

Hearing Transcript

Project:	Fenwick Solar Farm
Hearing:	Recording of Compulsory Acquisition Hearing 1 (CAH1)
Date:	17 June 2025

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Fenwick Solar Farm June 2025

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00:00:20:12 - 00:00:44:12

Yes. Great. And can someone confirm that the recording is now started and as well as the live stream? Thank you. Well, it's 10:00, and I'd like to start by welcoming you all to this. The first compulsory acquisition, shearing into the Phoenix solar farm project. My name is Rory Cridland. I'm the lead member of the panel of examining inspectors, appointed by the Secretary of State to examine the application and report back with a recommendation.

00:00:49:24 - 00:00:53:15

Hi. Good morning. My name is Samantha Murphy, and I'm the other panel member.

00:00:54:12 - 00:01:27:13

Thank you. Now, before we go any further, I do have a few housekeeping matters. Um, as I mentioned a moment ago, a digital recording is being made, and so it would be helpful if you could clearly identify yourselves before you speak. The recording will be retained and published for a period of five years following the Secretary of State's decision on the application. And so can I ask you all to avoid mentioning anything that you wish to be kept private and confidential? It is important that you understand that if you participate in today's meeting, you will be recorded and that recording will be placed on the internet. And we're not expecting a fire drill this morning.

00:01:27:15 - 00:01:58:05

So if the alarm does go off, we should expect it to be the real thing and leave the room immediately. There are fire exits to the rear of the room, as well as to the side of myself and my colleague, and the meeting place is outside, near the pavilion. Can I also ask you all to switch off your mobile phones or turn them on to silent, please? And anyone joining us on Microsoft Teams? I'd be grateful if you could try to minimise any background noise. This year in this morning is a blended event, which means some of you are joining us in person in the room.

00:01:58:07 - 00:02:25:09

Others are joining on Microsoft Teams. Just like to show you all however you're joining us, we will make sure that you all get an opportunity to put your points of view forward. Just a couple of other

things. For those of you on Microsoft Teams, we have disabled the chat function, so please don't use that to get our attention. But the raise hand function is working. And so if you do need to come in or wish to come in at any point, then do use that and we will be keeping an eye on the screens in front of us, and we'll bring you in at the relevant time.

00:02:27:00 - 00:02:45:05

And you'll also find it useful to have a copy of the agenda that we published last week available. Um, for ease of reference, you can find a copy on the planning Inspectorate's National Infrastructure website. And for those of you in the room, there are various points throughout the room where there is a QR code, and if you scan that, it will give you access directly to the agenda.

00:02:47:14 - 00:03:15:05

Now I'm going to ask certain parties to introduce themselves. Can I ask you all to please remember to unmute your microphone before you speak. And if you're joining us on Microsoft Teams and you're comfortable too. Please do switch on your cameras. There is a roving microphone available for anyone in the room who wishes to speak, but doesn't have a microphone in front of them. And it is important that all contributions are made using the microphone so they're captured for the formal record. So firstly, can I ask who the lead speaker for the applicant is?

00:03:16:17 - 00:03:23:12

Good morning. My name is Taylor. I'm an associate at Pinsent Masons and I'm the lead speaker for the applicant today.

00:03:28:18 - 00:03:32:22

Good morning, Miss Babb. And do we have anyone present from the City of Doncaster Council?

00:03:37:00 - 00:03:39:23

Morning, sir. Roy Sykes, City of Doncaster council.

00:03:44:12 - 00:03:48:16

Good morning, Mr. Sykes. Are there any other local authorities present?

00:03:50:05 - 00:03:51:17

Any statutory parties?

00:03:54:20 - 00:04:01:08

Is there anyone else present, either in the room or on Microsoft Teams who wishes to speak and who hasn't already introduced themselves?

00:04:04:04 - 00:04:04:19

Nope.

00:04:07:07 - 00:04:39:17

Well, in that case, let's move on to agenda item two. The purpose of the hearing and how it will be conducted. Now, some of you are already familiar with the format, but for those of you joining us online or those of you who haven't been to one before, the hearing this morning will take the form of a

structured discussion led by us based on the agenda that we previously set out. The purpose of the hearing is to enable us to inquire into the applicant's case for compulsory acquisition powers in the Development Consent Order, and it also seeks to discharge our duty to hear from those affected by those powers.

