



Hearing Transcript

Project:	Norwich to Tilbury
Hearing:	Compulsory Acquisition Hearing 1 (CAH1) - Part 2
Date:	11 February 2026

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00:00:05:20 - 00:00:36:15

I'm we're going to resume this hearing for the compulsory acquisition hearing. One for the Norwich to Tilbury project. We are still going to try and aim for 4:30 as a finish up. Partly because of logistics of other hearings but also for people's travel arrangements. So without further ado, we're going to go to item four regarding statutory undertakers. Um, can I just ask the applicant to take us to the highlights of the current condition of negotiations with statutory undertakers, please? And what I think we're most interested in is particularly outstanding matters rather than anything else.

00:00:36:17 - 00:00:37:15

Thank you very much.

00:00:47:12 - 00:01:17:08

None of which Russell Harris KC. There are presently identified ten section 127 parties, all of whom have made relevant representations. None have yet been formally withdrawn, but negotiations are continuing with them all. None involve the taking of land. Only two involved diversion of existing apparatus. All the rest currently are just in relation to protecting existing infrastructure in relation to um.

00:01:22:01 - 00:02:04:26

In relation to section 138. Parties. There are 25 parties, ten of which are also the section 1 to 7 parties. We have, as you've asked us, provided a list. I'm holding the list up. Um, it's not in the examination yet, but will be provided either as soon as possible, uh, as you wish or at deadline one. This identifies the organisation, the status of the protective protective provisions which are in the order, the scope and purpose of any relevant site agreement, the current position, the progress since the last update and whether section one, two, seven, section one through eight or both is engaged.

00:02:04:29 - 00:02:46:06

I can tell you in answer to your direct question that where we currently are, um, of the 25, uh, plus LTC and BPA, which we put in for these purposes, 12 are looking as if they are happy to deal with the PS, which are in the DCO. One wants a bespoke PPE and we're very advanced in relation to that. Six want a bespoke, um, PPE plus a legal agreement? Then there is a six who want a combination of bespoke PPAs and a further legal agreement.

00:02:46:08 - 00:03:28:02

And then there are two what I call more complex interfaces. Uh, LTC and BPA, who you've heard from today. So, um, You've heard from them. I say no more about that. That that's generally where we are. We have promised a tracker to bring you up to date in relation to that. We also have, by deadline one, to respond to each of the relevant representations that haven't been withdrawn. So you'll get that too. We've also said that we will provide a draft statement of common ground in relation to each of those 25, which will be kept up to date as the examination proceeds.

00:03:28:04 - 00:03:58:27

Thank you very much. And yes, the deadline one I think would be fine for that and it would be very, very useful to have that separately. The current negotiations tracker is quite bland in terms of the individual process, so that would be good. And I think we just I know no surprise that we just want to note that, you know, we, you know, six months examination timetable when it comes to statutory

undertakers is is not very long at all. So, so you know, we we do not want to be outstanding with our recommendations in in respect of these.

00:03:58:29 - 00:04:16:29

So we would urge you to ensure that those include those matters are completed appropriately before the end of the examination. Understood. Thank you very much. Um, apologies. Mister Bedford was online with a hand up before we took that note, and I don't know whether that is now being taken down.

00:04:17:07 - 00:04:31:29

No. Well, it had been taken down, sir, but it was only a courtesy matter to say we had no points we wanted to raise on other matters of the agenda. So if it was convenient to you, I was going to disappear. And officers of the county council would monitor the rest of the hearing.

00:04:32:04 - 00:04:34:09

That's absolutely fine. And thank you for your care to your message.

00:04:34:19 - 00:04:35:18

Thank you. Thank you sir.

00:04:36:04 - 00:04:40:10

Um, we do have a hand up from Judy Russell, Mrs. Russell.

00:04:44:03 - 00:05:31:03

It's Judy Russell on behalf of National Highways. Um, in their capacity as strategic, uh, road authority. And I just wanted to check, um, with the applicant. Um, I think he, I think, um, it was said that national highways have no land to which compulsory acquisition of land applies. Um, but but that's not, um, that's not how we'd understood the book of reference. So I just wanted to check that point firstly, and secondly, to check that when the applicant says that they're in the process of, um, agreeing protective provisions, that national highways are on that list of parties to which, um, those protective provisions are envisaged to be progressed.

