Planning Inspectorate
Arolygiaeth Gynllunio

Hearing Transcript

Project:	EN0110013 - The Droves Solar Farm
Hearing:	Compulsory Acquisition Hearing 1 (CAH1)
Date:	09 September 2026

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

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The video recording published on the Planning Inspectorate project page is the primary record of the hearing.

1
00:00:00,060 --> 00:00:00,580
Good afternoon.

2
00:00:01,520 --> 00:00:04,620
It's now 2:15, and the hearing is now open.

3
00:00:04,760 --> 00:00:08,540
I'd like to welcome you all to this compulsory acquisition hearing for the Drove

4
00:00:08,580 --> 00:00:12,220
Solar Farm. Can I just confirm that everybody can hear me clearly?

5
00:00:15,280 --> 00:00:19,080
Could I just check

6
00:00:19,120 --> 00:00:20,820
everyone can hear me clearly? Thank you.

7
00:00:21,780 --> 00:00:22,680
And online,

8
00:00:23,100 --> 00:00:26,960
can somebody give me-- Thank

9
00:00:27,040 --> 00:00:29,000
you. That's great. Thank you.

10
00:00:30,240 --> 00:00:33,680
Can I also confirm with the case team that the live streaming and recording of this

11
00:00:33,720 --> 00:00:34,880
event has commenced?

12
00:00:36,220 --> 00:00:36,580
Thank you.

13
00:00:38,200 --> 00:00:41,780
My name is Anthony Johnson. I'm a chartered civil engineer, and I've been appointed

14
00:00:41,820 --> 00:00:45,620
by the Secretary of State as the single examining inspector to

15
00:00:45,680 --> 00:00:49,460
examine this application. You'll also hear me referred to as the

16
00:00:49,520 --> 00:00:53,380
examining authority. The case manager is Sarah Norris, who's

17
00:00:53,420 --> 00:00:57,120
being supported here today by Rachel Owen and James Ledden, and Tim

18
00:00:57,180 --> 00:00:59,260
Hole are providing support remotely.

19
00:01:00,440 --> 00:01:03,740
I'll now deal with a few housekeeping matters for those attending in person.

20
00:01:04,481 --> 00:01:07,560
Could everyone please set all devices and phones to silent?

21
00:01:07,960 --> 00:01:11,540
The toilets are located at the front of the room towards the entrance.

22
00:01:12,160 --> 00:01:15,880
There is no fire alarm drill scheduled today, so should the fire alarm sound,

23
00:01:15,980 --> 00:01:19,970
please treat it as real. The nearest fire exits are at the front

24
00:01:20,020 --> 00:01:23,520
and the back of this room. The fire assembly point is in the rear car

25
00:01:23,640 --> 00:01:27,140
park on the right-hand side. Please wait there for further instruction.

26
00:01:28,200 --> 00:01:31,580
A short break will be taken around 3:45 if the hearing is not

27
00:01:31,620 --> 00:01:33,460
concluded by this time.

28
00:01:35,560 --> 00:01:38,600
This hearing will follow the agenda published on the National Infrastructure

29
00:01:38,700 --> 00:01:42,060
Planning website on the 26th of August, 2026.

30
00:01:42,200 --> 00:01:44,620
The agenda is Examination Library Reference

31
00:01:44,960 --> 00:01:47,420
EV2-006.

32
00:01:48,320 --> 00:01:50,580
It'd be helpful if you had a copy in front of you.

33
00:01:53,840 --> 00:01:57,380
This agenda is for guidance only, and I may add other considerations or

34
00:01:57,440 --> 00:02:01,340
issues as we progress. I will conclude the hearing as soon as all

35
00:02:01,360 --> 00:02:05,100
relevant contributions have been made and all questions have been asked and

36
00:02:05,180 --> 00:02:06,140
responded to.

37
00:02:07,180 --> 00:02:10,920
But if the discussions can't be concluded, then it may be necessary for me to

38
00:02:10,980 --> 00:02:14,680

prioritize some matters and defer other matters to further written

39
00:02:14,740 --> 00:02:15,580
questions.

40
00:02:16,940 --> 00:02:20,280
Today's hearing is being undertaken in a hybrid way, which means some of you are

41
00:02:20,300 --> 00:02:23,740
present with me at the hearing venue, and some of you are joining me virtually

42
00:02:24,200 --> 00:02:25,480
using Microsoft Teams.

43
00:02:26,560 --> 00:02:29,880
A recording of today's hearing will be made available on the Drove Solar Farm

44
00:02:29,960 --> 00:02:33,880
section of the National Infrastructure Planning website as soon as practicable

45
00:02:34,640 --> 00:02:36,040
after the hearing is closed.

46
00:02:37,060 --> 00:02:40,080
With this in mind, please ensure that you speak clearly into the microphone,

47
00:02:40,320 --> 00:02:43,860
stating your name and who you are representing each time before you speak.

48
00:02:44,840 --> 00:02:48,460
Could you also ensure that you turn your microphone on and off accordingly

49
00:02:48,840 --> 00:02:52,460
just by pressing the button? It will allow you to speak when it turns

50
00:02:52,520 --> 00:02:55,180
green, and then press again when you've finished speaking.

51
00:02:56,380 --> 00:02:59,240
If you are not at a table with a microphone, then there should be a roving

52
00:02:59,300 --> 00:03:03,100
microphone, so please wait for one of these to be brought to you before you speak.

53
00:03:04,480 --> 00:03:07,100
If any individual or group wishes to use social media,

54
00:03:07,900 --> 00:03:11,580
report, film, or record today's or any subsequent hearing,

55
00:03:11,720 --> 00:03:15,560
then they are free to do so. But please do so responsibly and

56
00:03:15,600 --> 00:03:17,680
with proper consideration for other parties.

57
00:03:18,640 --> 00:03:22,280
This must not be disruptive, and the material must not be misused.

58
00:03:23,400 --> 00:03:27,320
The definitive recording is the one that will be made by the audio-visual company

59
00:03:27,360 --> 00:03:30,500
and will be published on the National Infrastructure Planning website.

60
00:03:31,480 --> 00:03:33,460
Does anyone have any questions on this matter?

61
00:03:37,780 --> 00:03:41,160
A link to the Planning Inspectorate's privacy notice was provided in the hearing

62

00:03:41,220 --> 00:03:44,390
notification, reference PD-010,

63
00:03:44,960 --> 00:03:48,860
dated 3rd of July 2026. I therefore assume that everybody

64
00:03:48,920 --> 00:03:51,780
here today has familiarized themselves with this document,

65
00:03:52,700 --> 00:03:56,200
which establishes how the personal data of our customers is handled in

66
00:03:56,240 --> 00:03:59,880
accordance with the principles set out in data protection

67
00:03:59,960 --> 00:04:00,340
laws.

68
00:04:01,340 --> 00:04:04,640
If you have any questions or concerns about this, then please speak to the case

69
00:04:04,720 --> 00:04:05,960
team after the hearing.

70
00:04:07,200 --> 00:04:10,840
I'm now going to ask those of you who are participating today to introduce

71
00:04:10,880 --> 00:04:14,840
yourselves. When I state your organization's name, could you

72
00:04:14,880 --> 00:04:17,800
introduce yourself stating your name, who you represent,

73
00:04:18,579 --> 00:04:21,649
excuse me, and which agenda item you wish to speak on.

74
00:04:22,640 --> 00:04:25,680
If you are not representing an organization, please confirm your name,

75
00:04:26,460 --> 00:04:29,800
summarize your interest in the application, and confirm the agenda

76
00:04:29,900 --> 00:04:32,560
item upon which you wish to speak.

77
00:04:36,220 --> 00:04:38,720
Please could you also state how you wish to be addressed.

78
00:04:41,900 --> 00:04:44,500
Who will be representing the applicant, please?

79
00:04:44,920 --> 00:04:46,420
Good afternoon, sir. Alex Treseden.

80
00:04:47,060 --> 00:04:51,000
I'm a senior associate at Pinsent Masons LLP, acting on behalf of

81
00:04:51,040 --> 00:04:54,960
the applicant and therefore intending to speak on all agenda items in relation

82
00:04:55,000 --> 00:04:58,740
to this hearing. I am joined to my right by various representatives

83
00:04:58,820 --> 00:05:02,300
of the applicant themselves and also the applicant's land referencing

84
00:05:02,360 --> 00:05:06,320
consultants. It may end up just being me who speaks in this hearing, but I'll

85
00:05:06,380 --> 00:05:09,300
allow them to introduce themselves as and when necessary in the hearing.

86
00:05:09,760 --> 00:05:10,440
Okay. Thank you.

87

00:05:11,440 --> 00:05:15,360
I'm now going to ask those affected persons who've given notice of their intention

88
00:05:15,400 --> 00:05:17,380
to speak today to introduce themselves.

89
00:05:19,320 --> 00:05:19,800
Excuse me.

90
00:05:20,620 --> 00:05:21,640
National Highways.

91
00:05:26,200 --> 00:05:28,860
Good afternoon, sir. My name is Julie Russell.

92
00:05:28,900 --> 00:05:32,590
I'm a solicitor at Gowling WLG, representing

93
00:05:32,660 --> 00:05:36,580
National Highways. I'm joined today online by

94
00:05:36,620 --> 00:05:40,230
my colleague Jeremy Bloom, who is the National Highways third

95
00:05:40,360 --> 00:05:43,560
party DCO lead for the Eastern

96
00:05:43,660 --> 00:05:47,640
region. I wish to speak in connection with item

97
00:05:48,280 --> 00:05:49,660
3C, please.

98
00:05:53,280 --> 00:05:55,540
Thank you, Julie Russell.

99
00:05:59,660 --> 00:06:03,300
Okay, now bearing in mind that the purpose of today is to hear from persons with a

100

00:06:03,340 --> 00:06:07,204
legal interest in the land affected by the proposed development If I could

101
00:06:07,244 --> 00:06:10,604
ask if there is anyone else in attendance today who wishes to speak?

102
00:06:13,204 --> 00:06:15,664
Anthony Morgan. Tony Morgan, sorry.

103
00:06:17,364 --> 00:06:20,364
Yeah. Good afternoon. Tony Morgan, local Castle Laker resident.

104
00:06:20,484 --> 00:06:24,344
I'd like to speak on question 3A and question

105
00:06:24,624 --> 00:06:24,964
3B.

106
00:06:26,404 --> 00:06:26,684
Thank you.

107
00:06:33,784 --> 00:06:37,644
Could I also confirm if there's anybody here representing Norfolk County

108
00:06:37,724 --> 00:06:39,423
Council that wish to speak?

109
00:06:39,944 --> 00:06:42,244
Thank you, sir. Andrew Szurkowski for Norfolk County Council.

110
00:06:42,404 --> 00:06:46,384
I'm just here to listen today, I'm not anticipating speaking, so I've got a bit too

111
00:06:46,424 --> 00:06:47,844
comfortable in this chair, I think.

112
00:06:48,144 --> 00:06:50,284
Okay. Thank you.

113
00:06:54,124 --> 00:06:56,814
Is there anyone else online that wishes to speak today?

114
00:07:00,504 --> 00:07:01,204
Okay, thank you.

115
00:07:02,204 --> 00:07:05,364
Moving now to agenda item two, which is the purpose of the hearing.

116
00:07:06,664 --> 00:07:10,304
So let me briefly explain the purpose of this compulsory acquisition

117
00:07:10,624 --> 00:07:11,084
hearing.

118
00:07:14,884 --> 00:07:15,704
Excuse me.

119
00:07:17,404 --> 00:07:22,354
The

120
00:07:22,364 --> 00:07:26,304
application for the proposed development includes a request for an order granting

121
00:07:26,344 --> 00:07:29,844
development consent to authorize compulsory acquisition of land or

122
00:07:29,924 --> 00:07:33,884
compulsory acquisition of an interest in, or right over land.

123
00:07:34,684 --> 00:07:38,444
This hearing is to enable me to hear the applicant's strategic case

124
00:07:38,584 --> 00:07:40,244
in respect of the application.

125
00:07:41,204 --> 00:07:44,864
In addition, I will also hear any individual objections from affected

126
00:07:44,964 --> 00:07:48,764
persons who are interested parties with a legal interest in the land

127
00:07:48,884 --> 00:07:50,144
or rights over land.

128
00:07:51,164 --> 00:07:54,964
This will help me to consider whether relevant legal and policy tests have

129
00:07:55,004 --> 00:07:55,424
been met.

130
00:07:56,444 --> 00:08:00,274
I will also hear from any affected statutory undertaker and

131
00:08:00,344 --> 00:08:01,964
any concerns they might have.

132
00:08:03,144 --> 00:08:06,864
I'll now move on to item three, which is the main issues to be discussed.

133
00:08:09,524 --> 00:08:13,294
Item 3A is the applicant's case for compulsory acquisition and

134
00:08:13,344 --> 00:08:14,304
temporary possession.

135
00:08:15,584 --> 00:08:19,464
I'd like to begin by asking the applicant to briefly present and justify its

136
00:08:19,564 --> 00:08:22,824
case for compulsory acquisition, which I'll refer to as CA,

137
00:08:23,544 --> 00:08:27,164
and the temporary possession, which I'll refer to as TP, of the

138
00:08:27,184 --> 00:08:31,164
proposed development in general and the National Grid substation in

139
00:08:31,184 --> 00:08:35,174
particular. In doing so, please explain identification

140
00:08:35,204 --> 00:08:39,164
of the powers sought and their purposes, relevant draft development

141
00:08:39,304 --> 00:08:40,725
consent order provisions,

142
00:08:41,644 --> 00:08:45,544
how the proposals address the relevant statutory and policy tests
under the

143
00:08:45,564 --> 00:08:47,084
Planning Act 2008,

144
00:08:47,984 --> 00:08:51,824
the strategy criteria for determining whether to seek powers for

145
00:08:51,844 --> 00:08:55,144
CA of land, CA of rights or TP of land,

146
00:08:56,004 --> 00:08:59,804
how it has considered alternatives to CA and TP,

147
00:09:00,684 --> 00:09:03,564
how human rights considerations have been addressed.

148
00:09:07,884 --> 00:09:10,864
Thank you, sir. Alex Treseden on behalf of the applicant.

149
00:09:11,264 --> 00:09:14,864
Before I go into what is a relatively lengthy answer to the

150
00:09:15,924 --> 00:09:18,164
various points included under this agenda item.

151
00:09:18,264 --> 00:09:22,224
I wonder if it might be okay if I ask the question for the
applicant's benefit, and

152
00:09:22,244 --> 00:09:25,684
that is to just, please clarify the legal interest

153
00:09:26,164 --> 00:09:29,954
in the land that Mr. Morgan holds, because I'd

154
00:09:29,984 --> 00:09:33,864
understood this was a hearing for, yeah, those with legal interest in the land and

155
00:09:33,924 --> 00:09:36,264
statutory undertakings, and we don't have that on our list.

156
00:09:36,294 --> 00:09:39,184
So I just want to make sure there's no mistake there from our side, please.

157
00:09:40,004 --> 00:09:42,204
Mr. Morgan, could you clarify that, please?

158
00:09:46,024 --> 00:09:49,644
Yeah, sorry. I don't hold any legal interest.

159
00:09:49,684 --> 00:09:51,784
It was just a couple of questions which I wanted to ask.

160
00:09:51,864 --> 00:09:55,664
It was just that obviously when the inspectorate

161
00:09:55,744 --> 00:09:59,704
just said that, "Is there anybody else who would like to speak in the room?" So

162
00:10:00,024 --> 00:10:00,504
that's all.

163
00:10:01,984 --> 00:10:03,944
Okay. Yeah, thank you for the clarification.

164
00:10:03,964 --> 00:10:04,684

I just wanted to make sure we

165
00:10:05,724 --> 00:10:06,884
hadn't missed the landowner on our...

166
00:10:09,004 --> 00:10:11,144
Which would've been interesting. Anyway. Thank you, sir.

167
00:10:11,184 --> 00:10:12,884
So Alex Treseden on behalf of the applicant.

168
00:10:12,914 --> 00:10:14,394
So I'll address your

169
00:10:15,304 --> 00:10:18,304
six points in turn if that's acceptable.

170
00:10:18,404 --> 00:10:22,304
So you firstly asked about the identification of powers sought

171
00:10:22,324 --> 00:10:23,704
by the applicant and their purposes.

172
00:10:23,764 --> 00:10:27,744
So the applicant is seeking via the draft DCO, which is Rep

173
00:10:27,984 --> 00:10:31,724
3-005, the compulsory authorization of

174
00:10:32,004 --> 00:10:35,944
land or interest in the land, as well as temporary possession powers
in order

175
00:10:36,004 --> 00:10:39,673
to construct, operate, maintain, and decommission the scheme without

176
00:10:39,704 --> 00:10:43,344
impediment. And the applicant is seeking powers over 56

177
00:10:43,444 --> 00:10:47,304
different plots, all within the order limits, and that comprises the

178
00:10:47,344 --> 00:10:50,884
freehold acquisition of 17 plots, rights acquisition over

179
00:10:51,084 --> 00:10:54,184
24 plots, and temporary possession over 15 plots.