00:04:41:21 - 00:05:01:05

There will be an opportunity later in the agenda for anyone affected by them to put forward their views, if they so wish. We do plan to break after around 90 minutes if we are still going at that point, and I expect that we will be finished by lunchtime. So does anyone have any questions at this point on either the purpose of the hearing or the format this morning?

00:05:03:07 - 00:05:33:08

Nope. Okay, well then let's move on to item three, which is the applicant's introduction and update Miss Power. As we indicated in the agenda, this is really an opportunity for the applicant to briefly outline the case for compulsory acquisition powers. Um, how it meets the tests of the 2008 Planning Act and what alternatives have been explored, as well as to provide an update on the expectations around negotiations. In terms of that last bit. You did provide us with an updated deadline too, and so you don't need to go through all of it.

00:05:33:10 - 00:05:36:21

Just focus on any developments or changes since that point.

00:05:38:04 - 00:06:10:10

Great. Thank you. Um, I will just briefly outline the case as against the tests, and then I'll pass over to my colleague Tori Heaton, who can speak to, um, the status of negotiations, although as a brief update, there haven't been any formal formal changes since the version presented in the Land Rights Tracker at deadline to. So the applicant is seeking powers of compulsory acquisition of the freehold of land, which is shown in pink on the land plan, which is application document.

00:06:10:12 - 00:06:42:08

006. The applicant is also seeking compulsory acquisition of rights and imposition of restrictions over the land shown in blue on the land plan. Schedule nine of the draft DCO sets out the purpose for which rights may be compulsorily acquired in the Blue Land, and broadly, this is to create rights of access to the scheme and to create rights to install, use and maintain the underground grid connection cables. Schedule 11 of the draft DCO provides the purposes for which temporary possession may be taken over the Greenland shown on the land plans.

00:06:42:18 - 00:07:15:12

That only includes plots 704 on sheet seven of the land plan, and which is required for construction compounds within the grid connection corridor, however, as I understand, will be discussed in more detail later in this hearing in a later agenda item. Broader powers of temporary position are also available to the applicant under article 29, where it only requires temporary possession of land, which might be marked as blue or pink land within the land plans, um, where it's using that land for wider working areas, for construction purposes.

00:07:15:19 - 00:07:45:19

Um, while constructing a narrower area of permanent assets, um, which is primarily the case for the grid connection corridor. Uh, the relevant powers in the draft DCO relating to compulsory acquisition are set out in article 20, which relates to the compulsory acquisition of land, um, which is then further subject to article 21, which sets a time limit for exercise of authority to acquire land compulsorily. Article 22, which sets out the compulsory acquisition of rights.

00:07:46:05 - 00:07:55:02

Article 29, which is the temporary position article. I just spoke to an article 31 which relates to statutory undertakers.

00:07:57:04 - 00:08:30:05

Moving to the test within the Planning Act, section 1 to 2 of the Planning Act 2008 sets out the purpose for which land may be compulsorily acquired underneath the Planning Act, so the land must be required for the authorised development or be required to facilitate or be incidental to the authorised development. So the purpose for which compulsory acquisition powers are sought for the scheme as a line to section one, two, two is set out in detail in the Schedule of Negotiations and power sort, which goes through the plots.

00:08:30:08 - 00:09:12:08

And that's application document 021, which goes through the plots referred to in the book of reference. Um, the latest version of which is Document Rep 1009 and sets out the purpose of acquisition with reference to the work numbers that are set out in schedule one to the draft eco. So that ties the authorized development as described within those work numbers, to the plots which are being sought for compulsory acquisition. So the schedule of negotiations and Powerscourt document is being updated in respect of the status of negotiations throughout the examination by the Lands Rate Tracker.

00:09:12:19 - 00:09:30:02

The latest version is Rep 2052. Um, so those two documents should be read together in terms of understanding the nature of powers, which are being the purpose for the powers being sought for each plot, and then the latest status of discussions when it comes to those particular plots.