00:05:31:12 - 00:05:37:08

Thank you. I'll take a question from Emily Jones and then ask the applicant to respond, Mrs. Jones.

00:05:40:05 - 00:05:55:19

Uh, very briefly, again, just a point of courtesy to say that, um, we also, um, would be happy not to speak to any of the other agenda items today, which hopefully will speed matters up for you. Thank you.

00:05:55:21 - 00:05:58:22

Thank you very much. That's very kind of you. Um, the applicant.

00:05:59:15 - 00:06:14:19

Russell Harris. Casey, on behalf of the applicant. Um, we will deal with the National Highways position constructively offline. It's our understanding that we don't take any land or we do take some rights. So what I said was strictly correct. But if I'm wrong, we'll correct it.

00:06:14:21 - 00:06:22:26

Thank you very much. That's very helpful. Um, is there any other points on of note on statutory undertakers before I move on

00:06:24:20 - 00:06:45:16

and then we'll hands up. Thank you very much. So I'll go to item five, Crown Land and special category land. Um, I think I'm seeking confirmation of various updates from the applicant in respect of various matters. Um, and I think I'll just hand over to you, um, Miss Sergeant, to give us an update on your proceedings with Crown Land. Um. Initially, please.

00:06:45:18 - 00:07:21:23

Thank you. Sir. Have a sergeant on behalf of the applicant. So, um, as you'll have seen, sir, there are 58 plots in the book of reference with a potential Crown interest. We have been dealing with those internally by grouping adjacent plots that relate to the same crown entity. So for example, where there are four plots in which the Ministry of Defence has an interest, and then next to each other, we've conceptualized that as one interaction. And if it would be helpful to the panel, we would of course, be able to provide a plan that would identify the interactions so that you can understand what we're referring to, and we're happy to send that in.

00:07:21:25 - 00:07:51:25

So at submission of the application, there were ten interactions involving a potential crown interest. Two of those were freehold Crown estate interests where land appeared to have passed to the Crown through estate. And the other eight were interactions where Crown bodies appeared to hold an interest in terms of the two freehold Crown Estate interests, it transpires that one of those actually doesn't involve any Crown interest because it's still in private ownership, it hasn't passed to the Crown.

00:07:52:04 - 00:08:28:25

So that will be removed from part four of the book of reference. The second parcel did pass to the crown after the dissolution of a company. We are engaging via the Treasury Solicitor and Sgt. The Crown Surveyor has undertaken a site visit and we're expecting response from them by the end of this month. Then, as to the other eight interactions, where we're dealing with a position where Crown entities appear to hold an interest in other people's land application, there was one interaction with an interest held by the Department of Education and one with the Department for transport.

00:08:29:03 - 00:09:01:28

And neither of those parcels of land is required anymore. So those will be moved to the white land. And so those are not relevant from the Crown interests perspective. There was also one potential interaction with the Department for Health and Social Care. We now think that there probably won't prove ultimately to be a Crown interest there, and we're engaging with the government legal department to get to the bottom of that. And so that leaves us with just five potential interactions with Ministry of Defense interests. The current thinking is that actually they will turn out ultimately not to be a crown interest in three of those.

00:09:02:07 - 00:09:34:04

And there's ongoing engagement with the defense infrastructure organizations. Land management services most recently are meeting on the 30th of January. And so of the short, the very short point is of the ten originally identified potential interactions that we thought would or could concern Crown interests, we're down to a position where we think that only three of those will ultimately require section one, three, five consent. Those being the, um, the single freehold Crown Estate interest and then the two Ministry of Defense interests.

00:09:34:23 - 00:10:14:16

Thank you very much. If you could submit that in writing. Um, that would be really helpful. And, and we'll obviously be seeking updates on actually how those, um, agreements are progressing during the examination. Same comment about section undertakers. We all know about the Crown land and the need to get that negotiations done. Thank you very much. Um, I was going to ask three questions about statutory special category land. I'm just going to read them and I just and rather than responding now, if you could respond in writing. Um, one is that, um, in 8.3 of the statement of reasons, you state that article 53 of the draft DCO allows for temporary suspension of access to open land.