180
00:10:54,204 --> 00:10:57,204
And that's all shown on the land plan, which is reference

181
00:10:57,264 --> 00:11:01,224
APP-008 and within the book of reference,

182
00:11:01,264 --> 00:11:05,244
which is Rep 3-011. And I'll break that down a

183
00:11:05,284 --> 00:11:09,004
bit further now. So freehold acquisition is shown colored

184
00:11:09,084 --> 00:11:13,064
pink on the land plan, and that relates to land required for the
solar

185
00:11:13,124 --> 00:11:16,984
panels, the substations, and the battery energy storage

186
00:11:17,044 --> 00:11:17,924
system, or the BESS.

187
00:11:18,724 --> 00:11:21,584
Rights acquisition is shown colored blue on the land plan.

188
00:11:22,054 --> 00:11:26,044
That relates to land required for cabling, which includes between
solar sites and

189
00:11:26,064 --> 00:11:29,464
the onsite substation, and in addition, rights are also required

190
00:11:29,504 --> 00:11:31,764
for various access needs.

191
00:11:32,634 --> 00:11:36,504
And Schedule 9 of the draft DCO provides the purposes in full for which

192
00:11:36,564 --> 00:11:39,384
rights may be compulsorily acquired over the blue land.

193
00:11:39,764 --> 00:11:41,524
But I will come to that further in the

194
00:11:42,524 --> 00:11:44,284
second point about DCO provisions.

195
00:11:45,004 --> 00:11:48,884
Temporary possession, lastly, which is a lesser power, is shown colored yellow

196
00:11:48,944 --> 00:11:52,524
on the land plan, and that relates to land required

197
00:11:53,684 --> 00:11:56,994
temporarily and used to facilitate temporary construction, maintenance, and

198
00:11:57,024 --> 00:12:00,964
decommissioning access. And again, Schedule 11 this time of the draft DCO

199
00:12:01,024 --> 00:12:04,484
provides the purpose for which those TP powers are being sought.

200
00:12:04,524 --> 00:12:08,144
But again, I will cover that in a bit more detail in the second point

201
00:12:08,184 --> 00:12:09,544
regarding DCO provisions

202
00:12:10,996 --> 00:12:14,536
With the DCO application, the applicant submitted a statement of

203
00:12:14,596 --> 00:12:18,556
reasons, which is Rep 3-009, and that

204
00:12:18,596 --> 00:12:22,556
explains why it's necessary to acquire land, acquire

205
00:12:22,616 --> 00:12:26,576
and/or create rights, and impose restrictions over land or override,

206
00:12:26,636 --> 00:12:30,596
suspend, or extinguish rights over land, and to temporarily use

207
00:12:30,636 --> 00:12:34,466
land for the purposes of the scheme, if necessary, by compulsion.

208
00:12:35,416 --> 00:12:39,136
It also explains the reason for the inclusion of

209
00:12:39,196 --> 00:12:42,936
compulsory acquisition and related powers in the draft DCO and

210
00:12:43,016 --> 00:12:46,776
sets out why there is a clear and compelling case in the public interest, in

211
00:12:46,836 --> 00:12:50,736
accordance with Section 122 of the Planning Act

212
00:12:50,836 --> 00:12:54,616
2008 for the draft DCO to include those powers.

213
00:12:54,656 --> 00:12:58,476
And I particularly refer to Section 5 of the statement of reasons in

214
00:12:58,516 --> 00:13:01,376
this regard. I won't repeat that text in full

215
00:13:02,176 --> 00:13:05,786
in the interest of time, but I know that that details the purpose of the power

216
00:13:05,816 --> 00:13:09,496
sought in the context of the overarching need for the scheme and the

217
00:13:09,536 --> 00:13:12,906
support of national policy significantly for those

218
00:13:12,936 --> 00:13:16,776
powers. As I've said, the draft DCO contains powers to

219
00:13:16,816 --> 00:13:20,526
enable the acquisition of land rights and the imposition of

220
00:13:20,536 --> 00:13:24,356
restrictions that are required to construct, operate, and maintain, and

221
00:13:24,376 --> 00:13:27,916
decommission the scheme. It contains powers sought for the

222
00:13:27,936 --> 00:13:31,836
possession and use of land on a temporary basis to facilitate the construction of

223
00:13:31,876 --> 00:13:32,316
the scheme.

224
00:13:33,196 --> 00:13:37,076
Where the necessary land and rights over land can't be acquired

225
00:13:37,136 --> 00:13:40,516
by agreement with the requisite landowners and occupiers, the

226
00:13:40,556 --> 00:13:43,196
DCO enables the acquisition of that land and rights.

227
00:13:43,226 --> 00:13:46,856
And it's important to note that the powers in the DCO relate

228
00:13:46,866 --> 00:13:50,636
to the order land, which is defined in the DCO, i.e., within the red line

229
00:13:50,646 --> 00:13:53,996
boundary for the scheme only, nothing further than that.

230
00:13:55,066 --> 00:13:58,936
The applicant has been seeking to acquire the

231
00:13:58,976 --> 00:14:02,356
relevant land interests and other rights over land

232
00:14:02,956 --> 00:14:06,566
by agreement in order to allow for the construction, operation, and

233
00:14:06,616 --> 00:14:10,416
decommissioning of the scheme. And as is set out in the land rights

234
00:14:10,496 --> 00:14:14,016
tracker, the option agreements have been entered into with the
relevant

235
00:14:14,116 --> 00:14:17,836
landowners for the elements of the site that comprise the

236
00:14:17,896 --> 00:14:21,736
solar PV site, so work number 1A, the BESS, work number 2,

237
00:14:22,176 --> 00:14:26,096
the customer substation, work number 3, and the National Grid
substation,

238
00:14:26,176 --> 00:14:27,376
which is work number 4.

239
00:14:28,396 --> 00:14:30,196
The applicant will continue to

240
00:14:30,216 --> 00:14:33,936
acquire the remaining land

241
00:14:34,036 --> 00:14:37,756
rights and other interests by agreement wherever practicable, and I

know that

242
00:14:37,796 --> 00:14:41,196
there's a further agenda item later on, on those negotiations.

243
00:14:42,396 --> 00:14:45,456
Therefore, the applicant's confident that the approach of making the

244
00:14:45,516 --> 00:14:49,316
application for powers of compulsory acquisition in the DCO,

245
00:14:49,836 --> 00:14:53,576
and in parallel, conducting negotiations to acquire land by

246
00:14:53,616 --> 00:14:57,566
agreement, accords with paragraph 26 of the Department for

247
00:14:57,636 --> 00:15:01,296
Communities and Local Government Planning Act 2008, guidance

248
00:15:01,316 --> 00:15:04,236
related to procedures for the compulsory acquisition of land

249
00:15:04,296 --> 00:15:08,156
2013. But notwithstanding where an

250
00:15:08,196 --> 00:15:12,116
agreement has been reached or will be reached, it's necessary for

251
00:15:12,156 --> 00:15:16,056
the applicant to be granted the compulsory acquisition powers
included in the

252
00:15:16,076 --> 00:15:19,656
draft DCO so as to protect against a scenario

253
00:15:19,696 --> 00:15:22,766
whereby contracts may not be adhered to or

254
00:15:22,896 --> 00:15:26,276
otherwise set aside. So for example, if a

255
00:15:26,316 --> 00:15:30,116
contracting party was to pass away or be declared insolvent,

256
00:15:30,156 --> 00:15:32,756
in those circumstances, it would be

257
00:15:33,756 --> 00:15:37,356
in the public interest for the scheme to proceed and the interest in

258
00:15:37,396 --> 00:15:40,856
question effectively conversed into a claim for compensation.

259
00:15:41,936 --> 00:15:45,596
The applicant also needs powers to suspend rights and override

260
00:15:45,656 --> 00:15:48,806
easements and other rights in the order land to the extent that they would

261
00:15:48,836 --> 00:15:52,696
conflict the scheme. So as I've said, just to summarize, the

262
00:15:52,736 --> 00:15:56,616
compulsory acquisition powers in the DCO enable the applicant to

263
00:15:56,656 --> 00:16:00,516
construct, operate, maintain, and decommission the scheme to mitigate

264
00:16:00,556 --> 00:16:04,236
impacts of the scheme where necessary and to ensure that

265
00:16:04,296 --> 00:16:07,716
access could be taken as necessary to facilitate those

266
00:16:07,776 --> 00:16:11,676
elements of the scheme. So that responds to your

267
00:16:11,936 --> 00:16:14,676
first of six points.

268
00:16:19,256 --> 00:16:22,966
The second point you asked about is the relevant draft development

269
00:16:23,016 --> 00:16:26,836
consent order provisions. So if I, again, sort of

270
00:16:26,876 --> 00:16:30,756
deal with these in the three categories of acquisition or

271
00:16:30,795 --> 00:16:32,795
temporary possession that we're seeking.

272
00:16:32,816 --> 00:16:34,936
The first is the permanent acquisition of freehold.

273
00:16:35,256 --> 00:16:38,616
So the areas of the order land over which compulsory acquisition

274
00:16:38,656 --> 00:16:42,586
powers are sought in respect of all interests, including freehold,

275
00:16:43,006 --> 00:16:46,836
are shown edged black and shaded pink on the land plan, and

276
00:16:46,876 --> 00:16:49,236
that's described in more detail in the book of reference.

277
00:16:50,416 --> 00:16:54,176
The land and rights negotiations tracker, which I referenced earlier
but

278
00:16:54,216 --> 00:16:58,206
omitted to give you the reference for, is Rep 3-013, and that

279
00:16:58,276 --> 00:17:01,236
sets out the plots over which freehold acquisition is required.

280
00:17:01,616 --> 00:17:05,076
And in summary, the areas in which freehold acquisition is sought

281
00:17:05,136 --> 00:17:06,296
are for part of

282
00:17:07,216 --> 00:17:08,997
work numbers one, two,

283
00:17:09,856 --> 00:17:13,176
3A, four, five, six,

284
00:17:13,716 --> 00:17:17,436
seven, eight, nine, 10, and 11. And the

285
00:17:17,477 --> 00:17:21,046
applicant has only included powers to compulsorily

286
00:17:21,096 --> 00:17:24,636
acquire the freehold interest in land where other powers, such as

287
00:17:25,536 --> 00:17:29,516
to acquire new rights, impose restrictions, or take temporary possession, would

288
00:17:29,536 --> 00:17:32,956
not be sufficient or appropriate to enable the

289
00:17:32,996 --> 00:17:36,676
construction, operation, and maintenance, or decommissioning of the scheme.

290
00:17:36,936 --> 00:17:37,976
That's a crucial distinction there.

291
00:17:38,016 --> 00:17:41,976
The applicant has always sought to use the minimum power possible

292
00:17:42,036 --> 00:17:44,876
to deliver what it requires to deliver in relation to each plot.

293
00:17:45,816 --> 00:17:49,506
And Article 21 of the draft DCO is relied upon for this purpose,

294
00:17:49,596 --> 00:17:53,436
so that contains the power to compulsorily acquire land

295
00:17:53,516 --> 00:17:57,416
required for the scheme or to facilitate it, or as is incidental to

296
00:17:57,496 --> 00:18:01,216
it. And Article 21 is subject to Article 24,

297
00:18:01,676 --> 00:18:04,866
which limits the powers over the blue land that I referenced earlier,

298
00:18:05,536 --> 00:18:09,016
so that only rights and restrictions can be sought over that land.

299
00:18:09,136 --> 00:18:12,796
So again, it's very clear in the DCO which powers apply to which

300
00:18:12,816 --> 00:18:13,156
plots.

301
00:18:14,028 --> 00:18:17,737
And Article 21 reflects the terms of the source of the compulsory acquisition

302
00:18:17,848 --> 00:18:21,778
powers in Section 122 of the Planning Act 2008,

303
00:18:22,248 --> 00:18:25,588
which would provide the applicant with the power to acquire so much of the ordered

304
00:18:25,628 --> 00:18:29,388
land as is required for the scheme or such land as is required because it

305
00:18:29,428 --> 00:18:32,588
facilitates or is incidental to that development.

306
00:18:33,848 --> 00:18:36,088

So that deals with the permanent acquisition of freehold.

307
00:18:36,428 --> 00:18:39,848
I'll now turn to permanent acquisition of rights and imposition of restrictions,

308
00:18:40,468 --> 00:18:44,188
and the ordered land over which those rights are sought, including the imposition

309
00:18:44,208 --> 00:18:48,148
of restrictive covenants, is shown edged black and shaded blue on the

310
00:18:48,188 --> 00:18:52,088
land plan. Again, that is described in more detail in the book

311
00:18:52,128 --> 00:18:52,708
of reference,

312
00:18:53,628 --> 00:18:57,548
and the land and rights negotiations tracker sets out the plots

313
00:18:57,628 --> 00:19:00,188
over which new rights and restrictions are acquired.

314
00:19:01,168 --> 00:19:04,908
Schedule nine of the draft DCO is very clear about what those

315
00:19:04,928 --> 00:19:07,948
rights and restrictions are being sought in respect of each plot.

316
00:19:07,968 --> 00:19:11,868
But in summary, these are areas required for work numbers 1B,

317
00:19:12,068 --> 00:19:15,128
1D, 5, 6, 8B,

318
00:19:15,968 --> 00:19:19,328
9, 10, and 11. I can set that out in full in writing, of course.

319

00:19:19,908 --> 00:19:23,528
And Article 24 of the draft DCO is relied upon for this

320
00:19:23,588 --> 00:19:27,328
purpose. So it can't yet be confirmed exactly

321
00:19:27,368 --> 00:19:30,738
where within the grid connection infrastructure the new pylons for the

322
00:19:30,828 --> 00:19:34,668
new overhead transmission electric line will be located, as the

323
00:19:34,708 --> 00:19:38,308
exact location will be determined following the detailed design of the

324
00:19:38,328 --> 00:19:42,008
scheme. And therefore, the relevant compulsory acquisition powers are being

325
00:19:42,048 --> 00:19:45,988
sought over the grid connection infrastructure to enable the applicant to

326
00:19:46,088 --> 00:19:49,848
carry out the relevant works with the minimum of inconvenience to affected

327
00:19:50,128 --> 00:19:53,648
landowners and to allow for minor variances to the

328
00:19:53,688 --> 00:19:57,548
location of the new pylons to avoid potential engineering

329
00:19:57,588 --> 00:20:01,268
difficulties or otherwise to enable the construction of the scheme

330
00:20:01,308 --> 00:20:05,108
within the set program, and again, with the minimum of disruption

331
00:20:05,188 --> 00:20:07,388

to landowners and the wider community.

332
00:20:09,188 --> 00:20:12,288
Government guidance advises that it may be appropriate to

333
00:20:12,328 --> 00:20:16,288
include a power to impose restrictive covenants over part

334
00:20:16,308 --> 00:20:20,148
of the land which is subject to compulsory acquisition or use under the DCO.

335
00:20:21,108 --> 00:20:25,048
And the Planning Inspectorate guidance in Advice Note 15 concerning the

336
00:20:25,068 --> 00:20:28,568
drafting of DCOs, which is paragraphs 24.1 to

337
00:20:28,768 --> 00:20:32,748
24.3, states that before deciding whether or not such a power

338
00:20:32,788 --> 00:20:36,698
is justified, the Secretary of State will need to consider issues such as

339
00:20:36,728 --> 00:20:40,698
proportionality, the risk that the use of land above or below a

340
00:20:40,768 --> 00:20:44,668
structure could be sterilized if it has to be acquired outright in the absence

341
00:20:44,708 --> 00:20:48,097
of a power to impose restrictive covenants, or whether there is,

342
00:20:48,668 --> 00:20:52,388
for example, a policy of establishing a continuous protection

343
00:20:52,488 --> 00:20:55,588
zone for the infrastructure network, which could be secured more

344
00:20:55,628 --> 00:20:58,248
efficiently with the benefit of this power.

345
00:20:58,258 --> 00:21:01,458
And the guidance also states that the power to impose restrictive

346
00:21:01,528 --> 00:21:05,388
covenants over land above a buried cable or pipe, or where a

347
00:21:05,468 --> 00:21:09,148
slope contains artificial reinforcement, has been granted in

348
00:21:09,188 --> 00:21:12,907
DCOs and cites the Silvertown Tunnel Order 2018

349
00:21:13,728 --> 00:21:17,588
as an example. The guidance advises that in order to

350
00:21:17,628 --> 00:21:21,198
enable the Secretary of State to consider whether the imposition of restrictive

351
00:21:21,288 --> 00:21:25,068
covenants is necessary for the purposes of implementing a DCO and

352
00:21:25,108 --> 00:21:28,608
appropriate in human rights terms, applicants should be prepared

353
00:21:28,688 --> 00:21:32,428
to fully explain and justify the need for including such powers, which

354
00:21:32,948 --> 00:21:34,788
also I'm doing as we speak.

