. Thank you very much. Thank you.

1:04:40

So I'll

1:04:44

just introduce Mr. James Davey, who can provide you some clarification on that. Thank you. Thank you. Mr. Mac Mr. Davey. Good morning, sir. James Davey, on behalf of the applicant, with regards to the applicant's identification of category three interest, the applicant took a precaution.

1:05:00

Approach in identifying category three interest in the book of reference using the noise modeling data obtained by the applicant Environmental Consultants to ascertain where there was more than or potential for more than a three decibel increase in noise levels

1:05:19

as a result of the proposed development where the applicant has identified a free decibel or more potential for increase in existing noise levels during operation of a proposed development, the applicant has included those interests within the book of reference to set out that they may be entitled To make a claim pending implementation of a proposed development.

1:05:45

Thank you very much for that, Mr. Davey, you mentioned particularly issues linked with noise. Obviously, has the applicant taken the same approach to any other sort of issues besides noise, particularly residential amenity and visual impact.

1:06:13

Morning, Sir Ian Cunliffe, on behalf of the applicant, ardent agents for for for the applicant. So in terms of consideration with the category three parties that that that is

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primarily driven by physical factors arising from the operation of the of the project, so issues such as noise, lighting,

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potential, other Other, other sources of pollution, noise typically extends the

1:06:42

why, as Mr. Davis explained, we looked at noise primarily as that extends further, but issues such as visual immunity are not triggered as a source of a claim.

1:06:56

Okay, thank you for that confirmation. Mr. And can live now? Can I ask the applicant where, on a side by side basis, the applicant sets out its justification for the extent of land requested in the order, please.

1:07:19

Thank you, Sir Ian Mark, on behalf of the applicant, so the

1:07:23

extent of the land required and how the land intends to be used is set up, principally from the statement of reasons, again, generally by reference to sections three, four and then five and six, in terms of variously how the plan how the land would be used, and that the land is no more than is reasonably required For the development in terms of how that land would be used and the extent required. It varies across the different scheme components, so ranging from the bespoke access road through to the solar array and down to the cable corridor. In my previous answers, in the evidence today, I explained the approach to the intended widths taken for both of those so both in perspective the bar and then principally the cable Route corridor in terms of a slightly wider set of order limits to allow for micro sighting within it, before being constrained down to a 30 Meter construction corridor and a 12 meter easement. So we've already undertaken to take away some additional explanation and evidence for how those widths have been have been ascertained in terms of the solar array area. So probably the best evidence in respect of how that would be used is within the Indicative sites layout plan. If you bear with me, I'll provide you with a reference to that, but that provides an example for how the design has evolved and the mitigation has informed the potential use and configuration within that. Thank you. Mr. Mecca, I don't believe that we need the reference for that document.

1:08:46

What I would like to say is that I understand that in the statement of reasons in in the Indicative site layout plan, you demonstrate your overall approach to that. Nevertheless, it falls short, in my view, on justifying it on a side by side basis.

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So normally, I would expect it to be justified on a side by side basis, linked with

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your strategy in the works on a side by side basis, perhaps in the form of a table.

1:09:25

Okay, so, so just, just, so I'm clear in respect of that, do you mean in respect of each plot within the book, like why we're why we're seeking the the extent we are, or do you mean from a sort of scheme component? So for the bar the solar array, which, which includes the rest of the ancillary infrastructure and then the cable corridor. Why that land is needed? I believe it's more the former. But to explain my reasoning, one of the key tests that I'm sure that you know that we have is the fact that we need to be able to justify the need for every single plot of the land, and that need.

1:10:00

To be justified on a side by side basis, and I do understand that the applicant believes that it has clearly identified all of the sites, it needs all of the sites, and has an overall strategy for each one of the sites. However, I would need more clear evidence on a side by side basis of how it meets that strategy, so that myself, in my recommendation to the Secretary of State, can easily say that yes, we have scrutinized this issue, and yes, all of the sites are easily just a side by side basis.