00:10:14:18 - 00:10:47:10

And I'd like to know how this is moderated or approved to ensure that suspension is not for any longer than is necessary. Appendix C of the Statement of Reasons. Sorry. Second question. Statement. Appendix C of the Statement of Reasons. You state the Secretary of State can be satisfied with the siting of pylons. Would not be less advantageous to persons whose it is is vested in. Can you advise if those persons who it is vested in confirm this is the case? And my third question is, in appendix C of the Statement of Reasons.

00:10:47:15 - 00:11:13:06

Paragraph 2.1 ten. You state that recent decisions by the Secretary of State regarding how the no less advantageous burden status test is met have been considered in the report, and I'd just like to elaborate what that actually means in practice. In your considerations, does that make sense? Okay. And we can confirm those in writing if you need those points in writing. Um.

00:11:15:20 - 00:11:24:07

I think in respect of, um, the item five, I'm just reading whether I need to.

00:11:28:07 - 00:11:37:21

I think in I think taking time into account, I think that's all I want to cover in terms of item five. I was going to ask Mr. Stone if he's got any further questions.

00:11:39:12 - 00:11:44:29

No. Okay. Thank you very much. I will ask Mr. Stone to cover item six on the agenda. Now. Thank you.

00:11:46:00 - 00:12:35:17

Okay. Similarly, in terms of the time and where we're getting to, this was again, really an update on where the position had arrived at and seeking some clarity. So again, if you want to give us a very

brief response and then elaborate in writing, then we're happy to accept that. Basically here the agenda item relates to the human rights and the equalities duty, and we were seeking a brief summary of the applicant's position in respect of the engagement of human rights articles and the equalities duty, including whether or not they've identified any circumstances where they think these may be engaged and what measures they've employed or employing to address those breaches.

00:12:35:26 - 00:13:02:27

Um, firstly, in terms of the human rights, uh, whether or not you've identified anything or any interference in human rights in terms of the equalities, whether or not you think there may be any breaches of the Equalities Act. And basically what we're looking for is how how you're seeking to address those and whether how you will, you will deal with those matters.

00:13:05:01 - 00:13:37:12

Thank you. Russell Harris KC. We accept that article six, the right to a fair hearing is engaged. We have also taken the view that article one of the first protocol, which is peaceful enjoyment of possessions, is potentially engaged. And we ask you to proceed on the same basis in relation to article eight. Respect for private life and home. Although no dwelling is a subject of compulsory acquisition. Again, we proceeded on the precautionary basis that the right is engaged and we're content for you to do the same.

00:13:37:16 - 00:14:09:15

In relation to article six, it's not a question of whether it's breached or not. It's a question of whether the process as a whole is fair and complies with article six. We rely on what the Supreme Court has said about the planning system as a whole being fair and article six compliant, starting with pre-application consultation, adequacy of consultation milestone, the acceptance of the order, these hearings both public and in writing.

00:14:10:00 - 00:14:40:11

Um, the recommendation of an independent panel and the determination by a Secretary of State who is then justice to the, um, potentially the subject of statutory challenge and judicial review. That's all article six compliant. Um, and we'll put that all down in writing in terms of the first protocol in article eight, we don't identify any breaches because none of the rights they're outlined are absolute, but any interference in them requires justification.

00:14:40:14 - 00:15:15:04

And if the justification is provided, then those articles are complied with. In the circumstances of this case, as in BTO and other overhead line cases, our case here would be a matter for you. Is that the urgent need for the proposal and the other elements of meeting the need case across the national agenda that I identified earlier are all sufficient easily to provide the justification with the potential interference with those rights in the particular circumstances of each case.

00:15:15:06 - 00:15:46:21

On the other side of that, we again look to the fact that for those individuals, etc., we have followed the provisions of the Holford Code and the various mitigation strategies to minimise those interferences as far as we are able. So in terms of article six, we say the whole process is article six

compliant. And in terms of the first protocol on article eight, we say those rights are not absolute and they are justified in the public interest in the circumstances of this case.