355
00:21:35,848 --> 00:21:39,828
The applicant has had regard to this guidance when preparing Schedule

356
00:21:39,868 --> 00:21:43,838
nine of the draft DCO, which sets out the restrictions sought, and

I've

357
00:21:43,868 --> 00:21:47,358
already touched upon the fact that Article 24 includes the power

358
00:21:47,488 --> 00:21:51,198
to impose restricted covenants in relation to land over which new

359
00:21:51,268 --> 00:21:55,208
rights are acquired, and those proposed restrictions are

360
00:21:55,228 --> 00:21:58,418
required to protect the apparatus from becoming exposed,

361
00:21:58,778 --> 00:22:02,588
damaged, or built over. Preventing operations which may obstruct,

362
00:22:02,688 --> 00:22:06,348
interrupt, or interfere with apparatus and the exercise of new
rights

363
00:22:06,388 --> 00:22:09,628
required, ensuring that access for future maintenance can be

364
00:22:09,648 --> 00:22:13,548
facilitated, and ensuring that land requirements are minimized so as
far

365
00:22:13,588 --> 00:22:17,048
as possible. So the applicant considers the imposition of such

366
00:22:17,068 --> 00:22:21,018
restrictions over all of the relevant land within

367
00:22:21,028 --> 00:22:24,868
the order limits to be justified and proportionate in the
circumstances

368
00:22:24,928 --> 00:22:28,828
of this case in order to protect and preserve the integrity of the
scheme

369
00:22:28,868 --> 00:22:31,468
and the delivery of that without impediment.

370
00:22:37,288 --> 00:22:39,908
The third category of land is temporary possession.

371
00:22:40,208 --> 00:22:44,128
So there will be situations where it's not necessary for the applicant

372
00:22:44,188 --> 00:22:47,948
to permanently acquire rights and interests, but instead be

373
00:22:48,048 --> 00:22:50,668
authorized to temporarily possess and use the land.

374
00:22:51,378 --> 00:22:55,328
The order land over which powers of temporary use only are sought is

375
00:22:55,348 --> 00:22:58,268
shown edged black and shaded yellow on the land plan.

376
00:22:59,628 --> 00:23:03,368
The applicant is seeking temporary use powers over all of the other land

377
00:23:03,708 --> 00:23:07,628
within the order land to allow it to temporarily possess

378
00:23:07,648 --> 00:23:11,588
and use land ahead of acquiring land or rights permanently, which I'll come

379
00:23:11,628 --> 00:23:15,548
onto in a moment. And the land over which these powers are sought is therefore

380
00:23:15,588 --> 00:23:19,528
shown edged black and shaded pink and blue on the land plan, and that's

381

00:23:19,588 --> 00:23:22,708
again described in more detail in the book of reference.

382
00:23:23,468 --> 00:23:27,308
The reason for seeking temporary powers over that

383
00:23:27,368 --> 00:23:31,088
land shaded pink or blue is that it allows the applicant to enter

384
00:23:31,188 --> 00:23:34,988
onto land for particular purposes, including site preparation

385
00:23:35,088 --> 00:23:38,928
works in advance of any vesting of the relevant land or

386
00:23:38,968 --> 00:23:42,948
rights. So it enables the applicant to only compulsorily acquire the

387
00:23:43,028 --> 00:23:46,988
minimum amount of land and rights over land required to

388
00:23:47,048 --> 00:23:49,428
construct, operate, and maintain the scheme.

389
00:23:49,468 --> 00:23:53,248
Because, for example, the applicant could exercise the temporary

390
00:23:53,348 --> 00:23:56,918
use powers to undertake site investigation works to inform and

391
00:23:57,008 --> 00:24:00,508
minimize the land relating to the works for the installation of the
new

392
00:24:00,588 --> 00:24:01,128
pylons,

393
00:24:02,188 --> 00:24:05,528
for the new overhead transmission electric line over which permanent
rights are

394

00:24:05,568 --> 00:24:06,188
then needed.

395
00:24:07,698 --> 00:24:11,628
Articles 31 and 32 of the draft DCO,

396
00:24:11,848 --> 00:24:15,668
thank you, are relied upon in respect of all land within the

397
00:24:15,708 --> 00:24:19,508
order limits. So Article 32 allows temporary possession and

398
00:24:19,608 --> 00:24:21,828
use of land for the purposes of maintaining the scheme.

399
00:24:22,288 --> 00:24:26,100
And under Article 32 The applicant is entitled to occupy the

400
00:24:26,140 --> 00:24:29,960
land for as long as necessary to carry out the relevant maintenance works.

401
00:24:30,360 --> 00:24:34,280
The applicant must give the landowner and any occupier not less

402
00:24:34,320 --> 00:24:37,970
than 28 days notice, and on completion of the maintenance works,

403
00:24:38,140 --> 00:24:41,759
must remove all temporary works and restore the land to the reasonable

404
00:24:41,820 --> 00:24:43,740
satisfaction of the landowner.

405
00:24:45,080 --> 00:24:49,060
In respect of Article 31, that permits temporary use

406
00:24:49,240 --> 00:24:52,720
in two ways in connection with the construction of the scheme.

407

00:24:53,180 --> 00:24:57,140
So firstly, the land identified in Schedule 11 to the draft

408
00:24:57,200 --> 00:25:00,440
DCO may only be temporarily possessed and used.

409
00:25:00,520 --> 00:25:04,240
So the applicant can't acquire the land, nor new rights

410
00:25:04,300 --> 00:25:07,780
over it. And possession and use can only be taken for the purpose

411
00:25:08,100 --> 00:25:11,900
set out in that schedule for the particular plot to which it relates.

412
00:25:11,930 --> 00:25:15,360
And in summary, those are the areas required to facilitate access

413
00:25:15,420 --> 00:25:19,290
to the works and provide temporary construction compounds.

414
00:25:19,360 --> 00:25:23,330
And those areas, as I've said, are shown edge black and shaded yellow on the

415
00:25:23,330 --> 00:25:23,920
land plan.

416
00:25:24,820 --> 00:25:28,680
The second use under Article 31 is that it permits the applicant to take

417
00:25:28,739 --> 00:25:32,660
temporary possession of, and use any other part of the ordered land where

418
00:25:32,680 --> 00:25:35,220
it hasn't yet exercised powers of compulsory acquisition.

419
00:25:35,660 --> 00:25:37,660
And again, I reference that example about the

420
00:25:41,400 --> 00:25:43,120
grid connection infrastructure and

421
00:25:44,120 --> 00:25:47,960
entering the land for temporary purposes for initial works, and then

422
00:25:48,020 --> 00:25:49,960
going on for permanent rights when necessary.

423
00:25:50,440 --> 00:25:54,400
And that phased approach to occupation and acquisition allows the area

424
00:25:54,410 --> 00:25:58,330
over which permanent rights are required to be defined after construction,

425
00:25:58,340 --> 00:26:02,300
and therefore, to be only that which is necessary for the operation,

426
00:26:02,360 --> 00:26:04,780
maintenance, and protection of the apparatus.

427
00:26:04,840 --> 00:26:08,640
And this approach is extremely well precedented

428
00:26:08,660 --> 00:26:12,460
across numerous made solar DCOs as the examiner will be

429
00:26:12,520 --> 00:26:16,400
aware, including the Longfield Solar Farm Order 2023,

430
00:26:17,400 --> 00:26:20,760
the Malop Pass Solar Farm Order 2024,

431
00:26:22,260 --> 00:26:25,130
the Gate Burton Energy Park Order 2024,

432
00:26:26,460 --> 00:26:30,340
the Cotham Solar Project Order 2024, and the West

433
00:26:30,440 --> 00:26:32,759
Burton Solar Project Order 2025.

434
00:26:34,860 --> 00:26:38,820
In relation to private rights, the applicant has included powers to

435
00:26:38,840 --> 00:26:42,660
ensure that easements and other private rights identified as

436
00:26:43,040 --> 00:26:46,520
affecting the land are suspended or cease to have effect, so as to

437
00:26:46,560 --> 00:26:49,670
facilitate the construction and operation of the scheme without

438
00:26:49,700 --> 00:26:53,380
hindrance. Furthermore, it's possible that there may be unknown

439
00:26:53,440 --> 00:26:54,580
rights, restrictions,

440
00:26:55,380 --> 00:26:58,960
easements, or servitudes affecting that land which also need to

441
00:26:59,360 --> 00:27:03,020
cease to have effect in order to facilitate the scheme.

442
00:27:03,530 --> 00:27:07,240
Article 25 of the draft DCO is relied upon in

443
00:27:07,260 --> 00:27:11,140
respect of this land, and that applies in relation to land in which

444
00:27:11,180 --> 00:27:14,140
compulsory acquisition or temporary possession are proposed.

445
00:27:14,200 --> 00:27:18,060
So that's land shaded pink, blue, or yellow on the land plan.

446

00:27:19,020 --> 00:27:22,700
With respect to the land shaded yellow, so over which

447
00:27:22,740 --> 00:27:25,860
powers of temporary possession and use only are sought.

448
00:27:26,440 --> 00:27:30,260
Article 25 [3] makes clear that any private rights or

449
00:27:30,320 --> 00:27:34,300
restrictive covenants are only suspended for the period in which the applicant

450
00:27:34,660 --> 00:27:36,340
is in lawful possession of the land.

451
00:27:36,420 --> 00:27:40,020
So those would only be suspended temporarily because over those plots, the

452
00:27:40,060 --> 00:27:43,280
applicant can't seek permanent compulsory acquisition powers.

453
00:27:44,780 --> 00:27:48,640
The last point in the draft DCO in relation to

454
00:27:48,700 --> 00:27:51,530
this matter concerns statutory undertakings.

455
00:27:52,160 --> 00:27:52,360
So

456
00:27:53,400 --> 00:27:54,829
that's Article 33,

457
00:27:56,070 --> 00:27:59,640
which gives the applicant the authority to acquire land and rights from statutory

458
00:27:59,700 --> 00:28:03,400
undertakings, and to extinguish or suspend their rights, and to

459
00:28:03,620 --> 00:28:07,540
remove or reposition their apparatus, subject crucially to the

460
00:28:07,560 --> 00:28:11,440
provisions of Schedule 15, which contain protected provisions for the

461
00:28:11,460 --> 00:28:14,100
benefit of those statutory undertakings.

462
00:28:15,040 --> 00:28:18,690
The protected provisions, once agreed with all the statutory undertakings, will

463
00:28:18,700 --> 00:28:21,609
provide adequate protection for their assets.

464
00:28:21,880 --> 00:28:25,790
I'm conscious that we have a separate agenda item on this hearing in relation

465
00:28:25,840 --> 00:28:29,640
to statutory undertakings and the relevant legislative tests that the

466
00:28:29,700 --> 00:28:33,580
applicant must comply with under the Planning Act, so I'll propose to address the

467
00:28:33,620 --> 00:28:37,560
matter of statutory undertakings under that upcoming agenda item.

468
00:28:42,380 --> 00:28:45,560
The third, and forgive me, sir, I appreciate this is a lengthy answer to your

469
00:28:45,700 --> 00:28:49,219
question, but the third point you referenced was in relation to the

470
00:28:49,300 --> 00:28:52,820
statutory and policy tests under the Planning Act and the

471
00:28:52,880 --> 00:28:56,460
associated government guidance, and how the applicant is meeting that.

472
00:28:57,020 --> 00:29:00,890
So if I deal with Section 122 of the

473
00:29:00,960 --> 00:29:04,520
Planning Act first, that section requires that a DCO which

474
00:29:04,580 --> 00:29:08,220
includes compulsory acquisition powers may be granted only if the

475
00:29:08,260 --> 00:29:12,250
conditions in Sections 122, Subsection 2 and

476
00:29:12,320 --> 00:29:15,520
Subsection 3 are met, and those conditions

477
00:29:15,640 --> 00:29:19,160
are that the land is required for the development to which the

478
00:29:19,220 --> 00:29:22,320
DCO relates or is required to facilitate or is

479
00:29:22,380 --> 00:29:26,290
incidental to the development. So that's quoting from Subsection

480
00:29:26,440 --> 00:29:30,240
2. And the second point is that there is a compelling case in the

481
00:29:30,280 --> 00:29:34,020
public interest for the inclusion of powers of compulsory acquisition

482
00:29:34,440 --> 00:29:38,100
in the DCO. That's Subsection 3. So the Secretary of State must be

483
00:29:38,120 --> 00:29:41,720
persuaded that the public benefits from the compulsory acquisition will

484
00:29:41,800 --> 00:29:45,440
outweigh the private loss suffered by those whose land is to

485
00:29:45,480 --> 00:29:46,580
be acquired.

486
00:29:47,480 --> 00:29:51,260
So in relation to the first of those subsections, the Section

487
00:29:51,500 --> 00:29:55,440
122 brackets 2 condition, the government guidance states

488
00:29:55,460 --> 00:29:59,420
the applicant should be able to demonstrate to the satisfaction of the Secretary

489
00:29:59,440 --> 00:30:03,360
of State that the land in question is needed for the development for which

490
00:30:03,400 --> 00:30:07,100
consent is sought. And the guidance goes on to say that the Secretary of

491
00:30:07,200 --> 00:30:11,100
State will need to be satisfied that the land to be acquired is no more

492
00:30:11,120 --> 00:30:14,300
than is reasonably required for the purposes of the development.

493
00:30:14,880 --> 00:30:18,860
And in relation to that requirement, the proposed interference with the rights

494
00:30:18,920 --> 00:30:22,790
of those with an interest legally in the land is for a legitimate

495
00:30:22,790 --> 00:30:26,560
purpose because the applicant clearly requires the land for the development of the

496
00:30:26,600 --> 00:30:30,570
scheme and can satisfy the conditions set out in that subsection of

497
00:30:30,600 --> 00:30:34,540
the Planning Act. The land is required for the development to which the DCO

498
00:30:34,560 --> 00:30:38,230
relates or is required to facilitate or is incidental

499
00:30:38,280 --> 00:30:41,920
to the development. So we submit that test is clearly

500
00:30:41,960 --> 00:30:42,300
passed.

501
00:30:43,620 --> 00:30:47,600
In respect of the Section 1223 condition, the guidance

502
00:30:47,660 --> 00:30:50,560
states that the Secretary of State will need to be persuaded that there is

503
00:30:50,600 --> 00:30:54,460
compelling evidence that the public benefits that would be derived from the

504
00:30:56,540 --> 00:31:00,300
compulsory acquisition will outweigh the private loss that would be

505
00:31:00,360 --> 00:31:02,510
suffered by those whose land is to be acquired.

506
00:31:03,010 --> 00:31:06,690
And the guidance also states that in determining where the balance of public

507
00:31:06,740 --> 00:31:10,590
interest lies, the Secretary of State will weigh up the public benefits

508
00:31:10,640 --> 00:31:14,120
that a scheme will bring against any private loss to those

509
00:31:14,180 --> 00:31:16,140
affected by compulsory acquisition.

510
00:31:16,480 --> 00:31:20,280
And in this regard, I'd like to refer to the planning statement, which is

511
00:31:20,340 --> 00:31:22,040
AS-076,

512
00:31:23,020 --> 00:31:26,890
and the statement of need, which is APP-042,

513
00:31:27,480 --> 00:31:31,060
as well as Sections 6.3 and 6.4 of the statement of

514
00:31:31,100 --> 00:31:34,600
reasons, which again is Rep 3-009.

515
00:31:35,150 --> 00:31:38,860
And when looking at those documents in conjunction, the applicant

516
00:31:38,900 --> 00:31:42,840
considers that it's clearly demonstrated the compelling interest for the powers to

517
00:31:42,860 --> 00:31:46,840
be granted for this nationally significant infrastructure project.

518
00:31:46,960 --> 00:31:50,900
The public interest in the scheme is clearly set out in national policy, so

519
00:31:50,920 --> 00:31:54,790
the scheme is critical national priority infrastructure,

520
00:31:55,220 --> 00:31:59,030
as it's renewable energy generation, and will also contribute to the

security of

521
00:31:59,100 --> 00:32:02,150
energy supply and resilience of the electricity system.

522
00:32:02,910 --> 00:32:06,480
The scheme would ensure meaningful and timely contributions

523
00:32:06,540 --> 00:32:10,500
to UK decarbonization and security of supply, while helping

524
00:32:10,580 --> 00:32:14,220
lower bills for consumers throughout the scheme's operational life, which is

525
00:32:14,260 --> 00:32:17,220
critical, as we know, on the path to net zero.

526
00:32:17,600 --> 00:32:21,500
And without the scheme, a significant and vital opportunity to develop

527
00:32:21,560 --> 00:32:25,340
a large-scale, low-carbon generation scheme will have been passed over,

528
00:32:25,690 --> 00:32:29,520
and that would increase materially the risk that future

529
00:32:29,540 --> 00:32:32,280
carbon budgets and net zero will not be achieved.

530
00:32:32,660 --> 00:32:35,340
In addition to meeting that urgent national need

531
00:32:35,350 --> 00:32:39,230
to secure affordable low-carbon energy infrastructure,

532
00:32:39,540 --> 00:32:43,400
the scheme will deliver other benefits, many of which have been maximized and will

533
00:32:43,420 --> 00:32:46,540
be delivered as a result of the scheme's careful design.

534
00:32:46,600 --> 00:32:50,150
These include biodiversity net gain, permissive paths, and employment

535
00:32:50,200 --> 00:32:53,619
opportunities, again, as set out in the planning statement.

536
00:32:55,540 --> 00:32:58,560
In relation to the matter of private loss suffered by those

537
00:32:59,940 --> 00:33:03,800
whose land is to be acquired, appropriate compensation would be available to

538
00:33:03,840 --> 00:33:07,380
those entitled to claim it under the relevant provisions of the National

539
00:33:07,460 --> 00:33:11,440
Compensation Code, thereby minimizing the private loss financially.