00:09:31:21 - 00:10:12:13

Section one, two, two, paragraph three of the Planning Act 2008 requires that there's a compulsory there's a compelling case in the public interest for the land or rights of a land to be acquired, compulsory as set out within section five seven of the Statement of Reasons, which is Application Document 018. The applicant considers it that it has demonstrated that there is a compelling case in the public interest for the scheme, and this is reliant primarily on the scheme being a nationally significant infrastructure project for renewable energy and tying into the various policy drivers for such projects, particularly solar projects within NPS.

00:10:12:15 - 00:10:14:12

N1 and N3.

00:10:16:21 - 00:10:52:04

As a large scale solar project, the scheme is essential to support decarbonisation and as a core pillar of the government's decarbonisation agenda. It will reduce power related emissions while contributing to security of supply, affordability of electricity and the adequacy and resilience of the electricity system. Other benefits include the provision of biodiversity, net gain and socio economic benefits such as the construction employment opportunities that are provided by the scheme. But full details of the benefits and need for the scheme are set out in the planning statement, which is.

00:10:52:06 - 00:11:28:00

Application document 246 and the statement of Need, which is application document 192. Without the scheme, a significant and vital opportunity to develop a large scale low carbon generation scheme will have been passed over, increasing materially the risks that future carbon budgets and net zero 2050. The government's policy goal in respect of net zero, will not be achieved. To ensure that the scheme can be built, operate, operated and maintained, and so that the government's policy in relation to the timely provision of new generating capacity is met.

00:11:28:15 - 00:12:02:19

The applicant requires the acquisition of a number of property interests and third party ownership, and has therefore applied for the granted powers to facilitate acquisition and or the creation of new rights and interests, and to extinguish existing rights over land While in the first instance the applicant has sought to obtain those third party interests by voluntary agreement via negotiations with landowners over the past several years, and which continue. Compulsory acquisition powers are still required to provide certainty and security that all land within the order limits can be assembled.

00:12:03:05 - 00:12:43:16

Without this certainty, the scheme's viability remains at risk, as does its ability to meet the government policy which have already outlined. There is therefore, in the applicant's view, a compelling case in the public interest for the power to extinguish, suspend or interfere with private rights to the extent necessary to deliver the scheme. The proposed interference with the rights of those with an interest in the order land is for a legitimate purpose, namely the construction and operation of the scheme. The extent of the order limits is no more than is reasonably necessary for the construction, operation and maintenance of the scheme, and on this basis basis, any interference with private rights is proportionate and necessary.

00:12:44:04 - 00:13:14:06

Compensation is payable to anyone whose rights are extinguished, suspended or interfered with. The applicant considers that the very substantial public benefits to be derived from the proposed compulsory acquisition would decisively outweigh the private loss that would be suffered by those whose land or interests are to be acquired, and therefore justifies into interfering with that land or rights. In conclusion, the applicant considers, for the reasons explained and set out more fully in the statement of reasons and other supporting documents.

00:13:14:08 - 00:13:28:08

I've mentioned so far that the inclusion of powers of compulsory acquisition in the DCO for the purposes of the scheme meets the conditions of section 1 to 2 of the Planning Act, as well as the considerations in the associated compulsory acquisition guidance.

00:13:30:11 - 00:13:45:02

I suppose that's that's my spiel in respect of this part of the agenda. I know we'll get into some of these points in more detail under the other agenda items. Um, should I pass now to Tory just to speak to the status of negotiations?

00:13:45:15 - 00:13:47:19

Thank you, Mr. Powell. Yes. We have. Thank you very much.

00:13:50:05 - 00:14:33:08

Good morning. I'm Tory Heaton on behalf of the applicant. Um, so, as Taylor, um, suggested, I can confirm that the land rights tracker is up to date, as submitted at deadline to. We have had no further heads of terms signed or returned, but verbally, I can, um. I've been advised by agents appointed on behalf of two of the landowners, um, Richard Richard, John Ashley and Alan and Jean Pashley, and also Jennifer Jane Horlock, Marcus Sheard and Ruth Lovatt, that heads of terms are agreed, subject to the agent receiving written instructions from their client.

00:14:33:10 - 00:14:37:19

So I expect those to be returned imminently, either today or tomorrow.

00:14:38:24 - 00:14:44:18

And can I just ask what plot numbers those relate to? If you've got the information. If not, I can look at it.