1:10:39

Certainly I'm happy to look at that information with the statement of reasons and provide additional clarification. Were helpful. I suppose, just as a sort of further observation, we heard in issue specific. Hearing one, how are indicative acreage to megawatt output broadly corresponded with industry? And en three, expectations in terms of that land take to generation outputs, and I think we were in the mid range of what expectations were there. So if that provides you with a level of general comfort, expect appreciating the more specific companies to come forward. Hopefully that shows that we're we're in the right territory for that. I think that what it shows is that the applicant has identified the plots that it needs to identify in order to deliver the project. It does not really justify to me how each and every single one of those plots was considered in terms of need for ca or temporary possession, or actually, any other rights that you might need. And that is, really detects the test here in terms of the compulsory acquisition regulations that we need to fulfill absolutely so we'll follow up on that. But again, just as a sort of further observation, I suppose, in terms of how we've we've set up the sites, I would hope that the evidence we gave at the outset was explained, that we have, we have sought to to limit the land necessary in that respect, and that we've identified principally through the delineation between the pink three old blue ca rights and green temporary that we've challenged ourselves where a lesser right only is needed, principally in respect of the bar cable route and then construction compounds. So we've deliberately sought, not over, acquire where necessary. And we've sought and reached voluntary agreement with 97% of the solar array area, which is where the the actual acquisition for the solar sites is needed. But we will, I appreciate that I've seen the direction in terms of additional input being needed on a side by side. So we'll look at what we can what we can reference there as well. Thank you, Mr. Mac. So if we could actually get an action, then for the applicant, please to provide the examination with clear evidence on a site by site basis, justifying the extent of land requested and type of

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the type of rights requested for each one of those lands, for each one of those sites, ie, CEO of land, temporary possession, or what sort of rights you require and so, so, just just as a point of clarification to make sure, we give you what you're looking for as well. So the within the DCO at the moment, we obviously have the different schedules, which, by exception, limit the extent of rights on a permanent basis. And we could schedule A so I can, I can double check that cross reference disorder in relation to temporary possession, and those are by reference to the land plans, in turn, by reference to the book of reference. So we've sought, by by that, to limit and illustrate which specific rights in relation to which specific plot. And then, by exception, everything else is pink land, three holes. Three holes only. Are you expecting something more than that, or presented in a different format? Because I don't want to give you the same thing if that's if that's not what you're after. I

1:14:14

so perhaps just whilst you're you're also looking for those references as well, obviously, that they're then set against the works plans as well, which then set the works areas within which the works are proposed, respond to the CA there as well.

1:14:29

Thank you. So I believe that the latest version that I can find at the moment in the exam National Library of the draft development consent order is rep to 044,

1:14:42

if I'm incorrect, please do let me know. And in terms of schedule eight,

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I believe that schedule eight relates to land in which only new rights, etc, may be acquired.

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And if we go to actually schedule eight.

1:15:01

It does list on a plot by plot basis, the purpose for each land may be acquired and restrictive covenants imposed. However,

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it does not provide me with a clear overview of all of the sites and how strategy was implemented.

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So I think what we could probably do for you there is, is elaborate outside of the DCO for you in a written response, how, how that sinks together in general terms. And it might be my colleague, Mr. James David, can, can clarify this in his his part later, by reference to the to the voluntary negotiation status plan, I think it's called, but broadly, all of the land you'll see within schedule eight will be the bespoke access roads and the cable routes corridor. So each of the rights that you've you've got listed there against those corresponding plots for that purpose. And then, if we flicked over into the DCR within schedule 10, which is by reference to article 32 that's the land which temporary possession may

be taken. And that's by reference to the green land identified in the land plans. And in broad terms, those are for the construction compounds which you can see on on on the land plans. When you come to them,

1:16:21

I accept that, Mr. Mac and thank you for pointing me to those schedules. However,

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I think that what those schedule those schedules, achieve is clarification in terms of the links between the works that the applicant is proposing, and the plots that the applicant has identified correct in both schedule eight in schedule 10,

1:16:48

correct. But also they place the limit on the use of the CA powers against their corresponding articles. So within articles 27 for Schedule eight and 32 for schedule 10, absolutely what I am not getting from the information that you have pointed to me is how you have come to that conclusion and that decision on a side by side basis. Is that clearer now it is. Thank you. So, yes, no, we'll, we'll respond on that basis. Thank you. Thank you. Thank

1:18:13

I thank you for that. I would like us now to move on to another section

1:18:19

of statement of reason, Section nine,

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which explains the applicant's compliance with human rights legislation relevant to the determination of the application,

1:18:34

what assessment, if any, has been made of the effects upon Individual affected persons in the private loss that would result from the exercise of shared powers in each case. And where is this assessment set out on a case by case basis, please.

