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FULL TRANSCRIPT (with timecode)

00:00:06:26 - 00:00:16:23

Good afternoon everyone. It's now 2 p.m. and time for this hearing. To begin, I'd like to welcome you all to this hearing. Can I just confirm that everybody can hear me clearly.

00:00:18:10 - 00:00:19:04

Thank you.

00:00:25:10 - 00:00:29:15

And also confirm with Mr. Stevens at the live streaming of this event has commenced.

00:00:31:16 - 00:00:49:09

For those people watching the live stream. Can I advise you that should we at any point adjourn proceedings, we will have to stop the live stream in order to give us clear recording files. As a result, at the point at which we recommenced the hearing and restart the live stream, you'll need to refresh your browser page to view the restart of stream.

00:00:51:20 - 00:01:05:27

This hearing is a compulsory acquisition hearing in relation to the application made by RWA renewables UK Solar and Storage Limited, Who will refer to as the applicant for an order granting development consent for the Pear Tree Hill Solar Farm project.

00:01:08:08 - 00:01:29:00

My name is Alex Hudson. I'm a chartered town planner and a chartered landscape planner. I'm a planning inspector employed by the Planning Inspectorate, and have been appointed by the Secretary of State for housing, Communities and Local Government to be the lead member of the panel to examine this application. Am I going to ask the other panel member who is joining us virtually today to introduce herself?

00:01:30:18 - 00:02:00:28

Good afternoon. My name is Mary Louise Milliken. I'm a chartered time planner and a planning inspector. I've been appointed by the Secretary of State for housing, Communities and Local Government to be a member of the panel to examine this application. As you can see, I'm attending this hearing virtually this afternoon. So there may be times when I'm looking at my second screen and not directly at the camera. This doesn't mean that I'm disengaged with the event in any way, and similarly so as not to distract from the proceedings.

00:02:01:00 - 00:02:11:24

I may turn on or turn off my camera and microphone when I'm I'm. Unless I'm addressed by Mr. Hudson, or when I'm being asked a question or asking a question. Thank you.

00:02:15:00 - 00:02:27:02

Together, we constitute the examining authority for this application, and we will be reporting to the Secretary of State for Energy Security and net zero, with a recommendation as to whether development consent should be made.

00:02:29:08 - 00:02:39:06

The case manager for this project is Jake Stevens, and he is being supported here today by Harry Davies and Amina Khan, and Emma Smith and Ramil Burney are providing support remotely.

00:02:40:27 - 00:02:53:28

Mr. Stevens is a person you're most likely to come into contact with during the course of the examination, and if you have any questions or queries about the process or the technology are we using for blended or virtual events? He should be your first point of contact.

00:02:56:07 - 00:03:30:28

This is a blended event comprising an in-person hearing, as well as being held on the Microsoft Teams platform. It is being both live streamed and recorded for those people observing or participating through teams in order to minimize background noise. 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 in the proceedings, please use the Microsoft Teams Hand app function. Though be advised there may be a delay before we see it, and please wait to be invited to speak or ask to speak at the appropriate time.

00:03:33:27 - 00:04:09:03

Alternatively, please turn on your camera so we can see that you wish to speak. Can I also remind people that the chat function on Microsoft Teams will not work? So please don't try to use this to ask any questions or post comments. If you don't manage to ask your question or raise your point or the relevant point in time, there will be an opportunity at the end of the hearing for you to do this under agenda item nine. and the other matters because the digital recording that we make are retained and published. They form a record, public record that can contain your personal information and to which the General Data Protection Regulation applies.

00:04:09:14 - 00:04:28:26

The Planning Inspectorate practice is to retain and publish recordings for a period of five years from the Secretary of State's decision. Consequently, if you participate in today's hearing, it's important that you understand that you'll be live streamed and recorded and that the digital recording will be published. If you don't want your image to be recorded, you can switch off your camera.

00:04:30:27 - 00:04:36:20

For those in the room who don't want to be recorded. There's also an out of area, out of camera area.

00:04:39:12 - 00:04:54:11

If you feel personal information is necessary, please provide this in a written document that we can redact before publication. I'll deal with a few preliminary matters for those attending in person. Can everyone please settle devices and phones to silent.

00:04:55:26 - 00:05:03:18

We're not expecting any fire alarms today, so if it goes off, then the procedure is to leave by the fire exits and congregate in the car park at the front of the hotel.

00:05:06:06 - 00:05:17:26

And toilets located through the door at the back of the room and on the right. And we'll take a break at around 3:30 p.m.. Um, if we if I think we need to go much beyond that.

00:05:20:01 - 00:05:41:21

An audio recording of today's hearing will be available on the project web page as soon as practicable after this hearing. With this in mind, please ensure that you speak clearly into a microphone. If you are not at the table with the microphone, there is a roving microphone. So if you could wait for one of those before you speak and then if you could state your name, whom you represent, if you are a representative, then that would be helpful.

00:05:47:12 - 00:06:01:19

The hearing will follow. The agenda is published on the project web page on the 10th of October 2025 with examination Library reference EB 5001. Please have a copy of the agenda to hand. We're currently on item one.

00:06:07:03 - 00:06:36:29

The agenda is for guidance only. We may have other considerations or issues as we progress. And we'll conclude the hearing as soon as all relevant contributions to be made. Till all questions are asked and responded to. If the discussions can't be concluded, then it may be necessarily necessary for us to prioritize matters and defer other matters to further written questions. Likewise, we can't answer the questions being asked or require time to get the information requested. And can you please indicate that you need time to respond in writing?

00:06:40:04 - 00:07:10:05

Throughout this hearing will likely be referring to documents which you may wish to have access to. We may ask that these be shared on one of the large screens. These include the Book of Reference. Rep 3009. Statement of reasons. Rep 3007. Funding statement. Rep 3011. Land plans. Rep 304004. Special category land Plans which are Rep 20055.

00:07:10:07 - 00:07:21:17

Crown Land Plans Rep 2056. Works plans Rep 2050. And land and rights negotiations. Tracker. Rep 3013.

00:07:23:23 - 00:07:41:07

I'm not going to ask those of you who are participating in today's hearing to introduce yourselves. When I say your organization's name, could you please introduce yourself, stating your name and who you represent and also how you wish to be addressed? And can we please start with the applicant and its advisors? Thank you.

00:07:42:12 - 00:07:56:26

Thank you. My name is Mustafa Lateef. I'm here on behalf of the applicant, and I'd invite my colleague to my right to introduce themselves and my colleague to my left.

00:07:58:12 - 00:08:05:09

Thank you, Mike Breslow. I'm a development project manager at RWA for the applicant.

00:08:07:28 - 00:08:08:29

Rosalind Gledhill.

00:08:09:01 - 00:08:12:27

Associate land manager at ardent, on behalf of the applicant.

00:08:41:17 - 00:08:54:27

Sorry, I think the only other people have indicated they wish to speak to are those representing Alban Wise Limited or Alban White Synergy Limited. Um, would they like to introduce themselves?

00:09:00:23 - 00:09:01:15

Good afternoon.

00:09:02:16 - 00:09:03:16

My name is Chris Banks.

00:09:03:18 - 00:09:07:11

I'm representing OpenAI's limited and OpenAI Synergy Limited.

00:09:09:11 - 00:09:24:04

Good afternoon, sir. I am George McKenzie, instructed by both of the Auburn Wise entities that Mr. Banks referred to. I am of counsel, and to my right is Melanie Grimshaw, partner at Mills and Reeve, who I am instructed by.

00:09:28:08 - 00:09:29:11

Okay. Thank you.

00:09:37:02 - 00:09:40:03

Is there a further person? I think I've got four on my list.

00:09:43:04 - 00:09:44:10

From Alban Wise.

00:09:48:22 - 00:09:59:03

Um, uh, it's, uh, it's just the three of us today. Um, there may well be others from Auburn wise, but they will only be viewing the live stream.

00:10:00:20 - 00:10:05:03

Okay. Thank you. I apologize, I missed the the name of the first person.

00:10:06:08 - 00:10:08:28

It's, uh, Mr. Banks, Chris banks, Chris banks.

00:10:09:00 - 00:10:09:29

Okay. Thank you.

00:10:18:02 - 00:10:22:18

Can I just double check there's nobody else online who wishes to speak today?

00:10:30:15 - 00:10:34:24

Okay, I'm not seeing any raised hands, so I'll move on.