00:14:44:20 - 00:14:46:17

I'm sorry, I don't. I could come back to you on those.

00:14:46:20 - 00:14:50:20

That's that's fine. I can, I can, I can locate them myself. Thank you very much.

00:14:54:19 - 00:15:26:13

Um, before we move on to item four, I do have a few questions, which I think you're already anticipating, Miss Power. So, firstly, um, in terms of the line drop option versus the grid connection corridor, we did have a few questions in our first set of, um, written questions around that. We also have it listed for the agenda for this afternoon's issue specific hearing on the draft development consent order. So I don't want to go into too much detail on that particular conversation in this hearing, but there are 1 or 2 elements of it that are, um, particular to compulsory acquisition.

00:15:26:15 - 00:16:00:07

And that's really around the question of alternatives. Now, if I understand correctly the applicant's position on this, and I just want to make sure really that I understand it fully, is that the line drop Option. You don't consider it a reasonable alternative because there's no certainty that it can be delivered. And that's on the basis that the option here in work needs to be undertaken by National Grid. And so it's not something that at this point is within the applicant's control until the outcome of that is known. The only deliverable option from the applicant's perspective is the grid connection corridor to saltmarsh substation.

00:16:00:09 - 00:16:07:19

And that's on the basis that that's what it says in your grid connection agreement with National Grid. Have I understood that correctly.

00:16:09:05 - 00:17:04:14

For the applicant? Uh, yes. In short, um, I'd say that's generally correct. So it's not it's not that we don't consider it a reasonable alternative, as in that the applicant has fully set it aside as an option at this stage. The scheme still holds open the opportunity for a line drop to be utilised. It's been assessed under the ease. It's the powers for a set out within the um, within the authorised Authorized development that's been put forward in the draft Eco, but the scheme just retains the optionality of either the grid connection via the grid connection corridor to Thorp Marsh substation or the line drop, but that ultimate decision on which approach to pursue can't be made until after consent is granted, because that's the point at which National Grid would be willing to have the conversation and fully assess whether the line drop will be used or not.

00:17:04:20 - 00:17:46:14

So when it comes to the compulsory acquisition case, that requirements still for the grid connection land is is necessary because there is still the risk that National Grid doesn't find the the line drop to be viable or they provide that it could be used, but on terms which are not feasible, um, from either a financial or practical sense for the project's perspective, in which case the grid connection corridor needs to be used. So if we were to fully rely on the line drop at this stage and remove from the order limits, the grid connection corridor and therefore the compulsory acquisition powers over that corridor.

00:17:46:16 - 00:17:58:18

We could end up ultimately thwarting the ability to construct and connect to the project, because we might eventually need to rely on that grid connection corridor to connect into the substation.

00:17:59:03 - 00:18:02:03

In which case you'd have to come back for compulsory acquisition powers again.

00:18:02:05 - 00:18:03:20

Yeah, exactly.

00:18:03:22 - 00:18:12:17

I understand, thank you. Is there anything else you'd like to add in relation to the line drop option and the case around reasonable alternatives at this point?

00:18:12:23 - 00:18:45:24

I possibly the only the only further point I would add is just that from the applicant's view, it shows, uh, you know, if anything, the applicant complying with that reasonable alternatives test to a further degree. While we're not able to make that commitment at this stage, the applicant has kept in mind what is the approach which might which might result in the least interference with people's rights and the least interference in respect of construction. Extent of the project. And that's why the applicant has always kept the line option open, if possible.

00:18:46:01 - 00:19:03:22

And we'll pursue that with National Grid following consent. Um, so while it can't commit to it in the sense it still needs to seek these powers when it comes to the actual implementation of the powers, the applicant will be considering that as a reasonable alternative, if it is available to the applicant.

00:19:04:06 - 00:19:28:18

Yes, I think I understand. So in a sense, we talk a lot in the yes side of it about worst case scenario. That's essentially what's happening here. It's a worst case scenario grid connection corridor. And then if it becomes viable to do the line drop again, we'll get into this possibly a bit more this afternoon. At that point, um, you wouldn't require the powers for the grid connection corridor. And so it would have a lesser impact on affected persons.