1:18:52

Thank you, Sir Ian mag, for the applicant. So, as mentioned briefly at the outset, Section nine of the statement of reasons, which is as 013, sets out the sort of general human rights considerations in the authorization of compulsory acquisition of land. As we stated in that section, the Secretary of State must ultimately be satisfied that the purposes for which the DCO authorizes compulsory acquisition are legitimate and sufficient to justify interfering with the human rights of those with the interests in land affected. We've noted that we consider the relevant provisions are Article One of the first protocol to the Convention, which is the right to peaceful enjoyment of possessions, Article Six, which is a right to fair and public hearing, and article eight, which is the right to private family life. We've set out in that section line so against each of those different articles, why we consider the powers are considered to be

proportionate and legitimate in accordance with convention and national and European law. I'm happy to to to walk through the detail we've got in that section, if that would help you, but you can assume that insofar as there's a site by site consideration, that the wording we have in that section.

1:20:00

Apply equally and generally to each of the plots and the sites that we have proposed to be subject to compulsory acquisition powers. So there is no there's no more nuanced answer that we consider we could provide in relation to that.

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I'm not

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sure it's best for us to get into that level of detail now, but, but I would like to, I would like to just clarify the applicants overall approach to this, in your overall consideration, in terms of how you looked at the individual sites. And basically, what I'm looking for really is

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that you have actually considered those sites individually, and that you have taken an individual approach on a side by side basis in terms of any sort of claims or interference with human rights in relation to those sites. And it's basically a confirmation of that.

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Thank you, sir. I can confirm that insofar as it's referenced within the statement of reasons we've set out by reference principally in relation to the planning statement, why we consider that to the extent there is any interference, and principally that would be in relation to Article One, which is the peaceful, peaceful enjoyment of possessions and property, why we consider that the significant public benefits of the proposed development would demonstrably outweigh the effects of the persons who would be affected. In that instance we have considered, and we've also given regard to that in the development of the scheme and the mitigation proposed. Thank you very much for that. And considering the magnitude of potential effects on some of the residential properties affected, how has the applicant considered the need or not for the CI of those properties, and what sort of strategy has the applicant

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done to come to

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a position on that?

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Thank you, sir. I think paragraphs 9.4 point one and 9.4 point two of the statement of reasons are the best source of information in relation to our consideration of that within that. We note that the order land does not include and the proposed development does not require the acquisition of any residential dwelling houses. Consequently, as dwelling houses will not be directly affected. It's not anticipated that

the convention rights protected by Article eight will be engaged. In the event that such rights were to be engaged, we consider that such interference would be justifiable on the basis that would be lawful and in the public interest to set out below.

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Thank you very much for that. In that case, then I would like to draw the applicant's attention to rep 1057,

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which was mentioned in my agenda in anticipation of today's hearing, and it is submitted by Philip V humbler stone that raised issues of the share of his property

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in his representation.

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It is highlight the applicant has then replied to this in rep 2043,

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and

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the answer that the applicant has provided is consistent with answer that you have provided. Now to us, Mr. Mac, which is that property is outside of the order limits, and therefore there is no statutory obligation for the applicant to purchase the property which I accept. However, the effects on that identified receptor, which is an receptor identified by the applicant,

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suffering significant effects from people's development, will be created by the applicant.

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And therefore, I would like to explore this issue a little bit further in terms of how

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the applicant has come to the position that they have

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certainly so within our response to Mr. Humberson's written representation, which with me and I'll just provide you with our reference for I think it was rep two, dash, 0054043,

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I believe, I think that's the reference I've got as well. So that's

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good, yeah, we sought to explain, I think, not just by reference to the ability for Mr. Amberson to make a relevant claim, were he to fall within that category, but also why we consider that the ES as necessary has mitigated the potential impact in relation to that receptor, insofar as we consider appropriate. Within the confines of that assessment, we talked by reference specifically to the landscaping and buffers shown in landscape strategy plan, the latest versions of which were submitted at deadline three, which unfortunately means I don't have the reference within our response to Mr. Humberson's representation, but we can, we can clarify that in our summary of all submissions, we also talked about the approach in the design and access approach document, in terms of how the evolution of the design of the scheme was brought about by context two and consideration of local residents. So we think the aggregate effect of the mitigation that we've brought forward within.