540
00:33:11,880 --> 00:33:15,830
Compensation is payable for the compulsory acquisition of land or rights, and

541
00:33:15,880 --> 00:33:19,800
for loss or damage caused by the exercise of any power of temporary

542
00:33:19,880 --> 00:33:23,500
use of the land. Any dispute in respect of the compensation

543
00:33:23,580 --> 00:33:27,160
payable is to be determined by the Lands Chamber of the Upper Tribunal.

544
00:33:27,760 --> 00:33:31,620
And as shown in the land and rights negotiations tracker, which again is

545
00:33:31,680 --> 00:33:35,520
Rep 3-013, the applicant has taken proactive

546
00:33:35,600 --> 00:33:39,590
steps to engage with these persons whose land and rights will be affected by

547
00:33:39,620 --> 00:33:43,590
the scheme to understand the direct and indirect impacts on them and

548
00:33:43,620 --> 00:33:46,520
try to reach a voluntary agreement.

549
00:33:46,820 --> 00:33:50,540
That's helped shape the proposals for the scheme, and where possible, has enabled

550
00:33:50,580 --> 00:33:53,840
changes to designs to minimize the private loss.

551
00:33:54,700 --> 00:33:58,160
It's worth noting as well that all relevant environmental,

552
00:33:58,320 --> 00:34:02,220
social, and economic benefits and adverse impacts have been

553
00:34:02,260 --> 00:34:05,360
assessed and are reported on in the DCO application.

554
00:34:05,440 --> 00:34:09,060
So whilst the scheme as a whole would, in common with

555
00:34:09,140 --> 00:34:12,880
any nationally significant infrastructure project, result in some

556
00:34:12,960 --> 00:34:16,801
adverse effects to the environment and local community, it's considered that

557
00:34:16,880 --> 00:34:20,500
these, considered individually or collectively, would not

558
00:34:20,600 --> 00:34:24,460
outweigh the important nationally significant benefits

559
00:34:24,520 --> 00:34:28,249
of the scheme in contributing towards the critical national priority

560
00:34:28,361 --> 00:34:32,160
need for secure and affordable low-carbon

561
00:34:32,240 --> 00:34:36,080
energy infrastructure. The schemes in NSIP and the public

562
00:34:36,120 --> 00:34:39,761
benefits associated with the scheme have been touched upon previously, and

563
00:34:39,821 --> 00:34:43,560
therefore, the applicant considers that there is a compelling case in the public

564
00:34:43,620 --> 00:34:47,370
interest for the power to compulsorily acquire land and rights,

565
00:34:47,480 --> 00:34:51,261
together with the imposition of restrictions in the draft DCO.

566
00:34:52,060 --> 00:34:55,830
There's also a compelling case in the public interest for the

567
00:34:55,900 --> 00:34:59,370
power to extinguish, suspend, or interfere with private rights to the

568
00:34:59,420 --> 00:35:01,499
extent necessary to deliver the scheme.

569
00:35:01,580 --> 00:35:05,140
So the extent of the order land is no more than is reasonably

570
00:35:05,200 --> 00:35:08,910

necessary for the construction, operation, and maintenance of the scheme,

571
00:35:09,360 --> 00:35:13,140
and therefore, any interference with private rights we consider is proportionate

572
00:35:13,240 --> 00:35:17,080
and necessary. And again, compensation is payable to anyone

573
00:35:17,100 --> 00:35:20,900
whose rights are extinguished, suspended, or interfered

574
00:35:20,960 --> 00:35:21,160
with.

575
00:35:22,560 --> 00:35:26,220
The next test is Section 123, and that's simply

576
00:35:26,260 --> 00:35:27,860
satisfied by the applicant

577
00:35:28,760 --> 00:35:32,520
because the DCO application for the scheme includes a request

578
00:35:32,720 --> 00:35:34,760
for the compulsory acquisition of land.

579
00:35:35,560 --> 00:35:39,020
The next test is Section 127 of the Planning Act

580
00:35:39,120 --> 00:35:42,780
2008, and that section applies in relation to statutory

581
00:35:42,840 --> 00:35:46,160
undertaker land, where a statutory undertaker has made a

582
00:35:46,180 --> 00:35:48,260
representation and it hasn't been withdrawn.

583
00:35:49,320 --> 00:35:53,260

In this case, the Secretary of State must be satisfied that there will not be any

584
00:35:53,340 --> 00:35:56,800
serious detriment to the carrying on of the statutory undertaker's

585
00:35:56,860 --> 00:36:00,010
undertaking. And again, the applicant remains in ongoing

586
00:36:00,060 --> 00:36:03,980
negotiations with statutory undertakers regarding the form of protected

587
00:36:04,040 --> 00:36:07,940
provisions, and I note that there's a separate agenda item in relation to this.

588
00:36:08,780 --> 00:36:11,880
So I'll cover that in detail at that point, but the applicant's position, in

589
00:36:11,960 --> 00:36:15,880
summary, is that there will be no serious detriment to the undertakers because of

590
00:36:15,940 --> 00:36:19,540
the inclusion of protected provisions once agreed with, for example, National

591
00:36:19,600 --> 00:36:21,640
Highways, who I know are on the hearing.

592
00:36:23,360 --> 00:36:27,100
Section 138 of the Planning Act is the final test, and that

593
00:36:27,140 --> 00:36:30,640
section relates to extinguishing rights or removing apparatus

594
00:36:31,160 --> 00:36:35,060
owned by statutory undertakers, and that requires the applicant to

595
00:36:35,120 --> 00:36:37,380

demonstrate that the powers being sought are necessary.

596
00:36:38,040 --> 00:36:41,620
And again, I refer to the comments I've just made on the protected provisions and

597
00:36:41,680 --> 00:36:45,520
how these control the interface between the scheme and the statutory

598
00:36:45,600 --> 00:36:47,480
undertaker's apparatus.

599
00:36:49,360 --> 00:36:52,760
I appreciate I've been talking for a while, but there are a few more bullet points

600
00:36:52,800 --> 00:36:56,380
to cover. They are slightly shorter than the ones I've covered so far, so if you'll

601
00:36:56,400 --> 00:36:57,860
bear with me, I'll deal with those.

602
00:36:57,920 --> 00:37:01,480
So the fourth point you referenced was the applicant's strategy or

603
00:37:01,540 --> 00:37:05,360
criteria for determining whether to seek powers for compulsory

604
00:37:05,440 --> 00:37:09,300
acquisition of land, compulsory acquisition of rights, or temporary possession of

605
00:37:09,360 --> 00:37:13,270
land. So the book of reference sets out the persons that the

606
00:37:13,340 --> 00:37:17,180
applicant considers, having undertaken diligent inquiries, may

607
00:37:17,220 --> 00:37:21,080
have an interest in the order land or may be eligible to make a relevant

608
00:37:21,140 --> 00:37:23,960
claim for compensation should the DCO be granted.

609
00:37:24,700 --> 00:37:28,260
That includes people who are the owner of the land, who are occupiers of the land,

610
00:37:28,320 --> 00:37:31,850
but also a range of persons that have an interest in the order land,

611
00:37:31,920 --> 00:37:35,900
including rights of way, benefits of a restricted covenant or

612
00:37:36,000 --> 00:37:39,720
various statutory undertakings who have apparatus within that land.

613
00:37:40,480 --> 00:37:42,680
The application has taken a

614
00:37:43,520 --> 00:37:47,200
conservative approach to identifying affected persons, and I refer

615
00:37:47,320 --> 00:37:50,940
to the statement of reasons in that regard regarding the diligent

616
00:37:51,060 --> 00:37:54,850
inquiries and general communications had, particularly Section 7.

617
00:37:55,900 --> 00:37:59,560
So as I've stated above, the compulsory acquisition powers in the draft

618
00:37:59,600 --> 00:38:02,960
DCO will, if necessary and if exercised,

619
00:38:03,320 --> 00:38:07,300
enable the applicant to construct, operate, maintain, and decommission

620
00:38:07,340 --> 00:38:11,080

the scheme without impediment, to mitigate impacts of the scheme where

621
00:38:11,100 --> 00:38:15,040
necessary, and to ensure that access could be taken as necessary

622
00:38:15,100 --> 00:38:18,740
to facilitate the scheme. In terms of deciding which

623
00:38:18,800 --> 00:38:22,630
power would be sought over the land, the applicant has sought

624
00:38:22,680 --> 00:38:25,500
to use the least onerous power possible.

625
00:38:25,540 --> 00:38:29,410
So for example, where rights are sufficient, instead of compulsory

626
00:38:29,410 --> 00:38:32,420
acquisition of freehold, the applicant has only sought rights.

627
00:38:32,440 --> 00:38:35,630
And where temporary possession of the land is suitable, the applicant has only

628
00:38:35,660 --> 00:38:37,360
sought temporary possession powers.

629
00:38:37,400 --> 00:38:41,200
And the applicant considers that it's sought to require the minimum rights

630
00:38:41,240 --> 00:38:45,200
necessary for the scheme, i.e., and when I say that, I mean both

631
00:38:45,240 --> 00:38:47,860
in terms of the nature of rights and spatially.

632
00:38:48,760 --> 00:38:52,500
The applicant's use of compulsory acquisition powers is intended to be

633
00:38:52,520 --> 00:38:56,320
proportionate. So as I've said, where practical, lesser powers of

634
00:38:56,360 --> 00:39:00,280
temporary possession will be used, and the location and extent of land and

635
00:39:00,340 --> 00:39:04,180
rights has been carefully considered and designed in order to take the minimum

636
00:39:04,240 --> 00:39:08,209
amount of land required whilst ensuring that the scheme continues

637
00:39:08,240 --> 00:39:11,780
to meet the project benefits. So we consider that the rights sought

638
00:39:11,840 --> 00:39:15,360
are proportionate and necessary, including across the whole scheme.

639
00:39:16,780 --> 00:39:20,769
Two more to go. So the consideration of alternatives to compulsory acquisition and

640
00:39:20,820 --> 00:39:23,620
temporary possession was your fifth point.

641
00:39:24,340 --> 00:39:28,240
The applicants considered all reasonable alternatives to compulsory acquisition,

642
00:39:28,370 --> 00:39:32,350
so it's negotiated agreements, considered alternative sites,

643
00:39:32,840 --> 00:39:34,740
made modifications to the scheme where necessary.

644
00:39:34,780 --> 00:39:38,620
That's all considered prior to making a DCO application.

645
00:39:38,700 --> 00:39:42,540

And we've heard across various hearings and in various written submissions

646
00:39:42,600 --> 00:39:46,260
about the importance of good design and the design principles

647
00:39:46,640 --> 00:39:48,300
that the applicant has complied with.

648
00:39:49,200 --> 00:39:52,920
As I've said, efforts to negotiate directly with landowners are ongoing,

649
00:39:53,280 --> 00:39:57,220
and that will be covered in the later agenda item on this matter,

650
00:39:57,340 --> 00:39:58,010
I'm sure.

651
00:39:58,980 --> 00:40:02,520
None of the alternatives or modifications considered for the

652
00:40:02,540 --> 00:40:06,120
scheme would remove the need for powers of compulsory

653
00:40:06,200 --> 00:40:09,010
acquisition and temporary possession over the order land.

654
00:40:09,030 --> 00:40:12,370
I think that's important to note. There isn't a scenario that the applicant can

655
00:40:12,480 --> 00:40:16,460
have where that isn't necessary as a fallback position should

656
00:40:16,500 --> 00:40:20,220
the negotiations not reach their successful

657
00:40:20,280 --> 00:40:23,960
conclusion. The site was chosen following

658

00:40:24,200 --> 00:40:27,780
extensive work, as detailed in the site evaluation

659
00:40:27,860 --> 00:40:30,640
report as appended to the planning statement, which is

660
00:40:30,760 --> 00:40:33,220
AS-076,

661
00:40:34,180 --> 00:40:38,160
and that led to discussions with the landowners regarding areas of their land

662
00:40:38,220 --> 00:40:41,280
holdings that they were prepared to allow solar development on.

663
00:40:41,960 --> 00:40:45,820
The land has limited land use conflicts with respect to

664
00:40:45,900 --> 00:40:49,310
local development plan allocations and displacement of existing

665
00:40:49,400 --> 00:40:49,920
businesses.

666
00:40:50,760 --> 00:40:54,420
I've touched upon the fact that option agreements have been entered into with the

667
00:40:54,460 --> 00:40:58,440
relevant landowners for the elements of the site that comprise the solar, the

668
00:40:58,460 --> 00:41:00,000
BESS, and the two substations.

669
00:41:00,960 --> 00:41:04,740
And again, negotiations for the lease of other land

670
00:41:04,840 --> 00:41:08,780
rights and interests are ongoing in respect of the other land and new

671
00:41:08,820 --> 00:41:12,040
rights required for the scheme. But it does remain

672
00:41:12,080 --> 00:41:15,840
necessary to include these powers over this land to

673
00:41:15,900 --> 00:41:19,240
ensure that the scheme is deliverable without impediment.

674
00:41:20,750 --> 00:41:24,740
The land and rights negotiations tracker provides a summary of the current

675
00:41:24,840 --> 00:41:28,820
status of negotiations with landowners, and again, I know there's an upcoming

676
00:41:28,840 --> 00:41:32,750
agenda item on those negotiations, so I won't go into

677
00:41:32,780 --> 00:41:34,960
too much detail at this point.

678
00:41:35,900 --> 00:41:39,200
I would note that the approach taken by the applicant is standard

679
00:41:39,240 --> 00:41:42,780
practice for NSIPs and enable the applicant to deal with

680
00:41:42,820 --> 00:41:46,300
the relevant scenarios required to ensure the scheme is dealt with

681
00:41:46,700 --> 00:41:50,260
without impediment. And the applicant considers that all

682
00:41:50,340 --> 00:41:54,100
reasonable alternatives have been considered prior to the making of the DCO

683
00:41:54,120 --> 00:41:57,790

application, and such consideration has included reasonable

684
00:41:57,800 --> 00:42:01,710
factors at relevant stages. So consultee comments, technical feasibility

685
00:42:01,720 --> 00:42:05,440
is obviously important, economic factors, and the minimization,

686
00:42:05,480 --> 00:42:09,400
where practicable, of environmental and visual impacts and

687
00:42:09,460 --> 00:42:09,980
land take.

688
00:42:11,540 --> 00:42:15,100
The final point you asked about was in respect of human rights.

689
00:42:15,780 --> 00:42:16,120
So

690
00:42:17,260 --> 00:42:20,100
Section 8 of the statement of reasons, which is Rep

691
00:42:20,360 --> 00:42:24,000
3-019, sets out the applicant's approach in

692
00:42:24,020 --> 00:42:27,460
relation to the European Convention on Human Rights that was

693
00:42:27,520 --> 00:42:30,720
incorporated into UK law by the Human Rights Act

694
00:42:31,000 --> 00:42:31,840
1998.

695
00:42:33,020 --> 00:42:36,820
It's acknowledged that the draft DCO does have the potential to

696
00:42:36,860 --> 00:42:40,640
infringe the rights of persons who hold interest in the land

697
00:42:40,680 --> 00:42:44,660
within the order under Article 1 of the First Protocol, which

698
00:42:44,680 --> 00:42:48,340
protects the right to peaceful enjoyment of possessions and

699
00:42:48,360 --> 00:42:52,180
provides that no one can be deprived of their possessions except in the public

700
00:42:52,240 --> 00:42:52,640
interest.

701
00:42:53,604 --> 00:42:57,264
Also Article 6, which entitles those affected by powers sought in the

702
00:42:57,284 --> 00:43:01,104
DCO to a fair and public hearing of any relevant objections they may

703
00:43:01,184 --> 00:43:02,683
have to the granting of those powers.

704
00:43:03,394 --> 00:43:06,664
And Article 8, which protects private and family life, home, and

705
00:43:06,704 --> 00:43:07,454
correspondence,

706
00:43:08,604 --> 00:43:12,284
although it is noted that interference with that right can be justified if it's in

707
00:43:12,324 --> 00:43:16,184
accordance with law and is necessary in the interests of, amongst

708
00:43:16,244 --> 00:43:19,764
other things, national security, public safety, or the economic

709
00:43:19,804 --> 00:43:23,284

wellbeing of the country. And such an infringement is

710
00:43:23,344 --> 00:43:25,884
authorized by law under two conditions.

711
00:43:25,944 --> 00:43:29,764
The first being that the statutory procedures for making the DCO are followed,

712
00:43:30,104 --> 00:43:33,744
and there's a compelling case in the public interest for the inclusion of powers of

713
00:43:33,804 --> 00:43:35,844
compulsory acquisition in the DCO.

714
00:43:36,264 --> 00:43:39,204
And the second point is that the interference with the convention right is

715
00:43:39,284 --> 00:43:40,024
proportionate.

716
00:43:41,264 --> 00:43:44,664
So in relation to Article 1, in preparing the DCO

717
00:43:44,684 --> 00:43:47,704
application, the applicant has considered the potential

718
00:43:47,744 --> 00:43:51,304
infringement of the convention rights, in consequence of the

719
00:43:51,344 --> 00:43:55,254
inclusion of compulsory acquisition powers in the draft DCO, and

720
00:43:55,264 --> 00:43:58,864
has sought to minimize the amount of land over which it requires powers

721
00:43:58,924 --> 00:44:00,414
of compulsory acquisition,

722
00:44:01,304 --> 00:44:04,244
as set out in Section 6.3,

723
00:44:05,344 --> 00:44:08,234
of the statement of reasons, and in more detail in the planning statement and

724
00:44:08,344 --> 00:44:11,894
statement of need. The applicant, as I've touched upon, but it's worth reiterating,

725
00:44:11,964 --> 00:44:15,524
considers that there would be very significant public benefits generally

726
00:44:15,584 --> 00:44:19,164
arising from the grant of the DCO, and those benefits are only

727
00:44:19,224 --> 00:44:23,204
realized if the DCO is accompanied by the grant of powers

728
00:44:23,244 --> 00:44:27,164
of compulsory acquisition, and the purpose for which the land is sought to build

729
00:44:27,184 --> 00:44:29,164
and operate the scheme is legitimate.