00:10:39:20 - 00:11:01:09

Um, if you want to refer to something you have submitted before. We'd be grateful if you could give the appropriate Examine the reference library reference so that we can all follow. In addition, when using an abbreviation or an acronym for the first time, please give it the full title first. Are there any comments anybody wishes to make under item one of this agenda so far?

00:11:05:16 - 00:11:15:19

If not, that concludes this item of the agenda. Thank you. And we'd now turn to item two, which is the applicant's case for compulsory acquisition and temporary possession.

00:11:19:21 - 00:12:03:20

Um, I'd like to begin by asking the applicant, please, to briefly present and justify its case for compulsory acquisition and temporary possession. And in doing so, please explain how the proposals address the statutory and policy tests under the Planning Act 2008, and the Department for Communities and Local Government published Guidance and Title Planning Act 2008. Procedures for the compulsory acquisition of land, and I'll refer to this document as a desultory guidance. In providing this overview, please ensure that human rights considerations are addressed and the agenda item lists a number of bullet points under item two, which would be very helpful if the applicant could address in turn.

00:12:03:22 - 00:12:04:14

Thank you.

00:12:05:14 - 00:12:46:09

Thank you, Mr. Lateef Ramesh for the applicant. The applicant will propose to take the identification of the power sought and the relevant provisions of the draft order together, given how integrity linked they are. Before moving on to the other factors that you mentioned. The applicant is seeking powers of compulsory acquisition of freehold land, which are shown pink on the land plans, the most recent iteration of which has the reference rep 3004. The applicant is also seeking compulsory acquisition of rights and the imposition of restrictive restrictive covenants over the land shown blue In respect of both the land which has shown pink or blue.

00:12:46:24 - 00:13:17:15

Um, there is also there are also powers for temporary possession of land where only temporary possession of land is proposed. That land is shown green. Schedule eight of the draft DCO sets out the purpose for which rights may be acquired in the Blue Land. Broadly, this is to create rights of access to the scheme and create rights to install, use or maintain grid connection cables. Schedule ten is the relevant schedule, which contains the purposes for which temporary possession may be taken.

00:13:17:19 - 00:13:57:25

This land is required in connection with the construction of the project and in particular, things such as temporary works or construction compounds. The purpose for which compulsory acquisition powers are sought is set out in detail in appendix A of the Statement of Reasons. The most recent iteration of which has the reference rep 007. And that goes through each of the plots which are referenced in the book of reference. And that's rep 3009 and sets out the purpose of the acquisition with reference to particular work numbers, which are set out in schedule one to the Draft Development Consent Order.

00:13:58:11 - 00:14:32:27

The status of negotiations with landowners in relation to each is set out in the Land and Rights Negotiation Tracker, which will be coming back to the relevant power in the draft. DCO, which relates to the compulsory acquisition of land, is article 22, which is subject to article 24, which has the time limit that we briefly discussed this morning. Article 25 is the relevant provision relating to the acquisition of rights. Article 33 is the provision which authorizes the temporary possession of land, and there are other related provisions in part five.

00:14:33:13 - 00:15:12:11

The structure and the power sought are well established and presented for sale. Sailor Dios. And as I mentioned this morning, whilst each project must justify the inclusion of the particular powers, the applicant considers that it has done this as it will go on to as I will go on to explain, and that the other projects, which include equivalent powers are no different from the or from the proposed development. Turning to the tests that you referenced, section 122 of the Planning Act provides the legislative context that allows the compulsory acquisition of land and rights in DCS.

00:15:12:16 - 00:15:18:16

Section 122 sets out the purpose for which land, uh may be acquired,

00:15:20:01 - 00:15:57:09

and the applicant needs to demonstrate that there is a connection between the land sought and the authorised development, or that the land is otherwise required to facilitate or is incidental to the authorised development. As I mentioned, appendix A of the Statement of Reasons sets out the purpose for why each plot is required and how it is proposed to be used, and so the applicant considers that that test is met. Section 122. Subsection three requires that there is a compelling case in the public interest for the acquisition of any land or rights.

00:15:58:03 - 00:16:35:27

The case is set out in section 7.8 of the Statement of Reasons, but in summary, the applicant considers that it is demonstrated that there is a compelling case in the public interest for the project, as this is a nationally significant infrastructure project for renewable energy. The public interest in the project

includes the decarbonisation of the UK energy sector and the national electricity grid, as well as meeting the government's net zero ambitions. National Policy Statement one sets out the need to decarbonise the UK's energy sector by 2035, and to reach net zero by 2050.

00:16:36:04 - 00:16:46:23

The government's recently issued Clean Power 2030 Action Plan further demonstrates that the UK needs to move faster towards its decarbonisation in net zero goals.

00:16:48:20 - 00:17:25:29

In relation to section one, two, three and as set out in paragraph 20 of the guidance that you refer to, a DCO may only contain provision authorizing the compulsory acquisition of land if one of the conditions in sections one, two, three, subsection 2 to 4 are met. This effectively requires either pre-application consultation, compliance with the Compulsory Acquisition 2010 regulations, or the consent of the landowner in question. The applicant considers that all the compulsory acquisition powers sought in the draft order fall into one of these categories.

00:17:26:29 - 00:18:03:21

The applicant notes that change is accepted as part of the second change application. Engage those 2010 regulations. The applicant is currently consulting on these following the examining authority's acceptance, um, with the reference PD 011 uh, and that consultation is due to finish on the 29th of October. The applicant can also confirm that more than 80% of the land needed for the proposed development has reached voluntary agreement with the relevant landowners. The applicant continues to engage with landowners where compulsory acquisition powers assault, and is confident that further agreement will be reached.

00:18:09:21 - 00:18:40:10

In relation to section 132 of the Planning Act, which relates to special category land. The applicant's consideration is set out in section ten of the Statement of Reasons. Section 132 of the Planning Act applies, as I mentioned, to land, including any land that forms part of a common. The applicant is seeking the permanent acquisition of rights over plots. 13. Six. 13. Eight. 14. One and 14. Three. Which lie within Brigham Common.

00:18:41:03 - 00:19:05:15

The land that is required by the applicant is required in relation to the installation of underground grid cables and ancillary apparatus to construct, protect and alter such works in order to protect those assets once they are placed in the relevant parcels. It is also necessary to impose restrictive covenants for their protection.

00:19:07:22 - 00:19:28:26

The applicant considers that the imposition of these restrictive covenants and the acquisition of rights over those plots would be entirely consistent, and would not restrain the current use of the land. The test in section one, three two, subsection three, is therefore met. This position has not been objected to by the local planning authority or the relevant pasture masters.

00:19:32:01 - 00:19:50:18

In relation to section one, two, seven we had and one section one, three, eight. We had a brief discussion about this this morning, and we have taken the action away to provide some further details on the disaggregation of the relevant plots and the particular sections which apply in respect of those plots.

00:19:52:16 - 00:20:19:16

One thing to note in this context is paragraph 13 and 14 of the DLG guidance, which sets out that there are restrictions on the compulsory acquisition of land, uh, where it's used by statutory undertakers for the purposes of their undertaking. And in relation to those that acquisition, the applicant must demonstrate that there are no there is no serious detriment that could be caused.

00:20:21:02 - 00:20:55:00

The applicant, um, has gone through the status of the undertaker, uh, at this morning's hearing and will provide a further update. However, all of the statutory undertakers have been the subject, have had extensive negotiations with the applicant team and the applicant continues to engage with them. It's the applicant's position that none of these statutory undertakers will face serious detriment in relation to any compulsory acquisition that is proposed.

00:20:56:15 - 00:21:05:01

The applicant's position is therefore that the tests in section one, two, seven, subsection three and subsection six wherever, are therefore satisfied.

00:21:12:07 - 00:22:00:19

In relation to section 138 of the Planning Act. This applies where a DCO is proposed to authorise the acquisition of land, and there subsists a relevant right, or there is relevant apparatus on or over and on, under or over that land. Um, in those circumstances, section one, three, eight, subsection four states that as DCM may only include provision for the extinguishment of a relevant right or the removal of a relevant apparatus. If the Secretary of State is satisfied that the extinguishment or removal is necessary for the purposes of carrying out the development to which the DCM relates, for the reasons set out in appendix A of the Statement of Reasons, which sets out the purposes the applicant considers that that test is also met.