1:25:00

Are each of the mitigation documents referenced in that response to Mr. Humberstone, which is principally the olamp, but then also some of the occmp, and also, I think the ocamp is referenced in that document as well. Why we think the aggregate effect of those are sufficient.

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Thank you for that response. Just two points

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in terms of the rep three reference that you were looking for, I believe that you might be thinking about rep 3016,

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which is the applicant's response to other parties that like to submissions.

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But this specific

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representation from Mr. Philip Humberstone is not included there because obviously it was a rep one submission, so your response to that is on rep 2043,

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and there was no further representation from that specific individual submitted into the examination. However,

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what I really wanted to get to the bottom of is, I accepted approach, but is you have highlighted in your own response now in terms of your consideration of human rights, and is the applicant has set out in paragraph,

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I believe it's section 9.2

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paragraph 9.2 point two,

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the applicant recognizes the right of peaceful enjoyment of their property, which is and and that this is being interfered with, which is exactly the point of this representation that was submitted. And therefore I would ask the applicant to

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tell me how they have actually considered that specific interference as part of human rights interference, the interference

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on a case by case basis, particularly on this site, which is an example of a receptor that has actually claimed that there is an interference with the rights.

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And just complete this, I have similar concerns in terms of gash barn as well, and in the sites and, and, and I know that that's not a site within the other limits, but again, it's the same principle. So the proximity such that actually there is a valid claim here in terms of interference, in terms of with the peaceful and peaceful enjoyment of the property.

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Thank you. So I suppose a few sort of maybe sequential points, and we'll see where we where we arrive at the end of that. So it's probably still useful to use our response to Mr. Humberson, Mrs. Written representation, which is the rep 1057,

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which so you correctly referenced, is responded to by us in rep 2043,

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within that, you'll see that against his particular text, and in our response, we engage with both how we identified his interest, but then within the subsequent rows that follow, the approach that we took in the design evolution of our scheme and Within the elaboration of the mitigation that was brought forward, what steps we took to reduce those and mitigate those insofar as possible. Now that's on a general basis, and not suggesting that here has a has an effect, but that's the approach that we took to design the scheme is relevant to the sort of subsequent consideration we took against the convention rights. All of that is in relation to scheme design and mitigation. The points about Mr. Thompson potentially being able to have a relevant claim will depend on proof and evidence of the physical factors that subsequently exist. That the fact that he's referenced in category three as an interest doesn't mean he will definitively have a claim. It's just the claim he's noticed. It's having a potential Yes, but to as the applicant has identified, that specific receptor is having the basis for a claim, so obviously you need to address and consider it on that basis. So

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I might need to confer with with my agency. But again, just as a point of clarity, the fact that a party is listed in the book of reference within category three doesn't mean that they will be able to make a claim. It's just that they have the potential to potentially make a claim, and they're included on a conservative, precautionary basis. Certainly I accept that, and obviously they don't even, even if there were category one that does that, does not necessarily mean that they would have a right that would make a claim. But I think that the applicant, by including them in s category three person, the applicant obviously recognizes that there is the potential and and possibility how.

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Likely it is or not. That's debatable, but clearly the applicant recognizes that this, this person, this individual, has the potential to make a claim against against development. So I don't think that we can.

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I don't, I don't think that we can then not consider it because it's a category three person, because obviously you are recognizing that there is potential for that, and therefore the applicant is required to consider how it will impact on the human rights of that specific category three person.