730
00:44:29,924 --> 00:44:33,684
The applicant has concluded in those documents that the significant public

731
00:44:33,724 --> 00:44:37,544
benefits outweigh the effects upon persons who own property

732
00:44:37,564 --> 00:44:41,324
within the order land, and as I've touched upon, for those affected,

733
00:44:41,364 --> 00:44:45,024
compensation is payable in accordance with the statutory

734

00:44:45,084 --> 00:44:46,004
compensation code.

735
00:44:47,004 --> 00:44:50,824
In relation to Article 8, the order limits do not include, and the

736
00:44:50,844 --> 00:44:54,384
scheme does not require, the outright acquisition of any

737
00:44:54,444 --> 00:44:58,404
residential dwelling houses. Consequently, as dwelling houses

738
00:44:58,444 --> 00:45:02,164
will not be directly affected, it's not anticipated that the convention

739
00:45:02,264 --> 00:45:04,984
rights protected by Article 8 will be infringed.

740
00:45:05,384 --> 00:45:09,244
And in the event that such rights were to be infringed, such interference would

741
00:45:09,284 --> 00:45:12,984
be justifiable on the basis that it would be lawful and within the public

742
00:45:13,044 --> 00:45:14,664
interest as I've set out.

743
00:45:15,944 --> 00:45:19,804
In respect of Article 6, as we know, there's been an opportunity to

744
00:45:19,864 --> 00:45:23,504
make representations regarding the preparation and submission of this

745
00:45:23,544 --> 00:45:25,444
DCO application.

746
00:45:26,464 --> 00:45:30,094
In accordance with Part 5 of the Planning Act 2008,

747
00:45:30,604 --> 00:45:33,564
as it was at the time of the application of the scheme, i.e.

748
00:45:33,684 --> 00:45:37,413
before the amendments to the Planning Act brought about by the Planning and

749
00:45:37,484 --> 00:45:40,984
Infrastructure Act 2025 came into force, the applicant

750
00:45:41,104 --> 00:45:42,004
consulted with

751
00:45:42,884 --> 00:45:46,724
persons set out in the categories contained in Section 44 of the

752
00:45:46,764 --> 00:45:50,193
Planning Act, which includes owners, lessees, tenants, and

753
00:45:50,264 --> 00:45:53,944
occupiers within the order limits, and those with an interest in the order

754
00:45:53,984 --> 00:45:57,924
limits. The applicant has also consulted with those persons who may

755
00:45:57,964 --> 00:46:01,544
be able to make a relevant claim under Section 10 of the Compulsory

756
00:46:01,644 --> 00:46:05,284
Purchase Act 1965, Part 1 of the Land

757
00:46:05,384 --> 00:46:08,444
Compensation Act 1973, or Section

758
00:46:08,584 --> 00:46:12,324
152 (3) of the Planning Act 2008. And

759
00:46:12,384 --> 00:46:16,154
furthermore, as we know, again, representations can be made in

response to any

760
00:46:16,244 --> 00:46:20,044
notice given under Section 56 of the Planning Act for

761
00:46:20,124 --> 00:46:23,894
consideration at examination of the DCO application by

762
00:46:23,924 --> 00:46:27,784
yourself, and in any written representations procedure which the

763
00:46:27,824 --> 00:46:31,764
examining authority decides to uphold, or indeed, at any compulsory

764
00:46:31,784 --> 00:46:35,633
acquisition hearing held under Section 92 of the Planning Act, which is precisely

765
00:46:35,664 --> 00:46:37,484
what we're doing here today. So,

766
00:46:39,664 --> 00:46:43,054
as I've touched on, the compulsory acquisition process also involves the payment of

767
00:46:43,064 --> 00:46:46,744
compensation to landowners affected, but the applicant's not aware of any

768
00:46:46,784 --> 00:46:50,594
particular interest which could not be compensated financially

769
00:46:50,624 --> 00:46:54,164
for disturbance caused. And therefore, and I promise this is my

770
00:46:54,464 --> 00:46:58,284
final point on this agenda item, for the above reasons,

771
00:46:58,704 --> 00:47:02,624
any infringement of the convention rights of those whose interests

772

00:47:02,684 --> 00:47:06,524
are affected by the inclusion in the draft DCO of powers of

773
00:47:06,564 --> 00:47:10,234
compulsory acquisition is proportionate, necessary, and

774
00:47:10,304 --> 00:47:13,964
legitimate, and crucially, is in accordance with national and

775
00:47:14,004 --> 00:47:17,844
European law. So the applicant considers that the draft DCO

776
00:47:18,224 --> 00:47:22,204
strikes a fair balance between the public interest in the scheme going ahead

777
00:47:22,424 --> 00:47:25,684
and the interference with the rights that will be affected.

778
00:47:25,764 --> 00:47:29,284
The applicant considers that it would therefore be appropriate and

779
00:47:29,324 --> 00:47:32,724
proportionate for the Secretary of State to make the DCO,

780
00:47:32,964 --> 00:47:36,804
including the grant of compulsory acquisition powers, and accordingly, the

781
00:47:36,844 --> 00:47:40,344
applicant is satisfied that the relevant human right tests have been met,

782
00:47:40,434 --> 00:47:44,264
particularly given the applicant has sought to minimize both the extent of

783
00:47:44,324 --> 00:47:46,384
land and the nature of the rights sought.

784
00:47:46,414 --> 00:47:50,384
And, sir, I appreciate that was an extremely lengthy answer to your

question.

785
00:47:50,464 --> 00:47:53,284
Thank you for bearing with me, but I hope that was helpful.

786
00:47:53,314 --> 00:47:57,264
And we can obviously set that all out in writing in our post-hearing summary.

787
00:47:58,324 --> 00:47:59,684
Thank you, Alex Treseden.

788
00:48:03,664 --> 00:48:07,004
So if we move on to the next part.

789
00:48:07,344 --> 00:48:11,144
Are there any affected persons that have any

790
00:48:11,204 --> 00:48:14,884
comments on the applicant's summary before we move on to Item 3B?

791
00:48:16,084 --> 00:48:19,324
I'm aware that National Highways indicated they wanted to speak on Item

792
00:48:19,624 --> 00:48:20,544
3C, so

793
00:48:23,504 --> 00:48:26,504
could we come to you at the end, Tony Morgan? Thank you.

794
00:48:28,064 --> 00:48:31,424
So I'm now going to move on to the next item, which is 3B,

795
00:48:31,524 --> 00:48:35,424
site-specific matters. So could the applicant provide an update

796
00:48:35,624 --> 00:48:39,524
on progress of negotiations with affected persons

797
00:48:40,444 --> 00:48:42,524

and the timetable for their conclusion?

798
00:48:44,264 --> 00:48:47,304
Certainly, sir. Alex Treseden on behalf of the applicant.

799
00:48:47,404 --> 00:48:51,044
So, just reiterate that the applicant's position is to seek the

800
00:48:51,104 --> 00:48:54,724
necessary rights required for the DCO by voluntary agreement,

801
00:48:55,424 --> 00:48:59,204
rather than having to use the CA powers that I've discussed at length already.

802
00:48:59,244 --> 00:49:02,784
And it, of course, remains committed to that objective.

803
00:49:04,144 --> 00:49:07,424
As I touched upon, option agreements have been entered into with the relevant

804
00:49:07,504 --> 00:49:11,144
landowners for the elements of the site that comprise the

805
00:49:11,324 --> 00:49:14,124
solar, the BESS, and the two substations.

806
00:49:14,824 --> 00:49:18,344
But the applicant is negotiating minor but necessary

807
00:49:18,424 --> 00:49:22,144
variations relating to the overhead line works and mitigation land to

808
00:49:22,184 --> 00:49:24,104
those existing option agreements

809
00:49:25,144 --> 00:49:28,724
with the following parties, which is all set out in full

810

00:49:29,124 --> 00:49:30,904
in the land and rights negotiations tracker.

811
00:49:30,924 --> 00:49:34,524
But in summary, that's Hugh Murray, Charles Coghill,

812
00:49:35,124 --> 00:49:38,124
Nicholas Julian Hedley-Pratt, and Susan Jane Fontaine.

813
00:49:38,224 --> 00:49:41,564
So the applicant has agreed heads of terms for a variation to

814
00:49:41,624 --> 00:49:45,604
this option agreement to secure certain additional rights, as

815
00:49:45,964 --> 00:49:49,314
I mentioned, and also, Nigel David Patrick Dodds,

816
00:49:49,804 --> 00:49:53,284
Paul Anthony James Croker. Again, the applicant has

817
00:49:53,324 --> 00:49:57,104
agreed heads of terms for a variation to the already agreed option

818
00:49:57,144 --> 00:50:00,964
agreement to secure certain additional rights, and that is set out
in

819
00:50:01,024 --> 00:50:04,544
the land and rights negotiations tracker for your reference.

820
00:50:05,824 --> 00:50:09,704
The applicant also remains engaged in negotiations with

821
00:50:09,984 --> 00:50:13,324
three further parties in relation to securing voluntary agreement.

822
00:50:13,584 --> 00:50:16,224
So Jeffrey Mason is the first of those.

823
00:50:16,524 --> 00:50:19,844

The applicant's continuing to progress discussions towards a

824
00:50:19,864 --> 00:50:23,824
voluntary agreement in relation to overhead line works for

825
00:50:23,864 --> 00:50:24,444
the schemes.

826
00:50:25,544 --> 00:50:29,424
The main discussions at present are around the financial impact that

827
00:50:29,464 --> 00:50:32,424
the proposal within the affected person's title will have.

828
00:50:33,244 --> 00:50:36,524
The applicant put forward a further revised offer on the 3rd of

829
00:50:36,564 --> 00:50:40,204
July of this year, so a couple of months ago, and that was based

830
00:50:40,264 --> 00:50:43,344
on feedback from the agent of Mr. Mason.

831
00:50:43,384 --> 00:50:47,344
And the applicant's currently awaiting a response to that offer but
will

832
00:50:47,404 --> 00:50:51,304
naturally be proactive in its progression of discussions to

833
00:50:51,404 --> 00:50:53,104
reach agreement as soon as possible.

834
00:50:54,584 --> 00:50:58,564
National Highways are the other. Again, it's been touched upon, but
I think it's

835
00:50:58,584 --> 00:51:02,364
proposed to cover National Highways in more detail in the upcoming

836
00:51:02,404 --> 00:51:04,324

agenda item regarding statutory undertakings.

837
00:51:04,424 --> 00:51:05,144
But

838
00:51:06,024 --> 00:51:09,124
just a note in summary, the applicant and National Highways, as was referenced in

839
00:51:09,184 --> 00:51:13,084
yesterday's hearing, are in discussions to agree the form of protected provisions

840
00:51:13,124 --> 00:51:16,884
and corresponding side agreement to be included in the DCO

841
00:51:17,164 --> 00:51:18,184
for National Highways' benefit.

842
00:51:19,344 --> 00:51:22,874
Following which, the applicant understands National Highways will be able to

843
00:51:23,304 --> 00:51:25,044
withdraw its objection to the scheme.

844
00:51:25,084 --> 00:51:28,664
But as we've touched upon, those discussions are ongoing.

845
00:51:29,584 --> 00:51:33,384
And the last is Norfolk County Council, and the applicant has

846
00:51:33,404 --> 00:51:37,004
provided further detail regarding the scheme and the impacts on the council's

847
00:51:37,064 --> 00:51:40,444
interests through submissions made in

848
00:51:42,224 --> 00:51:45,904
the examination, and the parties remain in discussions via that

849
00:51:45,944 --> 00:51:49,704
examination process. As I say, the applicant remains

850
00:51:49,724 --> 00:51:53,584
committed to concluding negotiations with all parties in a very

851
00:51:53,624 --> 00:51:57,404
timely manner and will update the examining authority throughout the

852
00:51:57,444 --> 00:51:59,044
examination as necessary.

853
00:52:01,364 --> 00:52:01,784
Thank you.

854
00:52:02,744 --> 00:52:06,724
Are there any participating affected persons present or virtually on
Teams

855
00:52:06,764 --> 00:52:10,684
who'd like to briefly set out any outstanding concerns in

856
00:52:10,724 --> 00:52:14,384
relation to CA or TP for the land in which they have an interest

857
00:52:14,604 --> 00:52:16,584
that have not been addressed by the applicant?

858
00:52:19,704 --> 00:52:23,644
I don't believe we have any affected persons other than National

859
00:52:23,704 --> 00:52:27,204
Highways, and we'll be taking that forward on the next

860
00:52:28,204 --> 00:52:28,984
agenda item.

861
00:52:31,744 --> 00:52:35,364
My next question was regarding Norfolk County Council, and you've

862

00:52:35,964 --> 00:52:36,744
partly covered it.

863
00:52:37,644 --> 00:52:39,004
So Norfolk County Council

864
00:52:39,924 --> 00:52:43,244
response to XQ2 question 504,

865
00:52:44,424 --> 00:52:46,084
Rep 3-091,

866
00:52:47,224 --> 00:52:51,184
established that it had freehold interest in very little of the

867
00:52:51,244 --> 00:52:54,984
land for which Norfolk County Council has been identified as having a land

868
00:52:55,044 --> 00:52:56,474
interest in the book of reference.

869
00:52:58,164 --> 00:53:01,624
Yes. Sorry, I can respond to that. Alex Treseden on behalf of the applicant.

870
00:53:01,684 --> 00:53:03,564
So yes, that quote, it comes from

871
00:53:04,464 --> 00:53:07,944
Norfolk County Council's responses to your second set of written questions, which

872
00:53:08,004 --> 00:53:10,304
is Rep 3-091.

873
00:53:11,364 --> 00:53:14,124
The applicant remains in discussions with the council regarding

874
00:53:15,164 --> 00:53:18,584
the extent of their interest but notes that the

875
00:53:18,664 --> 00:53:22,003
other areas of land that are referred to are associated with

876
00:53:22,764 --> 00:53:26,724
public highways, which Norfolk County Council

877
00:53:26,764 --> 00:53:29,624
suggests that the applicant doesn't need to obtain an interest in.

878
00:53:30,904 --> 00:53:32,924
The applicant has identified plots

879
00:53:33,744 --> 00:53:34,384
103,

880
00:53:35,544 --> 00:53:39,203
222, and 223 as those within the public

881
00:53:39,224 --> 00:53:42,944
highway, which it requires rights over to ensure that the

882
00:53:43,004 --> 00:53:46,924
associated works within these plots, which is works

883
00:53:47,164 --> 00:53:48,584
1B, 1D,

884
00:53:49,524 --> 00:53:51,084
6, and 8B,

885
00:53:52,244 --> 00:53:56,204
can be carried out for the purpose of constructing, operating,

886
00:53:56,484 --> 00:53:59,844
maintaining, and decommissioning the scheme without impediment.

887
00:54:00,904 --> 00:54:04,844
The same applies to the following plots which the applicant has

888
00:54:04,884 --> 00:54:08,684

identified as those within the public highway, which it requires temporary

889
00:54:08,764 --> 00:54:12,544
possession of to ensure the necessary works related to those plots

890
00:54:13,804 --> 00:54:16,364
for the purpose of the construction of the scheme without impediment.

891
00:54:16,404 --> 00:54:19,604
And you'll forgive me, there's a few plots to read out here, but we will put this

892
00:54:19,644 --> 00:54:21,724
in writing. But that's 212,

893
00:54:23,064 --> 00:54:23,904
233,

894
00:54:25,204 --> 00:54:26,004
234,

895
00:54:27,704 --> 00:54:28,684
235,

896
00:54:30,104 --> 00:54:30,944
446,

897
00:54:32,224 --> 00:54:33,104
547,

898
00:54:34,564 --> 00:54:35,364
549,

899
00:54:36,844 --> 00:54:37,384
550,

900
00:54:39,264 --> 00:54:40,024
551,

901

00:54:41,984 --> 00:54:42,764
554,

902
00:54:44,204 --> 00:54:45,104
555,

903
00:54:46,124 --> 00:54:49,264
and 556. And the works to which

904
00:54:51,024 --> 00:54:54,044
those plots relate are work numbers 4C

905
00:54:55,324 --> 00:54:55,824
5C,

906
00:54:56,804 --> 00:54:57,264
5D,

907
00:54:58,644 --> 00:54:58,704
6,

908
00:54:59,544 --> 00:55:01,884
8A, 8B, and 10.

909
00:55:02,824 --> 00:55:06,504
But as I've said, the applicant is seeking to acquire the relevant

910
00:55:06,564 --> 00:55:06,904
land,

911
00:55:07,784 --> 00:55:11,584
new rights, and temporary use of land by voluntary agreement in

912
00:55:11,664 --> 00:55:14,184
order to ensure implementation of the scheme.