00:22:03:05 - 00:22:43:02

In terms of the applicant's strategy and criteria for determining whether to seek the compulsory acquisition of land or rights, or the temporary possession of land. Um, the applicant is considered how the scheme will be constructed and operated, and is sought to acquire the minimum amount of land necessary to construct and operate and maintain, as well as decommission the project wherever practicable, compulsory acquisition of rights has been sought. Instead of compulsory acquisition of freehold. That being the lesser power, and similarly where temporary possession powers is sufficient, for example, in respect of construction compounds, then only temporary possession powers are being sought rather than permanent rights.

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Generally, the applicant has taken a twofold process first, internal multidisciplinary workshops to investigate and consider the extent to which land is necessary in response to representations made, and secondly, external consultation with stakeholders, both formally and informally, which continue



to have influenced the refinements made to the order limits. The applicant has sought powers in relation to these which reflect its engagement process, and also sought to reflect the level of design detail available at this stage of development.

00:23:18:21 - 00:23:58:21

More specifically on the strategy where the applicant is electing to use compulsory acquisition Position. Powers. There are broadly five categories of land. The first is the permanent acquisition of land for solar arrays or mitigation. The second is the permanent acquisition of rights for the cable corridors. The third is the permanent acquisition of rights for maintenance and for other operational reasons. And then the last two categories relate to the temporary possession of land, one for compounds and the other for ancillary construction purposes, where the use of land in connection with the project would entail what is termed a deprivation of someone's beneficial interest.

00:23:58:23 - 00:24:10:22

The applicant has sought to include outright acquisition powers. This means, for example, land required for solar arrays or new accesses to be adopted by a local highway authority is treated as pink land.

00:24:14:04 - 00:24:46:11

The examining authority will be aware that the applicant set out its position on why temporary possession powers are not suitable for the for the solar arrays in response to question 1.3.1 in rep 1073. In short, the applicant does not consider it to be reasonable or appropriate to pursue temporary possession powers as a means of assembling the land in preference to compulsory acquisition. In this case, it would be an unprecedented approach to seek powers of temporary possession over land for a period up to 40 years.

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For the reasons that we've explained in our response, the applicant has carefully considered the compulsory acquisition of rights that are sought, for example, in relation to the cable corridors. The land above need only be for access for relatively minor and de minimis maintenance purposes. In these circumstances, it would not be appropriate to outright acquire the land, but nor would it be appropriate to rely on temporary possession powers.

00:25:13:21 - 00:25:51:02

In relation to alternatives, there are two key submissions to make. First, the application sets out the site selection process and the applicants approach to alternatives in identifying the principal areas of the site and the cable corridor. The options process considered the impact on landowners and the attempt to minimize the use of compulsory acquisition powers. In particular, chapter four of the Environmental Statement Alternatives and Design iteration, the references app 040 sets out the applicant's approach to alternatives and how the design is developed, having regard to environmental and other factors.

00:25:52:15 - 00:26:32:17

The Site selection assessment at appendix two to the planning statement that's rep 3016, demonstrates a consideration of the relevant policy and its applicability to the early site selection process that the applicant has undertaken. The second key submission in relation to alternatives is that the applicant

has sought powers which are the lightest form of interference, which is consistent with what is required for the delivery of the project. we have covered this point earlier. But as the examining authority will be aware, the applicant has sought to reduce powers to temporary possession only where the relevant land is only required for the construction period.

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As an example, in response to a line of questioning from the examining authority, we reviewed the need for permanent acquisition of rights in respect of plots two seven and two eight.

00:26:53:22 - 00:27:27:27

In relation to the human rights considerations. The applicant acknowledges that the compulsory acquisition and temporary possession powers would engage the human rights of the persons with an interest in land. In particular, article one of the First Protocol protects the right to everyone's peaceful enjoyment of their possessions. Article eight of the convention itself protects the right of the individual to respect for his private family life. Article one that I referenced in article eight are qualified rights.

00:27:28:01 - 00:28:05:01

This means that the interference with those rights can be justified in certain circumstances. The other relevant right of the convention that is engaged in this context is article six, which relates to the right for a fair hearing. The applicant considers that the purposes for which it seeks the powers of compulsory acquisition in temporary possession are legitimate and sufficient, just sufficient to justify interfering with the human rights of those with an interest in the affected land. It considers first that there is a compelling case for the compulsory acquisition powers for the reasons explained earlier.

00:28:05:27 - 00:28:46:12

Two. All affected persons will have a right to be heard by the examining authority, and that relates to article six. Third, any decision to authorize the use of compulsory acquisition in temporary possession will be in accordance with the law. And finally, the interference with human rights is proportionate and justified. Again, bearing in mind what we've said around the consideration of alternatives and reducing any powers sought where we can. The applicant recognises that the project may have an impact on individuals, but considers that the significant public benefits that will arise from the proposed development outweigh any harm to those individuals.

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The Draft Development Consent Order strikes a fair balance between the public interest in seeing the project proceed, which is unlikely to happen in the absence of a DCO authorising compulsory acquisition and the interference of private rights, which may be affected by compulsory acquisition.

00:29:11:27 - 00:29:28:08

The applicant notes that there are detailed agenda items relating to album wise, as well as the acquisition of plots relating to highway works, so proposes to address the particular factors that I've just covered off at those relevant points in the agenda.

00:29:30:08 - 00:29:31:19

Okay. Thank you very much.

00:29:33:08 - 00:29:58:16

Um, so we've already asked a number of written questions on the applicant's case for compulsory acquisition and temporary possession, which the applicant has responded to, and I do not intend to repeat these here. Um, I've got no further questions at this point on the applicant's general case for compulsory acquisition or temporary possession. However, do any parties present have any general points I wish to raise on the applicant's case? Um, at this time.

00:30:12:00 - 00:30:41:08

George Mackenzie for Four. Auburn Wise, Wallace Estates Group, and Auburn Wise Synergy Limited. I'll refer to them as Auburn Wise. Um, so I don't have a particularly good view of the physical room that you're in. And, um, I would like to make submissions on this agenda item, but I would, of course, in the usual way, give way to anybody in the room who you would like to hear from first. If now would be an appropriate time, then I would make my commissions. Now, if I may.

00:30:42:02 - 00:31:01:02

That's absolutely fine. Um, we're coming on to kind of a lot of specific matters, uh, regarding Auburn wise, um, next agenda item and the one after that. But if there's anything. Yeah, you're welcome to speak now, um, on the applicant sort of general case for compulsory acquisition. Thank you.

00:31:01:04 - 00:31:35:00

George McKenzie, for, um, Auburn wise. Thank you, sir, I know that I certainly will be making submissions in relation to the next agenda item. Um, but in relation to this agenda item, sir. My submissions will. I'd like them to focus on the procedural aspect of the compulsory acquisition provisions comprised in the second suite of change requests, and I'll deal with the substance of the compulsory acquisition and temporary possession proposals in relation to the next agenda item.

00:31:35:02 - 00:32:24:00

But this is a broader procedural point that that I think ought to be made now. And so I start by saying that if the examining authority does not already have alarm bells ringing in relation to the procedural aspect of the compulsory acquisition provisions contained in the second suite of change requests, then the intention that I have is to ring those alarm bells loudly and clearly, because urban wise has serious procedural Concerns in relation to the way that the compulsory acquisition aspects of the project, and in particular those embraced within the second suite of change proposals, are being promoted and examined.

00:32:24:19 - 00:33:11:23

So this is the first compulsory acquisition hearing in the context of this examination. And the applicant applicant has sought to justify the compulsory acquisition and temporary possession provisions, not just of the project as initially promoted and applied for, but the whole project, including the project as proposed to be amended by the second change request. And that's important because the circumstances of that are firstly, that the deadline of the 29th of October for making relevant reps in respect of the latest series of change requests hasn't yet arrived.

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And so by definition, the applicant has not responded to those as yet on formulated relevant representations, setting out its position in writing. Um, so the examining authority has yet to issue an initial assessment of issues under regulation 11 of the Compulsory Acquisition Regulations 2010. And the applicant has, in fact asked the examining authority not to exercise an important procedural power, namely the power under Reg 11 two of the 2010 regulations to hold a meeting to decide how the proposed provisions ought to be examined.