00:15:46:23 - 00:16:21:26

In the event that there are interferences with them, that's our answer. In terms of the Equalities Act, um, that is a duty which has been placed on you and is also placed on the Secretary of State to have due regard to eliminate discrimination and advance equality and foster good relations. It's a requirement to have due regard. It doesn't point to any specific outcome. And the issue there is, have you got enough information for you to have due regard? We say that you do.

00:16:21:28 - 00:16:43:05

I've got Mr. Walker here to explain and to bookmark or to point you in the direction of where that is. But largely he's going to say it's in the equalities impact assessment, the planning statement and various other documents. I'm in your hands as to whether you need him to say any more than that. We can definitely put it in writing.

00:16:43:08 - 00:16:45:27

No, it's fine just to put that in writing. Thank you.

00:16:46:24 - 00:16:48:18

That's our answer to that question.

00:16:49:24 - 00:17:02:18

Thank you very much. Uh, in that case, we can move along from human rights and move to funding. Uh, and I think we can go back to Mr. Simms for that.

00:17:02:20 - 00:17:24:08

Thank you very much. So, yes, the, uh, the final substantive item today is item seven on the agenda funding. Um, I think the first comment really is if the applicant has any updates to the funding statement and whether adequate funding is likely to be available to enable compulsory acquisition to proceed within the statutory period following the draft DCO, if it were to be made.

00:17:26:18 - 00:18:06:19

Uh, deal with those Russell Harris. Casey for the applicant. Um, I did with those. In turn, there is an update of the funding statement, which is presently being, um, uh, in process of being put together. Um, it was being done in any event, and it's not ready for today, but we'll be ready for the, um, first deadline. Um, and it will identify, um, how various sums that are contained within the funding statement have altered over time in relation to, um, uh, inflation and those other things.

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Um, if you're content with that, we will provide that, as I said at the first deadline.

00:18:12:27 - 00:18:46:23

Uh, it's no, it's quite interesting that you've said that there's gonna be an update, which we weren't expecting because, um, I've got a number of questions that if they were covered in the funding statement, I think it would be helpful. Um, for, um, for both us and, and it may be that you've read the

relevant reps in this regard and feel that you need to give some more information so broadly. The questions I was going to have, which I'm now very content with you to cover in the funding statement, all separately. Nevertheless, we're going to be, um, in the funding statement.

00:18:46:25 - 00:19:30:24

3.2.6, you explained that the, uh, £60 billion investment plan, um, of 24 to 29, includes 7 billion under IT and rights issues. Yes. I couldn't see unless I misread that where the other 53 billion was, was coming from. Just so that we understand how that because that's, that's that seems to be the primary source of the funding for this project. So an explanation of that, just to elaborate on that would be helpful. Um, it also details the, the in the project assessment that it needs to be submitted to Ofgem for a decision which will be following the confirmation of a development consent order, if given.

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And again, an explanation of of what that really means in practice, i.e. is that what is the likelihood that Ofgem will not approve that and therefore the the funding isn't available for compulsory acquisition? I think there's a I need that circle close. Thank you. Um, if that makes sense.

00:19:50:02 - 00:19:50:17

Yes.

00:19:50:19 - 00:20:27:06

And lastly, I think you've just mentioned it as well. We've picked it up and served a lot of relevant reps that the cost base is clearly stated as being in 2020, 2021. Um, there has been significant construction inflation and general inflation since then. Um, and other inflationary pressures. Um, so I think we need to see much more understanding that the project costs are really very relevant because we I can't see from the funding statement what has been included for inflation, what's being included for contingencies.

00:20:27:12 - 00:21:05:03

Um, and on the similar note. The funding statement talks about a £1.180 million estimate for C8 and compensation benchmarks purely as a 10% contingency. I'm expecting that that 10% general contingency is now a little bit more nuanced, and an update on that and some consideration of a lot of the relevant representation. Comments of lack of compensation, as has been mentioned. Compensation isn't our remit, but the allowance of funding in the overall project and your affordability of it is a consideration.