913
00:55:14,204 --> 00:55:17,984
But it does require these CA and TP powers to be

914
00:55:18,004 --> 00:55:21,874
included in the DCO in respect of these plots to ensure, as

915
00:55:21,904 --> 00:55:25,424
a fallback position, that the scheme's progression, once consented,

916
00:55:25,864 --> 00:55:26,504
is unimpeded.

917
00:55:28,664 --> 00:55:29,044
Thank you.

918
00:55:30,764 --> 00:55:34,314
Could you also provide an update on progress with unknown land ownership,

919
00:55:34,424 --> 00:55:38,364
occupation, or interest in the land since your response at deadline

920
00:55:38,464 --> 00:55:38,944
one to

921
00:55:39,084 --> 00:55:43,504
XQ1Q502,

922
00:55:44,244 --> 00:55:45,964
rep 1-069?

923
00:55:47,384 --> 00:55:49,324
Thank you, sir. Alex Treseder on behalf of the applicant.

924
00:55:49,384 --> 00:55:53,013
I'm sure you'll be pleased to hear a break from my voice and I'll pass over to my

925
00:55:53,024 --> 00:55:56,084
colleague on my right to introduce himself and answer that question.

926
00:55:58,504 --> 00:56:01,304
Sharif Adama from WSP on behalf of the applicant.

927
00:56:02,484 --> 00:56:04,604
In relation to your question,

928
00:56:05,444 --> 00:56:09,384
the applicant continues

929
00:56:09,424 --> 00:56:11,004
investigating unknown ownership.

930
00:56:11,964 --> 00:56:15,904
Recently, we've placed unknown notices within the area to try and identify the

931
00:56:15,984 --> 00:56:16,884
unknown interests

932
00:56:18,064 --> 00:56:20,384
in advance of the compulsory acquisition hearing.

933
00:56:21,164 --> 00:56:24,964
The applicant is also monitoring the land registry and conducting HMR

934
00:56:25,004 --> 00:56:26,184
refreshes to ensure

935
00:56:27,184 --> 00:56:30,844
any changes in ownership are captured and therefore updated in the relevant

936
00:56:30,924 --> 00:56:34,704
documents such as the book of reference and the land and rights negotiation

937
00:56:34,784 --> 00:56:38,104
tracker should those unknown parties be identified.

938
00:56:39,044 --> 00:56:42,904
And finally, the applicant remains engaged with the

939
00:56:42,964 --> 00:56:46,844
affected parties within the scheme and is asking them as well

940

00:56:47,024 --> 00:56:50,984
if they have any idea who may have an interest within these

941
00:56:51,024 --> 00:56:54,344
unknown ownerships or know who owns the unknown land.

942
00:56:55,064 --> 00:56:59,044
To date, or at the point of providing this response to

943
00:56:59,124 --> 00:57:00,004
the examining authority,

944
00:57:00,864 --> 00:57:04,704
the unknown parties have not been identified, but we remain

945
00:57:04,804 --> 00:57:07,644
active in trying to resolve this matter.

946
00:57:09,264 --> 00:57:09,684
Thank you.

947
00:57:13,844 --> 00:57:17,704
Okay, before we move on to next item 3C, any other

948
00:57:18,144 --> 00:57:21,624
comments from affected persons present or on Teams?

949
00:57:27,404 --> 00:57:31,224
Okay, so we'll move on to the next item now, which is item 3C,

950
00:57:32,004 --> 00:57:33,664
statutory undertakings.

951
00:57:35,584 --> 00:57:36,744
Could the applicant provide

952
00:57:37,564 --> 00:57:41,084
a summary on outstanding matters arising from representations from

953
00:57:41,184 --> 00:57:42,484
statutory undertakers?

954
00:57:43,944 --> 00:57:47,324
Thank you, sir. Yes, happy to. Alex Treseder on behalf of the applicant.

955
00:57:48,344 --> 00:57:51,924
It's largely set out in the land and rights negotiations tracker, which is rep

956
00:57:52,104 --> 00:57:54,984
3-013, but I'll take the

957
00:57:56,004 --> 00:57:59,884
statutory undertakings in turn. So if I start with Anglian Water, or

958
00:57:59,944 --> 00:58:03,794
AW. So the applicant and AW have agreed a form of

959
00:58:03,804 --> 00:58:07,764
protective provisions which are included in the draft DCO for their

960
00:58:07,904 --> 00:58:11,724
benefit, and AW therefore withdrew their objection to the

961
00:58:11,744 --> 00:58:14,854
scheme with regard to protected provisions at deadline one.

962
00:58:16,404 --> 00:58:16,664
In

963
00:58:17,704 --> 00:58:20,604
respect of National Grid Electricity Transmission PLC,

964
00:58:22,064 --> 00:58:25,964
the applicant agrees with NGET that protected provisions for their benefit

965
00:58:25,973 --> 00:58:29,824
should be included in the draft DCO and therefore from the outset of the

966

00:58:29,844 --> 00:58:33,444
DC application, the applicant included

967
00:58:33,824 --> 00:58:37,304
a form of such protected provisions in part three of Schedule 15.

968
00:58:38,004 --> 00:58:41,864
Having since met with NGET and their solicitors, and I appreciate they're not

969
00:58:41,904 --> 00:58:45,624
here today, but I note their request for those protected provisions to be

970
00:58:45,704 --> 00:58:49,124
updated and they provided their preferred form of protected

971
00:58:49,164 --> 00:58:49,744
provisions

972
00:58:50,744 --> 00:58:53,564
at appendix one of their written representation, which was rep

973
00:58:53,764 --> 00:58:56,004
1-090.

974
00:58:57,764 --> 00:58:58,084
We have

975
00:58:59,104 --> 00:59:03,044
reviewed these updates, the protected provisions requested by NGET,

976
00:59:03,544 --> 00:59:07,264
and I got a response from them on Friday of last week

977
00:59:08,604 --> 00:59:12,513
regarding some of the further amendments, and we're not far away from

978
00:59:12,544 --> 00:59:14,604
reaching agreement on those protected provisions.

979
00:59:15,644 --> 00:59:18,944
And as was discussed in the context of National Highways, which we'll come onto a

980
00:59:19,004 --> 00:59:22,864
moment, those relate to mirroring the approach

981
00:59:22,944 --> 00:59:26,784
and wording where relevant to other DCOs

982
00:59:27,184 --> 00:59:31,164
promoted by the applicant's parent company, including Greenhill and

983
00:59:31,224 --> 00:59:35,204
Lime Down. So we're continuing to engage with NGET solicitors to agree

984
00:59:35,244 --> 00:59:38,564
the form of those, but given where we are and the

985
00:59:39,624 --> 00:59:42,504
fact that there aren't many outstanding matters, I'm very confident of reaching the

986
00:59:42,544 --> 00:59:43,364
agreement

987
00:59:44,204 --> 00:59:48,144
during the course of examination, at which point the agreed form would be included

988
00:59:48,184 --> 00:59:50,504
in an update to the draft DCO.

989
00:59:52,544 --> 00:59:56,524
In respect of National Highways as a

990
00:59:57,264 --> 00:59:58,584
statutory undertaker, so

991
01:00:00,164 --> 01:00:03,984

further to the form of protective provisions included for the benefit of

992
01:00:04,024 --> 01:00:07,844
National Highways in part four of Schedule 15 of the draft

993
01:00:07,884 --> 01:00:11,844
DCO, the applicant notes that National Highways is in the process

994
01:00:11,884 --> 01:00:15,784
of agreeing a form of protective provisions for their benefit in respect of

995
01:00:15,804 --> 01:00:18,704
the Greenhill and Lime Down solar DCOs.

996
01:00:19,684 --> 01:00:23,124
And National Highways has confirmed its in-principle agreement to

997
01:00:23,184 --> 01:00:27,064
taking the same approach to the drafting of the relevant provisions for the scheme,

998
01:00:28,104 --> 01:00:31,464
which the applicant understands would address National Highways' concerns in

999
01:00:31,524 --> 01:00:35,324
relation to this matter. But, as I'm sure

1000
01:00:35,704 --> 01:00:39,374
Mr. Russell will come on to say, the applicant and National

1001
01:00:39,424 --> 01:00:42,904
Highways remain in discussion about the form of these protected

1002
01:00:42,924 --> 01:00:46,884
provisions. I was grateful to Mr. Russell for providing

1003
01:00:46,964 --> 01:00:50,664
a response on the latest matters on the Monday before the hearing,

1004
01:00:50,824 --> 01:00:54,544
so the applicant will consider that once these hearings have concluded

1005
01:00:55,596 --> 01:00:59,496
And again, given that in respect of many of the matters, we're looking

1006
01:00:59,556 --> 01:01:03,246
to mirror the approach taken with National

1007
01:01:03,296 --> 01:01:07,056
Highways once agreed on other solar DCOs, we anticipate being able to reach

1008
01:01:07,066 --> 01:01:09,476
agreement before the end of the examination.

1009
01:01:09,696 --> 01:01:12,906
I do know, as was discussed yesterday, that there are a couple of

1010
01:01:12,936 --> 01:01:16,696
matters, not relating to the protected provisions, in

1011
01:01:16,736 --> 01:01:20,536
respect of requirements in the DCO that will be split up in the statement of common

1012
01:01:20,576 --> 01:01:24,536
ground to confirm where agreement is not

1013
01:01:24,556 --> 01:01:28,526
reached on the other solar DCOs and therefore may not be reached on

1014
01:01:28,576 --> 01:01:32,176
this scheme. But those are slightly different to the form of protected provisions.

1015
01:01:33,636 --> 01:01:37,516
I have a couple of more to touch on, but I don't know if you want to open it up to

1016
01:01:37,556 --> 01:01:39,316
Ms. Russell, given that we're talking about National Highways.

1017
01:01:41,216 --> 01:01:43,276
Yes, certainly. Julie Russell.

1018
01:01:49,036 --> 01:01:52,236
Julie Russell on behalf of National Highways.

1019
01:01:52,316 --> 01:01:56,136
The applicant seeks temporary possession

1020
01:01:56,236 --> 01:01:59,316
powers over eight National Highways plots,

1021
01:02:00,556 --> 01:02:04,016
which form part of the strategic road network near the

1022
01:02:04,076 --> 01:02:06,436
A47 junction with the

1023
01:02:06,516 --> 01:02:09,676
A1065.

1024
01:02:10,356 --> 01:02:14,076
National Highways' position is that these powers are neither necessary

1025
01:02:14,136 --> 01:02:15,356
nor proportionate,

1026
01:02:16,316 --> 01:02:19,996
and that the National Highways plot should be removed from the book of reference.

1027
01:02:20,876 --> 01:02:24,616
The applicant has confirmed that the powers sought are limited to temporary

1028
01:02:24,676 --> 01:02:28,156
rights to facilitate abnormal indivisible load

1029
01:02:28,236 --> 01:02:32,196
movements during construction, specifically the removal of street

1030
01:02:32,256 --> 01:02:35,776
furniture, verge reinforcements, or temporary

1031
01:02:35,836 --> 01:02:36,436
widening.

1032
01:02:37,396 --> 01:02:41,216
And whilst the highway would be reinstated after delivery, the

1033
01:02:41,256 --> 01:02:44,776
precise extent of the works won't be known until the detailed design
is

1034
01:02:44,816 --> 01:02:45,356
complete.

1035
01:02:46,296 --> 01:02:50,076
Therefore, the applicant is seeking compulsory powers over the
strategic

1036
01:02:50,136 --> 01:02:53,756
road network without being able to identify the specific

1037
01:02:53,836 --> 01:02:54,396
works

1038
01:02:55,316 --> 01:02:57,076
for which these powers are said to be needed.

1039
01:02:58,096 --> 01:03:01,956
National Highways' position is that there is an alternative

1040
01:03:02,476 --> 01:03:04,856
to temporary possession of these plots.

1041
01:03:05,615 --> 01:03:09,326
We say that works of this kind are routinely managed through

National

1042
01:03:09,396 --> 01:03:13,156
Highways' standard abnormal indivisible loads

1043
01:03:13,336 --> 01:03:16,405
notification processes. We referred to it yesterday.

1044
01:03:16,936 --> 01:03:19,636
It goes by the acronym of ESDAL,

1045
01:03:21,256 --> 01:03:24,576
and therefore can be authorized by agreement under

1046
01:03:27,056 --> 01:03:31,036
National Highways protective provisions or via a mini section 278

1047
01:03:31,076 --> 01:03:34,876
agreement. This is how such works are ordinarily dealt

1048
01:03:34,916 --> 01:03:36,796
with on the strategic road network.

1049
01:03:37,576 --> 01:03:41,236
So National Highways doesn't object to the applicant obtaining
access by this

1050
01:03:41,296 --> 01:03:44,516
means, and there's no impediment to the development

1051
01:03:44,536 --> 01:03:48,276
proceeding without the temporary possession powers that are

1052
01:03:48,316 --> 01:03:51,016
currently contained in the DCO.

1053
01:03:52,936 --> 01:03:56,256
This approach isn't an unusual approach to adopt.

1054
01:03:56,516 --> 01:03:59,996
In the Hornsea Project Three offshore wind farm

1055
01:04:00,576 --> 01:04:03,916
DCO, the applicant didn't acquire temporary possession

1056
01:04:03,976 --> 01:04:07,296
rights over the SRN for abnormal

1057
01:04:07,336 --> 01:04:10,736
indivisible loads. Instead, it entered into a mini section

1058
01:04:10,856 --> 01:04:13,996
278 agreement to secure abnormal

1059
01:04:14,036 --> 01:04:17,796
indivisible load movements with the works carried out by

1060
01:04:17,816 --> 01:04:20,776
National Highways maintenance contractors.

1061
01:04:21,176 --> 01:04:25,056
This is National Highways' preferred approach for what is
essentially a

1062
01:04:25,096 --> 01:04:26,956
maintenance activity.

1063
01:04:28,516 --> 01:04:30,556
With that in mind,

1064
01:04:33,816 --> 01:04:36,816
we can't reach a position where we think that the

1065
01:04:39,856 --> 01:04:43,496
CPO powers are necessary or proportionate.

1066
01:04:44,896 --> 01:04:48,716
There's no express statutory test for temporary possession powers

1067
01:04:48,836 --> 01:04:52,676
equivalent to sections 122 and 123 of the Planning Act

1068
01:04:52,836 --> 01:04:55,696
2008 for compulsory acquisition.

1069
01:04:55,736 --> 01:04:59,726
But the paragraph 5.8 of the DCLT guidance is

1070
01:04:59,776 --> 01:05:03,656
clear. The statement of reason should explain why temporary possession powers

1071
01:05:03,676 --> 01:05:07,336
are necessary and proportionate to enable the development to proceed

1072
01:05:07,376 --> 01:05:08,576
without impediment.

1073
01:05:09,406 --> 01:05:11,916
The applicant fails that test on both limbs.

1074
01:05:12,116 --> 01:05:16,096
The powers are not necessary because a well-established alternative mechanism

1075
01:05:16,156 --> 01:05:20,096
exists, and National Highways is willing to facilitate access through

1076
01:05:20,156 --> 01:05:22,936
that standard established mechanism.

1077
01:05:23,596 --> 01:05:27,036
Also, they're not proportionate because the works are, on the

1078
01:05:27,096 --> 01:05:31,046
applicant's own account, limited, temporary and confined to

1079
01:05:31,076 --> 01:05:32,196
the construction phase.

1080
01:05:33,086 --> 01:05:37,056
Seeking compulsory powers over the SRN for works of this character

when they can

1081
01:05:37,076 --> 01:05:39,956
be authorized by agreement is clearly disproportionate.

1082
01:05:40,916 --> 01:05:44,906
A preference for compulsory powers on a precautionary basis where

1083
01:05:44,936 --> 01:05:48,896
the applicant cannot identify the works requiring them doesn't satisfy

1084
01:05:48,936 --> 01:05:49,716
this threshold.

1085
01:05:52,256 --> 01:05:55,766
Whilst protected provisions are being negotiated by the applicant and National

1086
01:05:55,836 --> 01:05:59,456
Highways, National Highways maintain that even with the protective

1087
01:05:59,736 --> 01:06:03,166
provisions in place, the temporary possession powers sought are still not

1088
01:06:03,196 --> 01:06:07,086
justified. The works are limited, temporary, and

1089
01:06:07,116 --> 01:06:10,996
deliverable through National Highways' established processes, as was done

1090
01:06:11,056 --> 01:06:12,556
in the Hornsea Three DCO.

1091
01:06:13,376 --> 01:06:17,276
And therefore, National Highways invites the examining authority to

1092
01:06:17,316 --> 01:06:20,476
conclude that the temporary possession powers are neither

1093
01:06:20,536 --> 01:06:24,236
necessary nor

1094
01:06:24,276 --> 01:06:28,166
proportionate and should not be included in the book of

1095
01:06:28,216 --> 01:06:28,696
reference.

1096
01:06:36,496 --> 01:06:42,356
Thank

1097
01:06:42,396 --> 01:06:46,276
you, Julie Russell. And could you also clarify to say

1098
01:06:46,356 --> 01:06:48,676
your view is they shouldn't be included in the book of reference?

1099
01:06:48,776 --> 01:06:50,136
What about the order limits?

1100
01:06:53,596 --> 01:06:55,336
Julie Russell on behalf of National Highways.