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And nor have they proposed how interested parties should be able to influence procedural decisions about how the provisions will be examined if it's not going to be through a regular 11 meeting. And I know, sir, in this context, that the 11 power to hold a meeting is an important, indeed a critical in my submission part of the machinery for ensuring procedural fairness in cases where provisions are promoted which would authorize compulsory acquisition.

00:34:28:14 - 00:35:06:11

Instead, what the appellant has suggested in terms of table 11 of its change request, is that the examining authority gives itself only three working days between the submission of relevant reps on the 29th of October and the issuing of the examining authority's initial assessment of issues on the 4th of November. They suggest that interested parties should only have three working days between the submission and note that is the submission, not the publication, which is a point that the examining authority itself has picked up on..

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Um, three working days between the submission of written reps relating to the change request and deadline. Five um, at which point those submissions need to be dealt with by interested parties. That's the 28th of November. And that just two working days later, starting on the 3rd of December, that the examining authority should accommodate additional hearings in relation to either compulsory acquisition or issues. Um, no consideration at all has been given to the need, if one arises, for further examining authority questions.

00:35:45:08 - 00:36:31:26

Uh, in what is supposed to be statutorily a process that is primarily written, albeit with important points of contact at which oral submissions can be made. And so, plainly, if the written LED process is adopted, it only functions in a procedurally fair and effective manner when sufficient time is given to participants for that written process to play out and to work. And so I note that the procedure in the Planning Act 2008 is the streamlined procedure for consenting, and what the applicant is proposing is, in effect, to streamline what is already a streamlined procedure.

00:36:32:02 - 00:37:29:06

And frankly, that is and entails a major procedural risk. And so all of this is being done to shoehorn the examination of changes which have been proposed late in the process that the examining authority has already rightly concluded comprised material changes to the project into what little time remains towards the end of the statutory examination period and the applicant is in reality asking not just interested parties, but also the examining authority to bend over backwards, frankly, to accommodate changes involving the use of draconian compulsory acquisition powers which, if genuinely needed for

project delivery, would have been arrived at, consulted upon and promoted at the application stage and not halfway through the examination.

00:37:29:21 - 00:38:00:04

And so, in this context, urban wise, do not shy away from the submission that the second suite of proposed provisions for compulsory acquisition and temporary possession are far too extensive to be examined in a procedurally fair and sound manner at this point, and they should be rejected. In the letter, sir, that that the examining authority wrote on the 19th of September this year and that is PD dash zero 11.

00:38:00:22 - 00:38:43:12

So it was noted that the acceptance of the proposed changes was conditional. That is important. The letter stated that the acceptance was made on the basis that all the processes can be completed in the required time prior to the close of the examination, taking into account statutory time frames as necessary and in accordance with any revised timetable that may be published. And that if that wasn't achieved, then the examining authority will not be in a position to take the change request into account in your recommendation to the Secretary of State, because the relevant statutory procedures wouldn't have been met, and therefore section one, two, two of the of the Planning Act would not have been met.

00:38:44:06 - 00:39:22:00

And so my submission is for four reasons. That that eventuality is exactly what has come to pass. The first reason is that despite the examination procedure being statutorily, as I've said, primarily a written process, what has transpired in the last few weeks and indeed compounded today is, in effect, a jackknife because the applicant, the applicant, has used a compulsory acquisition hearing as a means of promoting the second suite of changes, despite the time for relevant reps to be submitted being over a week away.

00:39:22:17 - 00:40:01:18

And so the card has been put before the horse, and the oral process has been permitted to overtake the written process in a procedurally unsafe manner. Secondly, further compulsory acquisition hearings have not yet been scheduled and so it's not yet known when or whether interested parties will have a further opportunity to address the examining authority on matters which, in due course will have to be set out in writing. And that is, of course, sir, a matter which the examining authority has the power to remedy, but only provided that there's sufficient time within the examination envelope to do so.

00:40:01:20 - 00:40:36:02

And that brings me to the third submission, which is quite simply that we say there isn't at time. And I've already foreshadowed these submissions, but three working days between the submission of relevant reps and the regulation 11 initial assessment of issues is not long enough, frankly, and that there's a risk that in trying to conduct an important exercise that will determine the way in which the compulsory acquisition provisions will be examined, important issues will be overlooked or will fall through the cracks.

00:40:37:07 - 00:41:10:22

Three working days for interested parties, then to respond to the applicant's written response to relevant representations also simply isn't sufficient, and that assumes that they are published immediately following receipt, which we know they won't be because that is just in the usual manner. It takes a few days for the program officers to publish reps which have been received, so the submission is that it's not just impractical and onerous, only to allow three working days for interested parties to respond.

00:41:10:28 - 00:41:57:16

It is simply impossible. And the next two working days, just two, are proposed to be permitted to prepare for further hearings if scheduled, following receipt of all of the deadline. Five materials. But that is not enough. Again, it's not just a question of that being onerous and difficult. It's impossible. And so in that context, in respect of each of those stages, sir, Auburn Wise will need to take specialist advice from a highways engineer and present that input, which will be of a technical nature, both quantitatively and qualitatively, and present it to you in the examining authority properly and adequate time needs to be given for that.

00:41:58:18 - 00:42:53:01

And the fourth submission under this head is that the applicant's timetable, as I've said, doesn't present any opportunities whatsoever for interested parties to influence how the proposed provisions will be examined. The applicant has frankly, boldly proposed to simply dispense with the need for a Reg 11 meeting, but not to substitute it with any written process. And importantly, the reason why the applicant wants the regular meeting to be dispensed with has nothing to do with any suggestion that such a meeting is not needed, but because the holding of such a meeting would simply be inconvenient in terms of timing, and that not holding the meeting would enable the truncated timetable to examine the second suite of proposed changes to fit within the examination envelope.

00:42:53:23 - 00:43:50:14

And so my submission in relation to that proposal, which is a bold proposal, is simply that it's not a sufficient reason to dispense with a meeting which serves an important procedural purpose in the context of the scheme of the 2008 act as a whole. Bearing in mind that these are that the 11 meeting, it is effectively the forum envisaged for individuals from whom land and rights are proposed to be acquired by compulsion to influence the procedure by which the relevant acquisition provisions come into effect, and the DCO, and it would be a misuse of the statutory discretion in Reg 11 to accede to that request, because that discretion should not be used in a way that facilitates the applicant's election to have proposed changes at a very late stage in the examination.

00:43:51:06 - 00:44:33:05

Rather, my submission is that when exercised, the discretion not to hold a meeting in Reg 11 should only be exercised because of a conclusion that it's procedurally unnecessary. In other words, where the examining authority has sufficient written material and sufficient time available to them to make procedural decisions about the manner in which the proposed provisions will be examined without the need to hold a meeting. But since the deadline for submitting relevant representations hasn't passed and the relevant representations haven't been published, it is entirely wrong in my submission for the applicant to suggest prospectively, i.e.,

00:44:33:07 - 00:45:15:22

in advance of the relevant reps being submitted, that the procedural safeguard in regulation 11 should be simply dispensed with and not substituted by any written process. Um, and so. So in summary, we say that the timetable is too narrow. The turnaround times are wildly optimistic and would give rise to serious procedural unfairness. Because of that, the statutory primacy of the written process would be undermined to an extent that would be unlawful, and an important protective procedural mechanism is proposed to be dispensed with for an improper purpose and not substituted by anything.

00:45:16:18 - 00:45:51:15

And so, sir, in that context, I submit that the changes involving compulsory acquisition and temporary possession in respect of the second suite of proposed changes should not be taken into account by you, by the examining authority, and if they are not withdrawn by the applicant, which they ought to be, then they should be ignored. When making your recommendation to the Secretary of State, such that the recommendation on the DCO and the project should, and in fact must be based on the pre Change position.

00:45:51:20 - 00:46:09:28

And the only alternative to that, sir, is that the examination timetable should be extended into the new year to enable the changes to be examined in a procedurally fair manner. And of course, that would be highly undesirable. Those are my submissions on this agenda item, sir. Thank you.

00:46:12:24 - 00:46:28:16

Okay. Thank you, Mr. McKenzie, for that. Um, I'll obviously ask the applicant for their response. Um, before before I do though, um, so this compulsory acquisition hearing today has come about because of

00:46:30:06 - 00:46:47:10

a request for this to happen from a previous from a defective party or affected person from the outset of the application. So because we're holding a compulsory acquisition hearing today, doesn't mean we're not going to be holding one later on. So.