00:19:29:01 - 00:19:30:23

Yes, exactly. Okay.

00:19:31:03 - 00:19:32:16

Thank you. That's helpful.

00:19:36:00 - 00:20:09:11

Um, in that case, I just wanted to touch on 1 or 2 points on the land rights track. And it may be that your colleague can answer these, so do feel free to pass them on. Um, I see the plot number 903. You've been unable to make contact with the owner of that plot, and that is rather unfortunate, because it appears, and I may be mistaken, but it appears to form part of a garden of a residential property, and it's part of the grid connection corridor. Um, I think we're keen to ensure that anyone with an interest in land is aware of the proposals.

00:20:09:14 - 00:20:21:15

So I just wonder if perhaps there is anything else that you can do to make that party aware, both of the scheme itself, but also the opportunity to provide any comments to us as the examining authority before the close of the examination.

00:20:24:19 - 00:20:59:06

Uh, Tory Heaton for the applicant. Um, I understand that, um, plot zero At 903 is, um, uh, Joanne. Um, and we've made several attempts. Via um post. Um, signed for letters. Um, hand-delivered letters. Um, and door knocking. Um, to approach, um, these individuals. We, um, I believe, um, it forms part of a pony paddock at the back of the rear of their property. Um, and we will obviously continue to try and engage with these individuals.

00:21:01:10 - 00:21:09:12

They, um, those individuals, they are residents and occupying the property at present. They're not sort of absentee owners, for example.

00:21:09:20 - 00:21:26:05

At Tor Heath and for the applicant, I believe. So, um, I've never been able to raise anybody. Um, despite several attempts, um, going and knocking on doors have never been able to to, um, no one's ever, ever been there. So I'm unable to confirm if they are, um, owner occupiers or or.

00:21:29:05 - 00:22:05:07

Suppose the only thing we can do is ask you to redouble those efforts and see if, during the course of the examination, you can make contact and just keep us updated of, of, of those attempts as we move through. A similar point arises in relation to plot 908, which I think you mentioned in the Land Rights Tracker appears to be a drive to a property that's recently changed hands. And again, in view of the nature of that land. And we would be grateful if you could redouble efforts to contact those owners as well, just to make them aware not just of the proposals, but of their opportunity to come and make representations to ourselves.

00:22:06:05 - 00:22:12:01

At Torrey Heath. And for the applicant, I do believe we've now got signed heads of terms for that plot and the driveway.

00:22:13:07 - 00:22:14:17

That's very helpful. Thank you very much.

00:22:14:19 - 00:22:15:09

Thank you.

00:22:21:12 - 00:22:31:21

I don't have anything else on on the applicant's case that I need to, um, I need to raise at this point. Moving on to item four unless anyone else has anything in the meantime.

00:22:33:10 - 00:22:34:05

No questions.

00:22:35:20 - 00:22:48:10

This is really an opportunity for any affected persons, either present in the room or online, to expand orally on any concerns they have in relation to the powers of compulsory acquisition. So firstly, is there anyone present in the room?

00:22:50:11 - 00:22:53:02

Is there anyone online who would like to raise anything?

00:22:55:14 - 00:23:30:07

Nope. Um, in that case, I think we can move on to item five, which is a similar opportunity for statutory undertakers. Um, I don't think we have any statutory undertakers present. So. Miss Power. I think we received an update on this as well at deadline two, didn't we? Um, and at that point, I understand that the agreements with statutory undertakers had been reached with the majority of them. Um, and I think I've got on my list that you've reached agreement with British Telecom, not Network Rail, although I think you're having side discussions or separate discussions on the side agreement.

00:23:31:11 - 00:23:48:11

Northern gas networks, northern power grid against finalisation of side agreements happening there and potential withdrawal of their representation as I understand it. And then we've also had a withdrawal request from excellent pipeline system and National Grid.

00:23:50:00 - 00:24:22:11

Uh, Taylor Power for the applicant. Yes. That's correct. So when it comes to the two parties that we that haven't fully withdrawn their objections or are still engaging to some extent. Um, so with Network Rail, I understand that they put in a letter to the examining authority this week confirming that the protective provisions within the um, within the draft DCO are agreed. And it's just a the framework agreement, which we are very close to completing with them.