00:21:05:05 - 00:21:08:18

So please can that be covered? Um.

00:21:10:28 - 00:21:45:23

I think the final thing we wanted to, um, again, you're, um, welcome to have a last five minutes on this point or to be covered in the funding statement. Um, we'd like to understand a little bit more how the funding and the costing has complied with the government Treasury Green book um and and indeed the level of contingency allowable at this stage of the project for um a project at this, uh, you know, stage of development.

00:21:45:25 - 00:21:57:03

I'm very happy to have an answer on the Green Treasury Green book and how that's been allowed for now, or a further and fuller explanation in the update that you're going to give us on the, um, funding statement.

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I'm going to, uh,

00:21:59:29 - 00:22:34:25

Russell Harris. Casey, for the applicant, I'm going to take you up on your offer of a further and fuller consideration of, uh, those matters. Uh, I can address you very, very briefly on, um, the test, which is, is it likely that it will be funded? Um, and our answer is yes. It's now become, in effect, uh, an obligation, uh, in terms of our, um, uh, statutory duties to Provide it, and funding comes from various sources, including, um, the source that you identified.

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Um, set out there. It's a question I asked myself. Um, radio funding has already been provided, and a lot of it spent from central government. And we're we are an AST project. In fact, we're two nasty projects in the sense that we are an accelerated strategic transmission investment project. Um, which is a project of the highest criticality as far as government and funders and off Gen C. So the answer to the question, um, you get eventually will be that there's more than a likelihood that funding will be available for this project in the relevant period so that the statutory test is met and the policy test is also met.

00:23:14:07 - 00:23:17:07

But I'll take up the opportunity of dealing with the other issues, if I may.

00:23:17:09 - 00:23:54:02

Yeah. No, that's that's fine. And I think, um, I think um, my preference, um, if for what it's worth, is for those comments to be more robustly shown in the funding statement. So they're not a separate piece of paper that we have to then go and to refer to. So as you're already up to date in the funding statement, by your own admission, I think there needs to be some more robustness in terms of how the estimate has been allowed for what the inflationary rate is, what the contingencies are, how it relates to the government. Green book, um, the overall funding package for the 24 to 29 financial framework and how that is and the priority you've just mentioned, uh, Mr.

00:23:54:04 - 00:24:12:10

Harris, the priority this is given that wasn't coming out clearly in the funding statement in terms of an overall budget settlement for a five year period. So if you could cover those things and I'll just check with my colleagues if there's anything I've missed, though. Thank you. Um, yes, I look forward to the updated funding statement. Thank you very much.

00:24:13:27 - 00:24:17:06

Russell Harris KC that's the first time I've ever heard anybody say that.

00:24:18:08 - 00:24:20:00

I'm glad to make you happy today.

00:24:26:17 - 00:25:00:05

So the last item on the agenda is simply any other matters. The only matter that we've really got to mention is that what's already been noted about the Land Rights Tracker and the negotiations tracker. It's really, really vital that these are updated. And the rule six letters are supposed to be updated every deadline. Um, I know there's a lot of work in the land rights tracker, but it's really important that we understand what's happening at the moment. I know it's a function of where we are, but every every entry for every one of your, um, uh, with the potential of a few exceptions is the same.

00:25:00:07 - 00:25:30:14

Um, and we're hoping that a deadline one there'll be a lot more detail about, um, what's progressing with each one. And we really look forward to that, um, submission to help us and to help everybody. Uh, going forward, I don't think there's any other any other items for us. Um, so I will just check in the online if there's any other items. Um, any other matters? Um, so we have one hand up. NC sorry. I apologize for using your initials.

00:25:30:16 - 00:25:31:20

That's all we can see.

00:25:32:20 - 00:26:06:21

That's right. So, Nick Cheeseman, um, as a AP, um, just a couple of things I'd like to bring forward here. The project is very difficult to understand and for structural reasons, not just for the poor communication that's gone on the construction documents. Uh, consultation documents, rather are written very defensively. And the, um, they avoid clear, plain statements, and it makes it very difficult for non-lawyers, um, to understand the technical, um, and the way that the documents become so fragmented.