00:46:49:11 - 00:47:29:18

And in fact, we need to we have to hold on later on because you're an affected party and you can request one should you wish to do so. So the fact that we're holding one today and you're here is, you know, it's very we I'm pleased you are here, but I don't think there's like a timing issue with holding a compulsory acquisition hearing at this point because we've had the relevant representations and written representations from parties already for the original application. The compulsory acquisition hearing, potentially held in December would be subsequent to relevant representations coming out of the change request.

00:47:30:14 - 00:47:30:29

Um.

00:47:31:01 - 00:47:31:16

Yes, sir.

00:47:31:18 - 00:47:45:17

Yeah. So yeah. Moving on. Next to further opportunities for hearings. Yes, there will be that will come out of that will come in the December hearings as well. Uh, in terms of time,

00:47:47:15 - 00:48:19:20

The statutory dead deadline for our examination is 22nd of January. If we need to go to the 22nd of January, that's what we'll do. So when we looked at the change request, we as you mentioned, there's a tight timescale between that, the relevant representations and comments on those relevant representations. We recognise the tightness of that timescale as well. So the five month examination we're running at the moment is.

00:48:22:17 - 00:48:47:24

That's that's what good governments are wanting us to determine in sips a bit quicker. It's you know, it's nice to have it doesn't necessarily have to be the case. So statutorily we have six months to do that. So should we need to do that then that's what we'll do. Um so that would then extend the three day Period, which, as I said, I agree with you. That's

00:48:49:12 - 00:48:53:05

tight and not really feasible. Um.

00:48:55:08 - 00:48:57:03

Then interested parties

00:48:58:25 - 00:49:30:12

commenting on proposed provisions of the matter about the preliminary meeting. Well, that's a decision for the examining authority at the end of the day. So I guess my point is this compulsory acquisition hearing was not set up by the applicant, was not settled by the applicant. It was came about as a request for one from an effective person from the original application. Um, so bearing all that in mind, I'm just going to pass over to the applicant. Now, who who might want to respond to your points as well.

00:49:32:03 - 00:50:02:25

Thank you, sir. Mr. Lateef, for the applicant, I think we have three key submissions to make in response to what you've just heard, but I'll try to summarize part of it, because I think what you've just said is exactly correct, and a large part of the response to what you've just heard, the first submission is, I think Mr. McKenzie has said that this is bold and that, um, this is a brazen attempt. I'm afraid it's slightly less colourful.

00:50:03:04 - 00:50:35:01

This is entirely standard regulation. 11 two is a discretionary power. And as you say, it's a decision for the examining authority to make. There have been shorter periods than the one that has been proposed here. And so what you're being told is, is streamlining. It's a jackknife is categorically wrong in terms of how the practice of DCO examinations have worked and how they have included the adequate consideration of additional land being added under the scope of the 2010 regulations.

00:50:35:15 - 00:51:15:00



Just to reiterate, regulation 1102 is a discretionary power and it is more often than not not held. And so what Mr. McKenzie is seeking to do is to reverse the presumption that it is entirely discretionary as to whether it's necessary and it's and is instead suggesting that you need to provide reasons for why you're not going to do it. That is not what the regulations say. And insofar as the wider consultation exercise is concerned, I think it is worth taking a step back and looking that this is this is not something that arose, um, a very suddenly.

00:51:15:02 - 00:51:45:03

We have been engaging with album wise since going back all the way to, to August 2024, in relation to various issues. The proposed, uh, timetable that we put forward still allows for an adequate consideration for the reasons that you yourself have just said. And I think what the what Mr. McKenzie is seeking to do is, is somewhat undermine a determination that that has been made and does as you said.

00:51:45:05 - 00:52:20:10

Does not affect the future conduct of the examination in PD 011. The examining authority concluded. Having carefully considered the responses of consultees, the examining authority is satisfied with, the applicant has undertaken adequate consultation and engagement for the purposes of submitting a formal change request. As I said, this is standard. This is not an attempt at a bold streamlining. This is very, very standard and it's been done on various applications. So I really don't want you to be left with the impression that what we've suggested is completely out of the ordinary.

00:52:20:18 - 00:52:50:03

Insofar as the concern relates to consultation, we've set out various aspects. We do appreciate that there is an outstanding objection to the use of the land that is the subject of the second application request, but we we politely request that that does not affect the procedural All questions that that we've put that have been answered and that have been put forward by the applicant in this context. I think the final thing to say is

00:52:51:29 - 00:52:55:27

in terms of procedural fairness, as as you say, there are there are

00:52:57:17 - 00:53:37:04

decisions for you as the examining authority to make, but there are also various deadlines you have had, I think, various letters from album wise explaining their position and will probably come back to this in the next agenda item, where it's probably more appropriately covered. But the suggestion that, um, a significant extension of any kind as required is, is, I think, unrealistic in that context. It is worth noting that the government published last month consultation documents on reforms to the compulsory acquisition regulations.

00:53:37:07 - 00:54:02:04

That is what a streamlined approach looks like. And this approach that we are suggesting is, is for reasons that are set out in the regulations cannot be followed here. So the government wants this very process to be streamlined. So the suggestion that you should accommodate something while the government is considering further streamlining beyond what we've suggested, I think is a really significant concern.

00:54:10:06 - 00:54:14:06

Mr. McKenzie, did you have anything you'd like to say in response to that?

00:54:18:08 - 00:54:58:20

Thank you. I would, if I may say yes, there's there's three points that the first is just in relation to timing and the submissions that I made about the unacceptable degree of streamlining has to do with the time, the timetabling that I set out earlier. So there's often three working days between the various stages, and that simply isn't enough. And nothing with respect that Mr. Latif Ramesh has said has addressed that point. That is far too limited and envelope for these matters to be dealt with fairly then in relation to the regulation 11.

00:55:01:08 - 00:55:32:19

Point. I think Mr. Lateef accepted in his reply to my submissions that the regulation 11 meeting can be dispensed with where one is not necessary, and I absolutely agree with that. And in fact, I said in my submissions that that statutory discretion and it is a statutory discretion needs to be exercised for the correct statutory purposes, which would include a situation where you made a determination that it wasn't necessary to have a meeting.

00:55:32:25 - 00:56:15:29

My submission was that it would be an improper use of that discretion to refuse to hold a meeting simply in order to truncate the timetable further. So if it was, if the regular meeting was dispensed with only to accommodate an athletic timetable, that would be a misuse. If you thought it wasn't necessary to hold one, that would be perfectly acceptable. And then, just in relation to the last point, I'd certainly would encourage you to apply the 2010 regulations, which are statutorily in force in relation to this application and not the draft regulations.

00:56:16:17 - 00:56:24:13

Um, I think the other points that I have relate to are site specific, so I'll raise them under the next agenda item.

00:56:25:20 - 00:56:37:21

Okay. Thank you. I mean, of course, we will be, um, working with the 2010 Compulsory acquisition regulations. That's all we have to do. Yep.

00:56:39:27 - 00:56:41:23

Let's come back on that at all.

00:56:42:17 - 00:57:01:09

Mr. Lateef, very much for the applicant, I think. I think the only point is just to underline the point when I was referencing the consultation, that's what further streamlining actually looks like. That that was the point. It wasn't to suggest that you weren't following the 2010 regulations, which I think we all are, and what the applicants proposed is compliant with the current set of regulations.

00:57:06:27 - 00:57:16:13

Okay. Thank you. Um, in that case, I'll move on to item three, which is site specific issues for the applicant.

00:57:20:12 - 00:57:42:08

Um, so I'm aware from the applicant submissions that it is actively in discussions to try and secure the rights and needs through voluntary agreements. Can you please provide a general update on how these discussions are progressing, the current expected deadlines for conclusion and given the number of plots involved. Any issues where there's a particular problem?

00:57:44:11 - 00:58:17:12

Rosalind Gledhill on behalf of the applicant. And as set out in the Land and Rights Negotiations Tracker reference rep 3013. The applicant is seeking compulsory acquisition powers to permanently acquire 723 hectares of land, 160 hectares of land for permanent rights and nine hectares of land for temporary possession of the total order limits. 81% of this land is required for permanent acquisition, as shown by the pink shading on the land plans.