00:24:22:13 - 00:24:24:14

I'm sorry, was that Network Rail?

00:24:25:17 - 00:24:26:22

Network Rail, Network Rail.

00:24:27:12 - 00:24:32:09

We haven't received that yet. Oh, I haven't seen it yet. So it might be still trying to find its way to us.

00:24:32:12 - 00:25:03:02

Um, yeah. If it would help, I can. I can provide it to the case officer as well over the break. Um, if that would assist. Thank you. And so and then, like you, you mentioned all of the other parties we have agreed protective provisions with. Um, there are a few that are engaging still on either essentially that we're still confirming signatures with, which is northern Powergrid for side agreement, but are agreed in respect to the protected provisions.

00:25:03:07 - 00:25:21:17

Um, and then the Environment Agency, while not a statutory undertaker for the purposes of um section one, two 7 or 1 three, eight relates to the um has agreed protected provisions but are still having ongoing discussions in respect of the, um, technical matters that relate to the project.

00:25:22:05 - 00:25:43:14

That's another point we'll be touching on this afternoon, so I won't I won't get into the detail on that. You mentioned that the E as I understand it, they're provisionally agreed, but that's from what I understand. They are agreed. But there are other discussions going on. Do you expect the form of protective provisions with the E to change during the course of the examination? Is that still something that you're discussing with them?

00:25:44:06 - 00:26:14:04

Taylor power for the applicant? Yes, I know there's a bit of crossover with the points, particularly in relation to the application of flood risk permitting requirements, because that does have some crossover with the protective provisions. So while we don't have any intention of changing the protective provisions, we don't anticipate that they will change. It's essentially that point which keeps them open at this stage and may result in some tweaks if if so. But I would say that the likelihood of that appears low to us at this time.

00:26:14:16 - 00:26:23:18

We can be we can proceed on the basis that we are unlikely to have any significant differences Francis. Towards the end of the examination. But before us.

00:26:24:09 - 00:26:25:22

Yeah. Yeah. That's correct.

00:26:26:18 - 00:26:40:08

And I think the internal drainage board is a similar point. And I understand that the protective provisions included in this draft development consent order are substantially the same as the ones for East Yorkshire in respect of, of that party as well.

00:26:40:12 - 00:27:18:03

Yes. So Taylor Power for the applicant. And that's a slight development since the previous issue specific hearing is that, um, we've now made an undertaking to begin negotiations with the drainage board in respect of the protective provisions for them, which had been previously outstanding. We were waiting for context. Um, but yes, the the form of the protective provisions are exactly the same as those which have been recently made in the East Yorkshire solar farm order. Um, relate to the same drainage board. So we don't anticipate there being any significant issues, but discussing that version of protective provisions with them now.

00:27:18:12 - 00:27:26:06

And do you do you have an indicative time on when you expect those to be agreed with the drainage board? Uh, I won't hold you to it.

00:27:26:08 - 00:27:54:19

Yeah. No, no. Um, at the at the moment, the protective provisions are with the drainage board solicitors. Um, we've followed up with them again last week, but, um, don't have an update in respect of where that is at. Um, we would very much hope that it would be by deadline three. We could provide an update or agreed protective provisions in a best case scenario, but, um, will be able to provide a at least a time frame at deadline three. We hope.

00:27:54:22 - 00:28:03:15

That's great. Thank you very much. Does anyone wish to comment on any of those points or in their capacity as a statutory undertaker, if we do have any present?

00:28:07:09 - 00:28:16:07

No. Okay. Thank you all. Um, does anyone have any other matters they'd like to raise in relation to temporary possession or compulsory acquisition?

00:28:20:15 - 00:28:53:15

Well, that completes our discussion. Thank you all very much. Um, if you've spoken today, please can I ask that you provide us written submissions by deadline three, which is Wednesday the 2nd of July? Um, a recording of the hearing will be published on the project web page of the National Infrastructure website as soon as practicable after the hearing. And so I'd just like to thank you all for

your participation today and remind you that there will be a second issue specific here in the afternoon, um, on the draft development consent order, which we aim to start at 2:00. So it's now 1028 and this hearing is closed.

00:28:53:17 - 00:28:54:18

Thank you all very much.