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Thank you, Satan. I think we're reliant on that. Because I agree. I'm not equally, I wasn't going as far as to say the fact that they're listed in as category three somehow means they wouldn't be able to make a claim. It's just it's not determined either way. At this point, they were included on a conservative basis, and you're right to explore if they were like, what's, what's the impact here? So I think again, just to circle back, the evidence that we put forward in our written representation, I think, sets out the steps that we've taken to consider how effects could be mitigated and reduced, both through design evolution and the mitigation documents that follow there is the statutory basis for compensation to be to be claimed in those circumstances. I don't think any of those then necessarily interfere with or in conflicts to probably Article One of the convention in this sense, but insofar as there is that interference, we think that the overall needs and benefits generated by the proposed development outweigh those effects that might be experienced. I accept that, and I accept and I accept your overall strategy, which I believe that overall

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is sound however, in this might be a little bit of a thing that we are coming to here. It's on this case by case basis and its application that I think questions are being raised,

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and

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I am not sure, based on the submissions that we have received, and also other ones like I have identified, for example, gash Bonn, how those human rights considerations have actually been taken into account. And I am adamant on this point that the fact that you have identified those individuals as

category three people means that actually the work in the assessment of how the proposed development will affect them needs to be carried out, regardless of the fact that They will do or not do a claim against development, they will have the right to and therefore the applicant needs to assess what the effects are going to be very clearly and demonstrate that as part of the consideration. Because I can't see that and clearly,

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Mr. Humberstone on his rep, 107057,

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that did not either.

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Thank you, sir. So I think there's possibly something that we can take away to look at this and respond in further detail for you. I mean, insofar as it offers you some comfort that whilst I've given, whilst I've sought to give you sort of general answers in relation to the approach here, specific to Mr. Humberstone. And again, if you look at our response to his written representation in the second paragraph of the first row, we've noted the engagement we carried out with that specific stakeholder. So a meeting was requested and held in May 2023 during the early non statutory engagement phase. A further meeting was held in February 2024 to discuss the preferred visual screening message measures at that stakeholder's property in further detail, and then open communication was constantly and consistently carried out. Thereafter. We've noted in that response that changes were subsequently made to the scheme layouts and to landscaping proposals landscaping buffers and landscaping hand buffers are shown on that updated landscape strategy plan. So I wouldn't want you to have the impression that we've not engaged individually with any of the receptors that have been identified, including, and in particular, Mr. Thompson, we have consistently and constantly throughout the development of the scheme, and that's reflected in our design.

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But we will also elaborate in more detail for you in response here, because I've heard your your consideration about the request for more detail and the potential effects and insofar as that interacts with the convention rights of this individual,

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thank you for that.

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I I accept that efforts have been made by the applicant in order to mitigate the effects of the proposed development to several different receptors, not just this one, but clearly

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and this is recognizing the applicant

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documents as well. There are certain effects that.

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Cannot be mitigated completely, and they might be significant. And therefore it is very plausible to assume that someone would have a claim under the Human Rights Act, to say that their enjoyment of their property is being interfered with. And therefore, I think that we need to wrestle with the issue clearly and articulate that clearly

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in a way that does address those concerns.

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Thank you, sir. We'll certainly take that away and see what we can do, perhaps to either supplement the section nine of the statement of reasons, or perhaps where there were the specific points you've mentioned and you've noted Mr. Humberson, and by reference the gashes barn resident, what we can provide by way of further information for you there. Those are two examples. But if I may suggest to the applicant, I think that the most strategic point is to do with your approach to category three people and how those category three people that have been identified

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their concerns have been taken into consideration as part of the overall proposal. So I would perhaps suggest that that might be a more consistently effective starting point,

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so that's understood. We can do that. Thank you.

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I will now like to invite any other affected persons, so that is a person with a legal interest in the land or any part of the land affected by an application, to raise any matters or concerns that they might have regarding the applicant's approach to compulsory acquisition or temporary possession, as we have been discussed in the as we have been discussing in this item.

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Can I ask if there is anyone in the room that they would raise their hands? There's no one in the room whether to raise their hands on this specific point. Can ask if there is anyone online that would like to raise any concerns on this specific issue.

1:37:09

I don't see any hands raised. Therefore, I assume that no one has any further issues to raise on this specific point. I'm mindful that it is now nearly 20 to 12, and we have started this hearing at 10 o'clock, so I propose that we perhaps have a quick break, if that is acceptable to everyone. And I would suggest that perhaps we resume at 10 to 12,

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if that's acceptable to everyone, so can I ask if anyone online has any problems with us adjourning this hearing until 10 to 12.

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So 12 minutes

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now. I don't see any hands raised, so I will adjourn this hearing until 10 to 12. Thank you very much. Bye.