00:58:17:14 - 00:58:55:16

Reference RET 3004. This is the land required for the solar array and any associated infrastructure as set out in document rep 3013. Voluntary agreements with affected parties are in place for over 80% of this land in the form of option agreements. Permanent acquisition of rights is sought for 18% of the order limits, and this is largely required for the easements needed for the 132 kV grid cable connection as set out in the Land and Negotiations Tracker.

00:58:55:19 - 00:59:38:11

Heads of terms have been issued to all land interests where rights are sought in November 2024, and the applicant has had discussions with all of these affected parties to date. Of these affected parties, five have agreed terms in principle and the applicant has also received three signed cable option and easement heads of terms signed by the affected parties, and these should have their legal paperwork completed by the end of the examination. We have recently been informed that the agents acting for many of the remaining affected parties have created a land interest group or to collaborate and agree common terms.

00:59:38:22 - 01:00:16:16

As such, we anticipate for these heads of terms to be agreed shortly, and we will update the Land and Rights Negotiation Tracker in due course to reflect this. Discussions with the other cable easement affected parties and their appointed agents is ongoing, and the applicant is in regular contact to try and negotiate and agree heads of terms with them. Active discussions will continue with these parties to try and conclude an agreed as many as possible of these heads of terms, and we will continue after the examination ends to try and secure voluntary option and easement agreements with the affected parties.

01:00:17:18 - 01:00:34:15

Temporary procession is required for less than 1% of the order limits, and heads of terms and or licences have been issued to these affected parties and are being progressed. We will update document rep 3013 in due course to reflect this.

01:00:38:11 - 01:01:17:00

Hey, thank you for that. Um, so we've asked a number of written questions on site specific compulsory acquisition and temporary possession matters, and aware of all submissions relating to compulsory acquisition and temporary possession. Um, there are though few questions or points of clarification we just wish to address as listed on the agenda. Um, in terms of about negotiations and matters arising from written and oral submissions, including round plots two, six, two eight, four two, eight five and six seven.

01:01:18:21 - 01:01:50:18

Um, could you just please clarify this? So you've probably seen the additional submissions that we, um, accepted from Leonard's. And that's the respect of two affected persons. Um, I know there's quite a lot of. It's been redacted, including a map, so I don't know how much you can. You're aware of the specific plots, but you know the names. So you must be aware of the plot.

01:01:50:20 - 01:02:06:05

Most ability for for the applicant. The applicant has been in quite detailed and significant discussions with the relevant landowners. So we're quite familiar with the issues that they've raised in the submissions that you accepted in lieu of the hearing, I guess.

01:02:06:09 - 01:02:18:28

Um, so can I just ask, in respect to plot two six, can you just explain to me why a passing place is required in the whole of that area?

01:02:21:26 - 01:02:30:08

Mr. furnish for the applicant. So in relation to plot two six, this plot is required for the provision of passing places.

01:02:30:10 - 01:02:34:03

And worth just bringing it up on the screen just so we can see.

01:02:37:04 - 01:03:20:12

So it's as you say, it's it's required for the provision of passing places and highway widening works along New Lane. The permanent acquisition is required to enable, um, any passing place or widening that is then carried out to be adopted by the Highways Authority. And I appreciate this as a point of detail, but it's quite important for for explaining the approach here. East Riding of Yorkshire Council, um, in our discussions with them and there is a reference for this, have confirmed that they will want the standards for the adoption of a highway to be adopted for any, any works that we do in relation to, to passing places or highway widening.

01:03:20:14 - 01:04:01:18

And the reference here is rep 2081, which is chapter 14 of the environmental statement, which records the councillors saying that they would like to ensure that those adopted standards are used for highways following construction. So the starting point is that we need to carry out these works in a manner that is compliant with the local highway authority's adopted standards. We have mentioned in our responses to written questions that the approach to adopt, where land is to be used as part of an adopted highway, is that it should be subject to permanent acquisition.

01:04:01:20 - 01:04:15:25

And there is a specific reference, which I won't repeat from the Secretary of State that endorses that as a general approach. If the question is about the extent of the plot that is shown here. So

01:04:17:16 - 01:04:50:19

we acknowledge that the locations are, A book that the width of the highway measures should be between seven and a half and eight meters, which is effectively wide enough for two HGVs to safely pass one another. That requirement is based on an assessment that the applicant carried out, which is contained in appendix four of the Transport Assessment, and that's APP138, which carries which has that assessment of where the potential works are required in relation to passing places.

01:04:50:21 - 01:05:27:07

The maximum maximum extent of land required is approximately 3.5m by 40m in length. However, at this stage of design an indicative boundary has been utilised and this will be refined at the detailed design stage. The applicant highlight would highlight that the design parameters document, the most recent version of which has the reference rep 3018 secures. These widths that I've mentioned. So for example, the design parameters document says passing places will be 20m in length with the provision of ten metre tables at each end.

01:05:29:02 - 01:05:49:26

That ensures that the works that are to be delivered will only be what is necessary. But what we've had to do based on that assessment in appendix four of the transport assessment that I referenced, is identified indicative areas and then secured controls about the exercise of the powers in relation to the use of those plots. I'll stop there just in case.

01:05:49:28 - 01:05:53:27

Um, well, you'll say the whole of plot two 6th May not necessarily be used.

01:05:54:08 - 01:05:54:26

Correct?

01:05:54:28 - 01:06:16:21

Right. Um, so I, I was going to ask a question about the northern bit of that plot is that that's garden land, is that right? That seems to be since I wrote since I was going to ask you. Then the additional submission came in, which seems to suggest it is. Is that your understanding?

01:06:22:17 - 01:06:53:24

Ability for the applicant. That's our understanding. And obviously at the detailed design stage, we would we would not only comply with the design parameters, but but look to build things out in a way that is the least impactful. Um, there is a general point to make here, which is that where we are exercising any compulsory acquisition powers all the use of the temporary possession powers, you'll be aware that the DCO has specific provisions in relation to the provision of compensation.

01:06:53:26 - 01:07:10:13

So there is an incentive built in to make sure that we're trying to minimise the the extent of interference, not just because that's what the applicant would do as a matter of course, and does across the country when it delivers its projects. But because there is that provision relating to compensation.

01:07:11:15 - 01:07:39:25

Okay. And so in the in the book of reference, that plot is described as 441m<sup>2</sup> of trees. So I'm just wondering why it's not identified as garden land and whether there's any other garden land associated with residential properties that I'm not aware of because it's not described in the book of reference as such.

01:07:41:19 - 01:08:11:28

Mr. Pelosi, very much for the applicant. If the question is, is there any other bit of garden land? Uh, I'd have to take that way. I don't have the answer on the tip of my tongue. What I would say is that the descriptions in the book of reference are often related to, are not generally related to the use of the the land. They're descriptors for the particular parcels or how they are identified at the land registry. So it wouldn't necessarily tell you it's a front garden, a back garden or something like that.

01:08:12:24 - 01:08:15:04

Okay. I suppose the reason I ask is because

01:08:16:27 - 01:08:39:00

article eight of the Human Rights Act relates to and also the CIA guidance. The CLC guidance talks about, um, you know, compulsory acquisition of houses and property. And so this this fall under article eight, if you're compulsory acquiring someone's garden.

01:08:40:01 - 01:09:19:24

Mr. Phillips, you very much for the applicant. Article eight as well as the first protocol. Uh, so the first protocol, broadly, broadly, which relates to possessions and property, is broad enough to probably encompass all of the sites and the interests that we record in the book of reference. Um, and so insofar as we have considered human rights as part of our approach, that's, that has been applied, even if it didn't happen to be a garden. We've we've considered the impact insofar as it relates to, uh, an individual's home life that's also being considered as part of the multidisciplinary reviews I mentioned under the, uh, first agenda item.

01:09:19:28 - 01:09:36:26

Again, the the way that we've come to this position has been based on assessment, consultation and then additional security and commitments provided to minimize the extent of any interference for the indicative layouts that we have.

01:09:39:09 - 01:10:06:28

I suppose when I'm when we're coming up, you know, when we write our report, it's if we don't know what's garden land and what's say, a field, it's kind of then hard to apply those sort of human rights tests. I think so. I mean, I have had books of reference before that's identified which plots of land, um, include garden land. I mean, it's.

01:10:13:20 - 01:10:22:05

Mr. Fuller for mesh for the applicant. I think there's only a small sliver of land that is the actual garden. The rest is the. It's the paddock.