1101
01:06:57,596 --> 01:07:01,376
Our position would be that they don't need to be in the order limits.

1102
01:07:03,492 --> 01:07:07,312
Because the works can be undertaken using National Highways standard

1103
01:07:07,852 --> 01:07:08,571
procedures.

1104
01:07:10,192 --> 01:07:13,712
I think at one stage it was suggested, I think in the early

1105
01:07:13,722 --> 01:07:16,472
consultations, that they wouldn't be within the order limits.

1106

01:07:17,152 --> 01:07:20,002
But obviously we now find ourselves in a position where they are

1107
01:07:20,052 --> 01:07:21,272
included

1108
01:07:22,712 --> 01:07:26,432
within the order limits. But National Highways position is that

1109
01:07:27,212 --> 01:07:30,072
we don't think they need to be.

1110
01:07:30,232 --> 01:07:33,632
Okay, thank you. Alex Tresadern.

1111
01:07:33,672 --> 01:07:36,992
Thank you, Sir. Alex Tresadern on behalf of the applicant. I'm grateful to Ms.

1112
01:07:37,112 --> 01:07:40,772
Russell for her submissions, and I note that what's just been said

1113
01:07:40,832 --> 01:07:44,652
forms the majority of the basis of National Highways' most recent

1114
01:07:44,932 --> 01:07:47,152
submission into the examination at deadline three.

1115
01:07:47,192 --> 01:07:51,112
And therefore, I propose to respond, as the applicant will

1116
01:07:51,152 --> 01:07:54,752
do to all submissions made at deadline three, in writing in full at

1117
01:07:54,792 --> 01:07:58,172
deadline four. Just to note a couple of points, though.

1118
01:07:58,552 --> 01:08:02,262
The applicant is using an approach followed by other solar

1119
01:08:02,262 --> 01:08:06,212

DCOs, so such as Greenhill, Limedown, and Lightvale Solar, all

1120
01:08:06,252 --> 01:08:09,612
of whom are seeking temporary possession over National Highways land.

1121
01:08:10,532 --> 01:08:14,152
The applicant has also reviewed consented DCOs which have taken this approach.

1122
01:08:14,232 --> 01:08:17,722
So that includes the London Luton Airport

1123
01:08:17,892 --> 01:08:20,722
Expansion DCO 2025,

1124
01:08:22,992 --> 01:08:26,892
and the National Grid Yorkshire Green Energy

1125
01:08:27,352 --> 01:08:30,833
Enablement Project DCO of 2024.

1126
01:08:31,612 --> 01:08:35,492
I've discussed at length in the earlier agenda item the

1127
01:08:35,512 --> 01:08:39,182
reason why the applicant's approach to seeking powers of compulsory

1128
01:08:39,232 --> 01:08:42,892
acquisition and temporary possession are necessary and proportionate in

1129
01:08:42,913 --> 01:08:46,692
respect of all plots. But as I say, I note the submissions, and we will

1130
01:08:46,713 --> 01:08:49,992
respond in full in writing.

1131
01:08:50,213 --> 01:08:53,932
I'm conscious I just had a couple more statutory undertakings to

1132
01:08:55,992 --> 01:08:59,972
provide an update on outstanding matters on in relation to agenda item 3C,

1133
01:09:00,072 --> 01:09:02,812
so I'll propose to carry on with that, if that's acceptable.

1134
01:09:02,833 --> 01:09:04,543
Yeah. Yes, please. Thank you.

1135
01:09:04,543 --> 01:09:08,132
Thank you. So the next one is the Defense Infrastructure Organization or the

1136
01:09:08,232 --> 01:09:11,972
MOD. We've discussed this at length in the

1137
01:09:12,152 --> 01:09:15,992
various hearings that have taken place yesterday and this morning.

1138
01:09:16,333 --> 01:09:19,592
But just to summarize again, that the applicant and the Ministry of Defense have

1139
01:09:19,632 --> 01:09:23,253
had an extremely productive meeting last Friday, and

1140
01:09:23,612 --> 01:09:27,583
the applicant considers that agreement is close to being reached on all outstanding

1141
01:09:27,652 --> 01:09:31,572
matters via a combination of requirements on the

1142
01:09:31,632 --> 01:09:35,213
face of the DCO to address certain matters, namely PAR

1143
01:09:35,253 --> 01:09:38,692
mitigation and Gilndu Glebe management plan, and then updates

1144
01:09:38,753 --> 01:09:42,732

to other management plans as appropriate to secure the consultation and

1145
01:09:42,772 --> 01:09:46,732
approval mechanisms that the MOD is seeking in relation to

1146
01:09:46,793 --> 01:09:50,463
the other outstanding matters, including bird strike safeguarding and the

1147
01:09:50,463 --> 01:09:52,312
management of construction equipment.

1148
01:09:52,373 --> 01:09:56,132
And therefore, the applicant is hopeful and confident that the objection will be

1149
01:09:56,192 --> 01:09:59,572
able to be withdrawn in relation to all matters before the end of the

1150
01:09:59,582 --> 01:10:03,572
examination, because the applicant recognizes the importance of

1151
01:10:03,632 --> 01:10:07,472
this matter and its particular nature to this scheme in relation to the

1152
01:10:07,492 --> 01:10:07,972
DCO

1153
01:10:08,832 --> 01:10:09,972
requirements being sought.

1154
01:10:10,992 --> 01:10:14,812
And lastly, sir, just for completeness, the applicant notes that as part of its

1155
01:10:14,872 --> 01:10:18,692
land referencing exercise, it also reached out to

1156
01:10:18,972 --> 01:10:22,812

British Telecommunications PLC, Eastern Power

1157
01:10:22,872 --> 01:10:26,362
Networks PLC, UK Power Networks Operations Limited,

1158
01:10:26,512 --> 01:10:29,892
and Virgin Media Limited to discuss protected provisions, but

1159
01:10:30,352 --> 01:10:32,952
didn't receive a response from any of those parties.

1160
01:10:33,652 --> 01:10:36,911
The applicant notes that none of those parties have objected to the scheme.

1161
01:10:37,232 --> 01:10:41,092
And in any event, there are already satisfactory protected

1162
01:10:41,152 --> 01:10:45,052
provisions for the benefit of those parties included in the face of the DCO

1163
01:10:45,092 --> 01:10:45,912
at Schedule 15.

1164
01:10:48,592 --> 01:10:50,632
Okay, thank you. Julie Russell.

1165
01:10:58,312 --> 01:11:02,232
Thank you, sir. Julie

1166
01:11:02,272 --> 01:11:03,822
Russell on behalf of National Highways.

1167
01:11:03,892 --> 01:11:07,532
I just wanted to come back to you on one point

1168
01:11:08,372 --> 01:11:12,292
raised by the applicant. Obviously, we'll

1169
01:11:12,412 --> 01:11:14,612

see what they say in terms of their submissions.

1170
01:11:16,252 --> 01:11:20,022
But I just wanted to make clear that Luton does not

1171
01:11:20,112 --> 01:11:22,432
include any maintenance type works.

1172
01:11:23,832 --> 01:11:27,672
So here we're only talking about National Highways plots for abnormal indivisible

1173
01:11:28,212 --> 01:11:28,752
loads.

1174
01:11:29,632 --> 01:11:29,932
And

1175
01:11:30,752 --> 01:11:34,432
I need to just go back and check those other DCOs to see whether

1176
01:11:34,832 --> 01:11:38,492
they relate to abnormal indivisible loads or whether they are for more major

1177
01:11:38,512 --> 01:11:42,252
construction works as per Luton, but obviously we can do that exercise

1178
01:11:42,812 --> 01:11:45,972
when we see the applicant's further submissions. Thank you.

1179
01:11:46,692 --> 01:11:47,112
Thank you.

1180
01:11:49,192 --> 01:11:51,052
Any further comment? Okay.

1181
01:11:51,872 --> 01:11:55,512
So protected provisions, we discussed yesterday about the

1182

01:11:55,532 --> 01:11:59,192
Environment Agency as well. So there's a disagreement there

1183
01:11:59,272 --> 01:12:03,012
on the Environment Agency don't want you to include protected

1184
01:12:03,072 --> 01:12:03,552
provisions.

1185
01:12:03,812 --> 01:12:06,152
Thank you. So yeah, Alex Tresadern on behalf of the applicant.

1186
01:12:06,212 --> 01:12:09,902
That's exactly right. I won't repeat the submissions made

1187
01:12:10,092 --> 01:12:13,892
yesterday and in the statement of common ground between the parties, which is up to

1188
01:12:13,972 --> 01:12:16,672
date. But we say they should be included.

1189
01:12:16,732 --> 01:12:19,252
The Environment Agency says they shouldn't be.

1190
01:12:19,392 --> 01:12:22,752
We will therefore be including them in the final DCO in the examination.

1191
01:12:22,812 --> 01:12:26,242
It will be up for the Secretary of State to decide whether to maintain their

1192
01:12:26,272 --> 01:12:28,132
inclusion when considering the DCO.

1193
01:12:28,592 --> 01:12:31,942
Okay, thank you. I don't think we have anyone online from the Environment Agency,

1194
01:12:32,012 --> 01:12:34,152
do we? If you are,

1195
01:12:35,772 --> 01:12:36,752
please raise your hand.

1196
01:12:39,792 --> 01:12:40,132
Okay.

1197
01:12:47,632 --> 01:12:51,432
Could the applicant summarize whether the relevant tests for the exercise of power

1198
01:12:51,612 --> 01:12:55,372
pursuant to Section 127 and Section 138 of the

1199
01:12:55,432 --> 01:12:58,992
Planning Act 2008 would be met in the event that the agreement is not

1200
01:12:59,052 --> 01:13:01,272
reached with all statutory undertakers?

1201
01:13:02,332 --> 01:13:04,712
Thank you, sir. Alex Tresadern on behalf of the applicant.

1202
01:13:04,772 --> 01:13:07,932
I think you've addressed the first clarification point I was going to ask, because

1203
01:13:07,992 --> 01:13:11,572
I noted that the agenda referred to Section 128 of the Planning Act.

1204
01:13:11,612 --> 01:13:15,472
I assume we are talking about 127 and 138 of the Planning Act,

1205
01:13:15,512 --> 01:13:19,432
as is the common provision for the statutory undertaker tests.

1206
01:13:22,556 --> 01:13:25,486
Yeah, I don't have that information to hand, but if you're able to-

1207
01:13:25,856 --> 01:13:27,476

I will proceed on that basis, sir. Thank you.

1208
01:13:27,996 --> 01:13:29,256
Alex Resen on behalf of the applicant.

1209
01:13:29,336 --> 01:13:33,136
So in the unlikely event that agreement is not reached

1210
01:13:33,256 --> 01:13:37,216
with all the statutory undertakings, the applicant maintains, as is

1211
01:13:37,276 --> 01:13:40,556
set out in Section 9 of the statement of reasons,

1212
01:13:41,456 --> 01:13:45,066
which again is Rep 3-019, that the tests for the

1213
01:13:45,116 --> 01:13:48,796
exercise of the power pursuant to Section 127 and

1214
01:13:48,836 --> 01:13:51,456
Section 138 of the Planning Act 2008 would be met.

1215
01:13:52,416 --> 01:13:56,386
So if I start with Section 127, subsection

1216
01:13:56,516 --> 01:14:00,376
2 of that article states that an order granting development

1217
01:14:00,396 --> 01:14:03,866
consent may only include provision authorizing the compulsory

1218
01:14:03,936 --> 01:14:07,616
acquisition of statutory undertakers' land to the extent that the

1219
01:14:07,676 --> 01:14:11,406
matters in subsection 3 are satisfied, and those

1220
01:14:11,476 --> 01:14:15,376
matters are twofold. So the first being that the land can be

1221
01:14:15,416 --> 01:14:18,876
purchased and not replaced without serious detriment to the carrying

1222
01:14:18,956 --> 01:14:22,826
on of the undertaking, and the second is that if purchased, the

1223
01:14:22,896 --> 01:14:24,896
land can be replaced by other land

1224
01:14:25,956 --> 01:14:29,576
belonging to or available for acquisition by the undertakers, again, without

1225
01:14:29,616 --> 01:14:31,896
serious detriment to the carrying on of their undertaking.

1226
01:14:31,956 --> 01:14:35,936
So one of those two situations must arise.

1227
01:14:36,896 --> 01:14:40,496
Subsection 5 of Section 127 states that an order

1228
01:14:40,736 --> 01:14:44,416
granting development consent may only include the provision authorizing the

1229
01:14:44,476 --> 01:14:48,376
compulsory acquisition of a right over statutory undertakers' land

1230
01:14:48,416 --> 01:14:52,266
by the creation of a new right over land to the extent that the matters

1231
01:14:52,266 --> 01:14:56,236
set out in subsection 6 are satisfied, and those

1232
01:14:56,276 --> 01:15:00,216
are again two options. The first is if the right can be

1233
01:15:00,236 --> 01:15:04,156
purchased without serious detriment to the carrying on of the

undertaking or

1234
01:15:04,216 --> 01:15:07,676
any detriment to the carrying on of the undertaking in consequence of the

1235
01:15:07,716 --> 01:15:11,656
acquisition of the right can be made good by the undertakers by the use

1236
01:15:11,836 --> 01:15:15,516
of other land belonging to or available for acquisition by

1237
01:15:15,556 --> 01:15:19,496
them. As I referenced earlier in this hearing, Article

1238
01:15:19,756 --> 01:15:23,356
33 of the draft DCO gives the applicant the authority to

1239
01:15:23,396 --> 01:15:27,316
acquire land and rights from statutory undertakings and to extinguish

1240
01:15:27,356 --> 01:15:30,976
or suspend their rights and to remove or reposition their

1241
01:15:30,996 --> 01:15:34,676
apparatus subject to the provisions of Schedule 15, which will

1242
01:15:34,716 --> 01:15:37,356
contain protected provisions for their benefit.

1243
01:15:38,045 --> 01:15:41,536
The protected provisions, once agreed, will provide adequate protection for the

1244
01:15:41,576 --> 01:15:44,876
statutory undertakers' assets, and therefore, the applicant considers that the

1245
01:15:44,936 --> 01:15:48,656
statutory undertakers will not suffer serious detriment to the

carrying

1246
01:15:48,716 --> 01:15:52,256
on of their undertaking as a result of the compulsory acquisition

1247
01:15:52,296 --> 01:15:55,456
powers sought over the order land being granted.

1248
01:15:55,825 --> 01:15:58,316
Therefore, the tests in Sections

1249
01:15:58,856 --> 01:16:01,796
127.2 relating to subsection 3 and

1250
01:16:01,936 --> 01:16:05,206
127.5 relating to subsection 6 are

1251
01:16:05,316 --> 01:16:05,976
satisfied.

1252
01:16:07,496 --> 01:16:11,356
In respect of Section 138 of the Planning Act, that

1253
01:16:11,416 --> 01:16:15,266
applies if a DCO authorizes the acquisition of land,

1254
01:16:15,716 --> 01:16:19,126
either compulsorily or by agreement, and there

1255
01:16:19,256 --> 01:16:22,276
subsists over the land a relevant right or there is relevant

1256
01:16:22,356 --> 01:16:25,356
apparatus on, under, or over the land.

1257
01:16:25,806 --> 01:16:29,196
The draft DCO includes provision to authorize the

1258
01:16:29,236 --> 01:16:33,216
extinguishment of a relevant right or the removal of relevant
apparatus

1259
01:16:33,236 --> 01:16:37,176
belonging to statutory undertakings in connection with the delivery

1260
01:16:37,216 --> 01:16:41,036
of the scheme, and the exercise of such powers must be

1261
01:16:41,096 --> 01:16:45,076
carried out in accordance with the protected provisions contained in Schedule 15 to

1262
01:16:45,096 --> 01:16:48,756
the draft DCO, i.e., the provisions on the face of a binding

1263
01:16:48,996 --> 01:16:52,976
statutory instrument. The protected provisions set out constraints

1264
01:16:53,076 --> 01:16:55,276
on the exercise of powers in the draft DCO,

1265
01:16:56,276 --> 01:16:59,836
with a view to safeguarding the statutory undertakings and electronic

1266
01:16:59,916 --> 01:17:03,876
communications apparatus owners' interests whilst enabling the

1267
01:17:03,916 --> 01:17:07,656
scheme, i.e., the development authorized by the DCO to proceed.

1268
01:17:07,796 --> 01:17:11,136
And therefore, the applicant considers that the test set out in Section

1269
01:17:11,256 --> 01:17:13,336
138 of the Planning Act is also

1270
01:17:13,396 --> 01:17:18,496
satisfied.

1271
01:17:23,216 --> 01:17:26,616

Thank you. I was just checking that you'd finished, and you were... Yeah. Okay.

1272
01:17:26,746 --> 01:17:28,456
All right. Good. Okay.

1273
01:17:31,636 --> 01:17:33,876
So I think we've covered this.

1274
01:17:34,856 --> 01:17:38,836
Are there any statutory undertakings or other relevant bodies in attendance who

1275
01:17:38,855 --> 01:17:42,516
wish to speak in relation to an objection or issue raised that is relevant to the

1276
01:17:42,536 --> 01:17:46,356
effect of the proposed development on its undertaking, apparatus, or land?

1277
01:17:47,936 --> 01:17:51,576
I don't recognize all of the names that are online, so there may be

1278
01:17:52,356 --> 01:17:52,736
somebody.