00:26:07:04 - 00:26:44:25

Um, I had got a lot more. I'm very conscious at the time. Um, but because of the haste in which the projects being pushed through, we've been asked to put our trust in the applicant in the hope that the applicant is doing the right thing. Well, unfortunately, most of us, certainly the people that I talked to with regard to this on the length of the project. We don't really have any trust in the applicant at the moment. We're not getting the feedback that we need. I know this has all been brought up before, but because of that, we really feel that we're being hung out to dry.

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And on a closing note, Mr. Barker's comments with reference to agenda three um 3.6 regarding the compelling pace for the purchase of the project. Um, why on earth would anybody agree to a contract that such that that produces such penalties that it necessitates the project to go ahead? Um, and therefore that the creates the compelling case for for the project itself? Isn't it a case of the the tail wagging the dog? And if so, why should those living on the route be forced to pay the price? And doesn't that then go on to infringe those penalties under Echr, particularly article six and eight? Um and and and the whole thing is, is failing to to take us with it.

00:27:41:12 - 00:27:49:28

We're we're not willing participants. We're being forced into a situation that we find very difficult to comprehend. That's thank you. Thank you.

00:27:50:00 - 00:27:55:13

Thank you very much, Mr. Chairman. I'll just ask Mr. Harris if you'd like to respond to that. Or any or not.

00:27:56:13 - 00:28:00:06

We will respond in writing. Okay. Um, to to to those matters. Thank you.

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

Thank you very much. And thank you very much, Mr. Cheeseman. Um, there was one other hand up, but I don't I think it's gone down now.

00:28:08:21 - 00:28:33:00

Okay. Thank you. So no further, um, items on the last item for online. Is there anything in the room for those that Had wanted to speak. Thank you. In which case, um, just to confirm that, um, there will be action notes that we will be doing from the meeting. Um, and, um, obviously, there's been some actions that I'm sure you've taken note of as well. Sorry.

00:28:37:09 - 00:28:39:05

Yeah. I'll just I'll just run through them just.

00:28:39:07 - 00:28:40:08

To make sure. And then you can.

00:28:40:10 - 00:29:17:15

You can be getting on with them. Right. So I've got an agenda item three, the um, applicant's case for CI. And so it's just a review the hearing recording slash transcript and reply in full in writing to the points that were made by Mr. Stone in introducing item three of the agenda. And there was also Mr. Sims question about the white land and amended land plans. And just to clarify, um, what's happening with those and when they'll be submitted. Agenda item for statutory undertakers is to submit that list negotiation tracker position of section 127138.

00:29:17:17 - 00:29:22:27

Parties. General item five Crown lands a summary of position

00:29:24:20 - 00:29:45:29

and and other special category land. Also agenda item five is to respond to Mr. Simms questions regarding special category land that he set out. Agenda item six Human Rights and Ecologies is just that. Equality is a summary response in writing to to all those points that are in the agenda.

00:29:48:09 - 00:30:06:17

Agenda item seven funding. Um, as you just said, to provide an updated version of the funding statements were to include all those points that, um, Mr. Simms mentioned and any other business responding, writing to Mr. Cheeseman.

00:30:08:16 - 00:30:09:10

Thank you.

00:30:12:28 - 00:30:43:20

And they will be published on the website shortly as well. So can I remind you that written summary of oral cases, um, should be submitted by the next deadline. Deadline one Thursday, 26th February. The next hearing for this examination is tomorrow morning. Open floor hearing two is the one that starts first at 10:00. That's a blended event in all sets and open floor three starts at 11:00. And that's another blended event in Norwich.

00:30:43:22 - 00:30:52:21

Um, so there will be taking place concurrently for a while. And on Friday is our first issue specific hearing on scope and alternatives.

00:30:55:03 - 00:31:09:01

Um, so just to say thank you, everybody, for attending and for your participation. And, uh, the time is now. 431 good timing and compulsory acquisition hearing is now closed. Thank you.