01:10:22:07 - 01:10:53:09

Yeah. I think the the bit, the northern bits. Yes. North of the, that line that goes sort of east to west but it's still garden land. So I suppose my question was, is I wasn't aware that there was any necessarily any garden land until the submission that came in. Um, I suppose my question is they'll be useful for me to understand if there's other garden land that I'm not. That because it's not in the book of reference. How would I know whether there is or there isn't.

01:10:54:05 - 01:11:31:25

Suitability for mesh for the applicant? I think, as I said, on the question of is there any other garden land we can we can come back to you in writing? I think it might also be helpful for us to just explain, uh, how human rights is being considered in relation to any plants where there has been, uh. Where there is garden land. The key point in this context being that the applicant has taken a fairly, um, comprehensive approach to considering as part of its processes, as part of the ongoing engagement to reducing the interference with land interests so far as possible.

01:11:36:25 - 01:11:44:26

Okay. So what further negotiations have you had with the landowner of plot two six since, say, deadline two?

01:11:49:27 - 01:12:22:18

Mr. Felicity, for the applicant. So we have issued additional heads of terms to them in relation to not just plot two six, which we're currently talking about, but two five as well. Um, and we are waiting to, to hear back on those heads of terms. So we have issued a voluntary agreement. It is also worth saying that there is an agreed options agreement with the same landowner, but those relate to different plots. So plots 152 16 218.

01:12:22:25 - 01:12:34:20

Um, and so what we're seeking to do is, is we've issued the hazard terms for plots two five and two six, um, about three weeks ago now or two weeks ago now. And we're just waiting to hear back.

01:12:37:19 - 01:12:38:04

Okay.

01:12:42:18 - 01:13:16:18

So initially the agent was going to be here today, but they decided not to and submitted those. So I've only had just had a chance to see them properly as well. Um, but I'm sure that you want to say anything about any of those additional submissions or do you want to sort of address those as part of deadline for. Because there's there's the other one as well, which talks about, you know, why do you need three parking spaces on a very long, straight stretch of road? Could that be reduced? There's also a privacy issue around the hedge.

01:13:16:25 - 01:13:33:27

Lots of a hedge and the residential property. Um, I don't know to what extent you've had a chance to read those submissions, or whether that's something that you would rather respond to in more detail at a deadline for.

01:13:34:18 - 01:14:10:03

Most ability for the applicant. Uh, as I said at the start, the applicant has had various discussions with this landowner. So the issues that have been raised are not, um, new to us. I think it would be helpful for us to, to provide a kind of response to anything that we think we haven't already addressed. Um, in a submission at deadline four. Um, there's, there's there's nothing I think, that we specifically want to say, other than what I've outlined in terms of the process that we followed, the assessment which forms the basis of the passing places and the consideration of human rights.

01:14:10:05 - 01:14:12:09

I mentioned at the very start of the hearing.

01:14:12:21 - 01:14:24:15

Okay. And in terms of the passing place, places they would be required for like maintenance, decommissioning, or is it just for construction purposes?

01:14:27:12 - 01:14:46:13

These so that there's two separate. Sorry. Stability for a matter for the applicant. So there's two distinct issues. One is what is required for construction. And the other is what do we have to do on the handover of the relevant highway. The latter is not just for the construction of the project. It's to ensure that we can hand it back over to the Highway Authority.

01:14:53:01 - 01:15:00:02

Okay, but I'd say the passing places are only needed for construction purposes. Is that what you're saying?

01:15:02:11 - 01:15:26:24

Mr. Ramesh, for the applicant that there is some operational activities which would require them, but they're they're relatively low level. The primary purpose is construction. But um, then some some minor needs during operation. But the question is how do we hand this over to the local authority? And in order to do that, that requires the acquisition that we've proposed.

01:15:26:26 - 01:15:39:00

Okay. So just one more question. Why then why do you have to compulsory acquire it? Why can't you restore it back to what it was? Why do you have to hand it but hand it to the local authority.

01:15:40:21 - 01:16:13:29

Mr. Parish, with the applicant. So, as I mentioned that there is still an element where it's required for long term operational aspects when we have the maintenance of the authorized development in use. And so it would be worse for us to come back whenever we needed to do, uh, the, the, the more, um, minor movements. Construct a new passing place. Restore the land. Come back a few you know, a few months, a few years later and do the same. So it's not as though there's no need whatsoever for operational purposes.



01:16:14:06 - 01:16:16:16

The primary driver is construction. Okay, that's.

01:16:16:18 - 01:16:34:19

Not to do with because during construction you obviously have more HGV movements than operation. So the passing places, it's not like a volume thing where there's two vehicles or 22. You still need them basically.

01:16:35:29 - 01:16:39:04

Mr. Parish for the applicant. That's that's correct.

01:16:41:09 - 01:16:41:24

Okay.

01:16:48:09 - 01:17:03:03

In that case, moving on to plots two A4 to A5 and six seven. And that's what negotiations have you had since deadline three with album wise? Um, you know, particularly noting it's its deadline three submission.

01:17:31:21 - 01:17:49:06

For the applicant. So we've had, uh, discussions with Open Minds last week. There was a discussion which was quite detailed, and I understand there was a further discussion, um, even more recently with the agent that acts for album wise.

01:17:55:12 - 01:17:56:16

Are they productive?

01:17:59:18 - 01:18:40:05

Facility furnish for the applicant. They they were productive and part of the discussions, I think have um highlighted what some of the specific concerns Auburn wise have are, which has allowed us to more positively respond in saying we don't think that there is that level of interference that is being anticipated. In addition, one of the things that we have sent over so separate from the discussions that I've meant in written correspondence to Auburn Wise, is we are proposing to insert a new DCO requirement, which deals with the interface with the Auburn land parcels.

01:18:40:07 - 01:19:10:08

And the purpose of that provision is to contain a commitment to work with Alan Wise during the construction period to minimize, so far as reasonably practicable. Um, the. Conflicts that may exist. What that provision does in particular is not just deal with the construction process where we've explicitly included, for example, a point of contact.

01:19:10:10 - 01:19:52:04

We've also got commitments on how the powers are actually exercised, so that the actual infrastructure that is being built, um, by all wires is not affected. And so one of the issues which we expected to be to be raised was the extent of the land use that is proposed over there, over over

organises land interests. And our submission is that that extent must be read in line with the commitment that we're providing, because there is no intention to interfere in panels which are actually constructed, or a substation which is which is actually operational.

01:19:52:08 - 01:20:31:09

The intention, um, is to exercise the powers in a way that is least into it detrimental to album wise. And it's also worth saying that just as a point of of why have we included that we had understood or we had been led to believe that the Auburn Wise proposals were not necessarily fixed, and there was an opportunity for some movement in some of the fixed infrastructure that was being proposed. And so the flexibility. Um, even though it's going to be controlled, is also just there in response to feedback or response to the discussions that we had with album wise.

01:20:31:19 - 01:21:09:28

Um, I appreciate you have not seen you've not had sight of the provision that we're proposing. What we were proposing to do is, is wait for any comments from Auburn Wise, consider their response and then submit it to the next deadline so that even in the event that there is no agreement or their objection subsists, that the examining authority could be comforted that there is an express provision which relates to managing the interface between organisers, interests and the applicant in promoting this nationally significant infrastructure project.

01:21:10:00 - 01:21:21:06

I should say this is not an uncommon occurrence in the provision is based on an overlap to to precedents where there is a probably a more significant overlap than what we're suggesting.

01:21:21:13 - 01:21:26:10

Okay. When did you say require a new requirement or a provision a requirement?

01:21:26:12 - 01:21:29:09

Mr.. Very much for the applicant. This is a requirement.

01:21:29:11 - 01:21:30:00

Okay.

01:21:30:03 - 01:21:31:25

New requirement for the requirement.

01:21:32:27 - 01:21:38:01

Okay. Can you put it at the end of. So the numbers don't change. Don't change.

01:21:38:03 - 01:21:40:27

Yes please. Yes. That's that's the plan.

01:21:41:26 - 01:22:01:11

Um, can you just also just clarify the necessity for seeking temporary possession over plot to A5. Um, the duration that would be required for. If Necessary, and I don't know the extent to which this might have implications for the delivery of field House solar farm, in your view.