1279
01:17:55,256 --> 01:17:58,856
No. Nobody's got their hand up, and there's no one in the

1280
01:17:58,916 --> 01:17:59,396
room.

1281
01:18:04,796 --> 01:18:05,396
Okay.

1282
01:18:15,236 --> 01:18:18,496
Okay, and I had a question on protected provisions, but I think we've

1283
01:18:18,976 --> 01:18:19,596
covered that.

1284
01:18:28,516 --> 01:18:32,036
We'll move on to item 3D then, which is funding.

1285
01:18:32,776 --> 01:18:34,676
I am conscious of time, so if

1286
01:18:35,656 --> 01:18:39,556
we're looking like we're running out of time, I will go to written

1287
01:18:39,596 --> 01:18:43,486
questions, but I would like to finish at quarter to, so we've

1288
01:18:43,556 --> 01:18:43,756
got

1289
01:18:45,096 --> 01:18:48,716
12 minutes. Has anyone got any further issues in relation to

1290
01:18:48,856 --> 01:18:52,416
statutory undertakings before we move on to item 3D, which is

1291
01:18:52,476 --> 01:18:52,916
funding?

1292
01:18:57,436 --> 01:18:57,876
Okay.

1293
01:18:59,096 --> 01:19:02,386
Could the applicant please advise whether there is any update or
change to the

1294
01:19:02,436 --> 01:19:03,236
funding statement,

1295
01:19:04,136 --> 01:19:08,016
reference AS-006, that the examining authority

1296
01:19:08,056 --> 01:19:08,856
needs to be aware of?

1297
01:19:09,828 --> 01:19:12,068
Thank you, sir. Alex Trezise on behalf of the applicant.

1298
01:19:12,148 --> 01:19:14,578
Yeah, I too am mindful of time, and I'm conscious Mr.

1299
01:19:14,788 --> 01:19:18,758
Morgan's been waiting very patiently while I've been waffling

1300
01:19:18,808 --> 01:19:21,728
on to ask his question. So this is a quick response.

1301
01:19:21,948 --> 01:19:25,348
The applicant has got no updates to make to the funding statement.

1302
01:19:25,448 --> 01:19:29,428
That document confirms that the applicant has the ability to procure

1303
01:19:29,438 --> 01:19:33,018
the financial resources required for the scheme, including the cost
of

1304
01:19:33,068 --> 01:19:36,398
acquiring any land and rights and the payment of compensation as

1305
01:19:36,448 --> 01:19:40,248
applicable. The applicant isn't aware of any interest within the

1306
01:19:40,268 --> 01:19:44,028
order limits in respect of which a person may be able to make a
blight

1307
01:19:44,108 --> 01:19:48,048
claim. But in the event this did occur, the applicant has sufficient
funds, as

1308
01:19:48,088 --> 01:19:51,808
is shown in the funding statement, to meet any compensation

1309
01:19:51,888 --> 01:19:55,708
due, and therefore the applicant considers that the examining

authority can be

1310
01:19:55,748 --> 01:19:59,268
satisfied that the requisite funds for payment of compensation,

1311
01:20:00,108 --> 01:20:03,728
as referred to above in relation to the exercise of compulsory acquisition

1312
01:20:03,808 --> 01:20:06,808
powers, will be available if required at the appropriate time.

1313
01:20:07,668 --> 01:20:09,578
Okay, thank you. So my final question,

1314
01:20:11,168 --> 01:20:14,008
unless there's any comments from affected persons.

1315
01:20:16,608 --> 01:20:18,848
I'm not seeing any hands up online.

1316
01:20:20,368 --> 01:20:24,248
So my final question then is, further to the applicant's response to

1317
01:20:24,508 --> 01:20:28,248
XQ1Q5013,

1318
01:20:28,768 --> 01:20:32,298
which is Rep 1-069, could the applicant

1319
01:20:32,388 --> 01:20:35,568
clarify whether the current cost estimate for the proposed development

1320
01:20:35,988 --> 01:20:39,608
includes an allowance for decommissioning, and if so, what is the

1321
01:20:39,648 --> 01:20:41,608
estimated decommissioning cost?

1322
01:20:45,488 --> 01:20:48,447

Thank you, sir. Alex Trezise on behalf of the applicant.

1323
01:20:48,548 --> 01:20:52,448
So in terms of decommissioning, there's a requirement to

1324
01:20:52,468 --> 01:20:56,398
decommission the scheme in requirement 20 of the draft DCO, and

1325
01:20:56,448 --> 01:21:00,188
as we know, failing to comply with that requirement would be a criminal

1326
01:21:00,228 --> 01:21:00,868
offense.

1327
01:21:01,768 --> 01:21:05,168
The requirement to decommission the scheme would sit with the owner at the time of

1328
01:21:05,208 --> 01:21:05,898
decommissioning,

1329
01:21:06,728 --> 01:21:09,928
and that's also covered in agreements with landowners, which include

1330
01:21:09,948 --> 01:21:13,868
decommissioning securities to cover the cost of decommissioning

1331
01:21:13,948 --> 01:21:17,768
in the event of any breach by the applicant or in the event of insolvency of the

1332
01:21:17,807 --> 01:21:18,288
applicant.

1333
01:21:19,757 --> 01:21:23,288
And the amount of such decommissioning security would be regularly

1334
01:21:23,328 --> 01:21:26,778
revalued throughout the life cycle of the scheme and topped up if

1335

01:21:26,848 --> 01:21:27,678
necessary.

1336
01:21:29,488 --> 01:21:30,528
That's the response-

1337
01:21:30,628 --> 01:21:30,928
Yeah

1338
01:21:30,938 --> 01:21:31,848
... you gave before.

1339
01:21:31,888 --> 01:21:35,817
It is. And I know as well that the decommissioning strategy is relevant in

1340
01:21:35,848 --> 01:21:39,808
this context. I don't think I can provide any more information further

1341
01:21:39,868 --> 01:21:43,628
to what's been noted in our submission at this time.

1342
01:21:43,688 --> 01:21:47,328
But perhaps it's one I can take away and discuss with my client further.

1343
01:21:47,408 --> 01:21:48,048
Okay. Thank you.

1344
01:21:49,488 --> 01:21:53,368
So I'll move on to, unless

1345
01:21:53,408 --> 01:21:56,448
anyone, any affected persons has any further comments.

1346
01:21:57,588 --> 01:21:58,308
I'm not seeing

1347
01:21:59,128 --> 01:22:01,108
anyone in the room or online.

1348
01:22:02,768 --> 01:22:04,268
Okay, so I'll move on to

1349
01:22:05,708 --> 01:22:08,308
agenda item four, which is other matters.

1350
01:22:09,208 --> 01:22:12,988
In terms of action points, I haven't got any specific action points

1351
01:22:13,048 --> 01:22:16,608
other than the normal routine information.

1352
01:22:17,628 --> 01:22:19,268
Thank you. Sorry, I'm just checking that Mr.

1353
01:22:19,508 --> 01:22:20,638
Morgan didn't want to ask a-

1354
01:22:20,868 --> 01:22:22,128
I'm going to come to him.

1355
01:22:22,168 --> 01:22:22,488
Oh, sorry.

1356
01:22:24,548 --> 01:22:25,268
I just wanted to

1357
01:22:26,128 --> 01:22:28,388
deal with my action points so that other than

1358
01:22:29,328 --> 01:22:33,208
the actions that are in the Rule 8 timetable, the normal routine updates, I

1359
01:22:33,248 --> 01:22:36,728
haven't got any specific ones. Although we just talked about

1360
01:22:37,268 --> 01:22:40,928
you were going to review if you're able to provide a response on the

1361

01:22:40,938 --> 01:22:42,148
decommissioning costs.

1362
01:22:43,548 --> 01:22:47,538
So has any other party's got any matters they

1363
01:22:47,548 --> 01:22:50,308
wish to raise at today's hearing? Tony Morgan?

1364
01:22:54,548 --> 01:22:55,208
Oh, sorry.

1365
01:22:56,008 --> 01:22:58,248
Yeah. Good afternoon. Tony Morgan, Castle Acre resident.

1366
01:22:59,628 --> 01:23:03,348
So I've got a few very short questions, but while I'm starting to ask the

1367
01:23:03,448 --> 01:23:06,448
question, I wonder if you could pull up the land plan

1368
01:23:06,988 --> 01:23:08,388
APP22, please,

1369
01:23:09,228 --> 01:23:12,928
just so we can have a look at the pink area in relation to the other areas.

1370
01:23:15,968 --> 01:23:19,568
So while you're doing that, the questions I've got is, the

1371
01:23:19,628 --> 01:23:23,528
outline decommissioning strategy states that the land will be returned to the

1372
01:23:23,568 --> 01:23:25,768
landowner following decommissioning.

1373
01:23:26,248 --> 01:23:29,567
But Article 21 provides for permanent freehold

1374
01:23:29,947 --> 01:23:31,627
acquisition of the pink land

1375
01:23:32,808 --> 01:23:36,368
with no reversion provision. Can the applicant confirm

1376
01:23:36,768 --> 01:23:38,408
whether this word is a drafting error,

1377
01:23:39,468 --> 01:23:41,068
a non-binding aspiration,

1378
01:23:42,128 --> 01:23:45,288
or reflects an intention to include a binding

1379
01:23:45,868 --> 01:23:47,048
reversion mechanism?

1380
01:23:48,008 --> 01:23:50,668
So in other words, are you going to return the land back to the

1381
01:23:51,408 --> 01:23:54,328
landowner? And the other part to that is,

1382
01:23:55,288 --> 01:23:58,108
who's going to own the freehold

1383
01:23:59,628 --> 01:24:01,428
when you take over the land?

1384
01:24:03,508 --> 01:24:06,808
Thank you, sir. If I respond directly, Alex Trezise on behalf of the

1385
01:24:07,208 --> 01:24:11,088
applicant. So the term of the option agreement with the landowner clarifies

1386
01:24:11,148 --> 01:24:14,928
that the pink land will be returned at the end of the decommissioning of the

1387
01:24:14,948 --> 01:24:18,938
scheme. So whilst I am referring to permanent acquisition, that's permanent in

1388
01:24:18,948 --> 01:24:22,828
the context of the scheme's life cycle, which I appreciate it

1389
01:24:22,848 --> 01:24:25,228
does lead to some confusion there, but it will be returned to the

1390
01:24:26,128 --> 01:24:28,348
landowner after decommissioning of the scheme.

1391
01:24:29,168 --> 01:24:32,788
So the landowner's going to get compensation

1392
01:24:32,888 --> 01:24:33,178
for

1393
01:24:34,228 --> 01:24:36,908
having his land taken away, and then you're just going to give it back to him.

1394
01:24:36,948 --> 01:24:38,388
Is that the case? Sorry.

1395
01:24:38,808 --> 01:24:40,668
Alex Trezise on behalf of the applicant.

1396
01:24:40,788 --> 01:24:43,968
After a period of potentially 60 years of operation of the scheme, so quite a

1397
01:24:44,008 --> 01:24:47,868
lengthy time. So it's permanent. The reason it's called permanent is because that

1398
01:24:47,908 --> 01:24:51,788
length is 60 years. But ultimately, in the context of the existence

1399
01:24:51,848 --> 01:24:53,148

of the land, it is temporary.

1400
01:24:54,288 --> 01:24:55,108
Okay. So

1401
01:24:57,388 --> 01:24:58,408
my next question-

1402
01:24:59,588 --> 01:25:01,948
Could I just clarify how many questions you have?

1403
01:25:02,048 --> 01:25:02,148
Because-

1404
01:25:02,248 --> 01:25:04,088
Oh, sorry. I've only got three.

1405
01:25:04,408 --> 01:25:06,968
Okay. I'm just conscious we've got five minutes

1406
01:25:07,948 --> 01:25:08,708
remaining, so-

1407
01:25:09,068 --> 01:25:09,928
Yeah. So-

1408
01:25:09,938 --> 01:25:12,568
... we might need to move to a written submission if we can't

1409
01:25:13,856 --> 01:25:16,996
So under proportionality, really, I just wanted to find out...

1410
01:25:19,896 --> 01:25:22,716
Let's have a look. Where are we? Sorry. You'll have to excuse me.

1411
01:25:25,156 --> 01:25:27,036
So obviously no reasonable alternative.

1412
01:25:27,616 --> 01:25:31,456
But the other thing I wanted to say was, this should be a

1413
01:25:31,496 --> 01:25:31,856
last

1414
01:25:32,756 --> 01:25:33,296
resort.

1415
01:25:34,636 --> 01:25:34,836
If

1416
01:25:35,736 --> 01:25:39,606
the negotiations fail completely with the landowner, that

1417
01:25:39,656 --> 01:25:43,636
you then take over it. But according to how things are

1418
01:25:43,656 --> 01:25:46,076
at the moment, you're progressing quite well with the landowner.

1419
01:25:46,556 --> 01:25:47,456
So is there not

1420
01:25:48,616 --> 01:25:50,636
provision for you to take it over as a

1421
01:25:51,476 --> 01:25:54,316
60-year lease as opposed to freehold

1422
01:25:55,796 --> 01:25:56,416
acquisition?

1423
01:25:57,616 --> 01:25:59,536
Thank you. Alex Trezinen on behalf of the applicant.

1424
01:25:59,816 --> 01:26:03,216
We would consider that to be disproportionate with standard
practice.

1425
01:26:03,256 --> 01:26:05,736
And I completely agree with what you've said, Mr Morgan.

1426

01:26:05,756 --> 01:26:09,466
The use and exercise of any of these compulsory acquisition or

1427
01:26:09,516 --> 01:26:13,016
temporary possession powers are absolutely a fallback and last resort

1428
01:26:13,076 --> 01:26:16,516
provision should we need to do so. It's just necessary to include

1429
01:26:16,526 --> 01:26:19,866
them in the case that even if option agreements are entered into with

1430
01:26:19,936 --> 01:26:23,746
everybody, if circumstances were to change, for example, if

1431
01:26:23,996 --> 01:26:24,716
the

1432
01:26:25,576 --> 01:26:28,856
person with whom the agreement's entered into dies or becomes insolvent or whatever

1433
01:26:28,876 --> 01:26:32,026
reason, we need that fallback provision to ensure that the scheme

1434
01:26:32,076 --> 01:26:35,606
can proceed without impediment, because otherwise you're in the position

1435
01:26:35,656 --> 01:26:39,636
where the scheme could be consented, the Secretary of State's weighed the public

1436
01:26:39,696 --> 01:26:42,386
interest in the balance and said, given it the go-ahead.

1437
01:26:42,676 --> 01:26:46,456
But then just because of that option agreement failing for a reason that could be

1438

01:26:46,496 --> 01:26:50,076
outside the applicant's control, you can't progress with it, and that would fly in

1439
01:26:50,116 --> 01:26:53,446
the face of the public interest points that the Secretary of State would have had

1440
01:26:53,496 --> 01:26:55,556
to have considered by making the scheme.

1441
01:26:57,156 --> 01:26:58,916
Just one final question, sorry.

1442
01:26:58,936 --> 01:26:59,076
Okay.

1443
01:26:59,656 --> 01:27:01,116
Tony Morgan, Castleacre resident.

1444
01:27:01,496 --> 01:27:05,176
The last question I want to ask is basically what would happen if IGP

1445
01:27:07,216 --> 01:27:11,116
went into receivership? What would happen to the freehold regarding the

1446
01:27:11,136 --> 01:27:11,636
project?

1447
01:27:13,156 --> 01:27:14,326
Okay. Alex Trezinen.

1448
01:27:14,466 --> 01:27:17,316
Thank you, sir. Alex Trezinen, on behalf of the applicant.

1449
01:27:17,856 --> 01:27:21,646
There are provisions in the draft DCO whereby

1450
01:27:21,695 --> 01:27:25,596
the benefit of the order, if the DCO was granted, the benefit of the

order

1451
01:27:25,656 --> 01:27:29,626
could be transferred with the Secretary of State's consent to another

1452
01:27:29,716 --> 01:27:33,656
party, who would then be required to comply with every single obligation

1453
01:27:33,676 --> 01:27:36,396
that's on the face of that statutory DCO.

1454
01:27:36,456 --> 01:27:40,036
So there isn't a scenario whereby a developer could take over the land and operate

1455
01:27:40,046 --> 01:27:42,836
the scheme without having to comply with those conditions.

1456
01:27:44,336 --> 01:27:45,096
Okay. Thank you.

1457
01:27:46,876 --> 01:27:47,936
Thank you. Any other

1458
01:27:48,796 --> 01:27:49,376
comments?

1459
01:27:50,316 --> 01:27:52,736
Okay, I'll move to close the hearing then.

1460
01:27:52,876 --> 01:27:55,616
So item five is close of the hearing.

1461
01:27:55,776 --> 01:27:59,756
The next hearing is the open floor hearing, which is in 17 minutes

1462
01:28:00,056 --> 01:28:01,556
at 4:00 today.

1463

01:28:02,896 --> 01:28:03,466
Does anyone

1464
01:28:04,336 --> 01:28:06,876
else have anything they wish to say before I close the hearing?

1465
01:28:09,356 --> 01:28:11,616
Thank you all again for attending today's hearing.

1466
01:28:11,656 --> 01:28:15,576
The time is now 15:43, and the hearing is closed.