01:22:03:12 - 01:22:34:12

Mr. Philips furnish for the applicant. So I won't go back to, to uh, I won't give this too high level, but the over the over, uh, kind of the primary case for the compulsory acquisition in land use in this area is driven by change line. As you know, that is fundamentally justified because it allows us to reduce the use of new lane during construction by 25% for access onto land area and 50% onto land area. D the

01:22:36:06 - 01:22:38:12

in terms of in terms of the um,

01:22:40:08 - 01:23:11:11

provision that we're making, we've discussed this with uh East Riding of Yorkshire Council. They they've confirmed that this would be an improvement because of that associated, um, reduction in traffic. It also avoids, I think, the impact on a veteran tree, which we can set up the full details. That's the general case for for why we're promoting this change. In terms of the specifics on what you've asked in terms of plot to A5. I just just two submissions.

01:23:11:13 - 01:23:42:27

The first is that the extent must be read in line, I think, with the provision that we are suggesting, the new requirement that we are suggesting, which requires us to ensure that so far as reasonably practicable, conflicts are reduced. So we can't look at the plot in isolation or what is currently being suggested as the infrastructure layout for the adjacent development and say, okay, this is the this is the extent of the conflict. The provision has a material impact on how the powers was.

01:23:42:29 - 01:24:14:18

Powers will actually be exercised. The second point to note is it having had those discussions that I referenced last week with album wise, I think the applicant is comfortable that there is no significant interference with the panels that are proposed, the inverters, and there is an opportunity to ensure that the, um, extent of any interferences is minimized so as to avoid a material impact on the operations.

01:24:14:20 - 01:24:28:25

It's only because the applicant has listened and heard, uh, what album wise has said in terms of the impact that it's comfortable giving this new requirement, which so far is reasonably practicable, will remove the conflicts?

01:24:31:22 - 01:24:38:16

Okay, so you could theoretically use plot two A4, could you, instead of plot two A5.

01:24:40:23 - 01:24:48:25

So it's like a are they isn't that an option. It's either use plot two A4 or use plot two A5, depending on.

01:24:50:10 - 01:25:47:16

I pressed on behalf as we could. It is our preference, I suppose, to use to a five, because it offers that greater separation with with field House farm. Um, so we are looking to progress those voluntary agreements in relation to A5. Um, what I would say is, um, in the procedural decision, follow the

request for the change application. That's PD reference 011 that did confirm that if plot two A5 were to be used temporarily for construction traffic, including HGVs, thereby negating the need to use part of plot to A4 adjacent to field House farm, the change would be unlikely to result in any materially new or materially different effects included incrementally to those reported in the submitted with the application.

01:25:48:13 - 01:25:58:11

Okay. But you come to that conclusion anyway. Even if you did use plots of A4, you say there would be no significant effects. So why do they plot to A5? If you could

01:26:00:07 - 01:26:04:29

do use plot to A4 without significant effects. Anyway.

01:26:05:22 - 01:26:24:28

Mike, on behalf of the applicant here again, I think that came about just in regards to those discussions and considerations for the properties at field House farm and the understanding we had with with open eyes on the land negotiations, that there may be an opportunity to to make use of two A5.

01:26:27:19 - 01:26:28:10

Okay.

01:26:32:16 - 01:26:40:04

But what I need to understand is do you need plot to A5 in order to implement your proposed development?

01:26:41:23 - 01:27:08:04

Mr.. Very much for the applicant in order to increase the separation between the properties and the access track. The answer to your question is yes. So that's the basis on which we're promoting that. If the only countervailing consideration is the impact on the infrastructure promoted by Auburn Lines, we have a response to that, which is the new requirement. So the short answer is yes because we're trying to increase the separation. Yeah.

01:27:08:06 - 01:27:15:16

But you say you don't even if it's even if they use 2 or 4, you're saying there's no R basically there's no significant effect.

01:27:15:28 - 01:27:36:05

The the conclusion of significant effects is is correct. The the the point is there is still, I think, a need to consider the feedback that we received and which was alluded to in the PD. So it's part of why we need or why we're requesting that additional provision. Okay.

01:27:36:28 - 01:27:37:16

Um.

01:27:40:11 - 01:27:52:16

I think we'll break very shortly. But I've just got two more questions I think here. And so to what extent would the CAA rights over 204 have implications

01:27:54:06 - 01:28:15:00

for field House Solar Farm as well. So I think album wise say that the right the it's not just the temporary possession plot, it's actually the extensive plot 204 for looking to acquire rights that also extends into their sort of array, as I suppose.

01:28:15:26 - 01:28:46:01

Mr.. Policy mesh for the applicant. So I think the issue that Orban Orban was raised in respect of 204 is that, um, whilst it's outside of the boundary of the solar farm itself, it would diminish, diminish some of the land that's used for farming. And separately, they they talk about the intensity of the use. I think this this goes back to why we feel so comfortable providing this new requirement on the interface between the two developments, Elements. The section of the proposed track, which

01:28:47:24 - 01:29:10:15

runs east west at the south of parcel to A4, would be placed as close as possible to the southern boundary of the feel of the affected field as possible, and on that basis it would reduce further the interference with with the land interest in question. So in relation to the A4, I think I think that's the response.

01:29:11:19 - 01:29:38:06

Okay. And the cumulative effects assessment of entry ten of table 15 eight which is on page 67, about 283 suggests a potential overlapping construction programmes for the proposed development and field house solar farm in the landscape and visual column, but no overlap. But it says there'll be no overlap in the transport and access column.

01:29:40:01 - 01:29:55:26

I'm just wondering which one's correct? Would there be? In one column you'll say there's no overlap, so there'd be no additional landscape and visual effects. And the other. Sorry. In the in the landscape individual, you say

01:29:57:25 - 01:30:05:28

there would be overlap in the transport access column. You say there wouldn't be an overlap. So why is there like a contradictory.

01:30:08:02 - 01:30:27:00

Accessibility mesh for the applicant? I think, um, it would be useful if we could take that one away, not least because on Thursday's hearing where our, um, specialists are available will be there and are already flagged, uh, on this particular issue, which I think appears on the agenda. Okay.

01:30:37:02 - 01:30:45:02

Um, and then to what extent would rights of Access for properties associated with field House farm be affected.

01:30:48:15 - 01:31:20:29

On behalf of the applicant. Again, as we've said, our preference would be to make that route through 24285. Sorry for the greater separation, but in an instance where we are unable to make that a voluntary agreement and we fall back to use two A4, we would work with the relevant stakeholders, including the occupiers of the property, to manage the access with a view to minimising those conflicts. The Draft Development Consent Order does include binding commitments to ensure this will happen.

01:31:21:07 - 01:31:49:26

So regulation five sorry, requirement five provides that the construction Traffic Management plan would need to be approved prior to commencement of the development, and this includes provisions for matters relating to traffic management to be discussed and agreed through a working group with stakeholders. So on this basis, um, we're confident that any potential impact on field House farm could be managed in an appropriate way through dialogue and collaboration with those stakeholders.

01:31:50:14 - 01:31:59:21

Okay. For those properties have rights of access. Would those rights of access be affected in any way, including in the longer term?

01:31:59:29 - 01:32:08:18

Um, there's no intention to to change those. Access is simply to, you know, make through the measures outlined will we'll mitigate and manage those impacts.

01:32:08:20 - 01:32:18:11

Okay. Um, and then whether the original access would now be preferable to the change line and whether

01:32:20:00 - 01:32:37:25

like if you went back to that, would that re-engage the CA regulations? It's just a question that I have. I mean, it's been taken out of the plans. If you were to put them back, put it back in as it was. Would that engage the CA CAA regulations again.

01:32:39:16 - 01:33:09:22

For the applicant. The question is whether that would be additional land. Yeah. And I, I don't think this question has been considered before. And when you've taken something out and you put it back in, um, that might be one for us to take away an answer, whether it would re-engage it. But for the reasons that we've outlined in terms of the local authorities support, the impact on a veterinary, the impact on traffic outcomes, the impact on biodiversity, that would not be an outcome that the applicant would okay, would push.

01:33:10:09 - 01:33:12:12

Okay. Um.

01:33:17:06 - 01:33:32:18

Yeah, I think we're going to take a break. We'll take a break there for 15 minutes. Um, so it's now 333. If you come back at 340, we'll come back at 350, please. So the hearing is adjourned until 350.