

TRANSCRIPT_CAH2_SESSION1_NETZERO TEESSIDE_13072022

00:03

Good morning everybody.

00:06

Can I

00:08

just check that everyone can hear me clearly?

00:13

And can the case team confirm that the livestream recording of this event has commenced?

00:21

Good.

00:23

It's now 10 o'clock and this second compulsory acquisition hearing in relation to the application made by net zero Teesside power limited and Net Zero North Sea storage limited for the proposed net zero T side project is now open.

00:38

My name is Beth Davis. I'm a chartered geologist and a planning inspector. I've been appointed by the Secretary of State for levelling up housing communities to be a member of the panel of inspectors examining this application. Today I will be going through the management of the event and the introductions and now ask my colleagues to introduce themselves.

01:00

Good morning. My name is Susan hunt. I'm also a charter town planner. I've been appointed by the Secretary of State's be a member of the panel of inspectors examining this application, and I'll be leading the discussion on compulsory acquisition matters today.

01:15

Good morning, my name is Kevin Gleason and the chartered town planner. I've been appointed by the Secretary of State to be the lead member of the panel of the examination style. I'll be taking notes the meeting.

01:27

Together we constitute the examining authority for this application and we will be reporting to the Secretary of State for business energy and industrial strategy with a recommendation as to whether the development consent order should be made. We're supported by a number of colleagues from the planning Inspectorate Jake Stevens and Attila bosasa here today in Middlesborough. Sam Evans, the case manager for this project and Alberta Santa Maria, from the case team are providing online support. If you have any questions regarding today or the application process in general, please direct the to the case team via the email address on the correspondence or on the national infrastructure website. And they'll be happy to help.

02:08

Is anybody here today? Who was not at the issue specific hearing yesterday?

02:19

Hello, the Buddhist one member of my team, but I've introduced him in due course, okay.

02:25

Are you content for me to get the preliminaries that we did yesterday, I'm sure your colleagues will fill you in.

02:34

This morning, we intend to take a short break at around half past 11 and break for lunch at about one. They'll also be a break mid afternoon if we need to continue much beyond them.

02:44

For the purpose of identification, and for the benefit of benefit of those who may be watching the Digital recording later. Could I ask that at each point you speak you give your name and if you're representing an organisation who it is that you represent.

03:00

Because the digital recordings that we make are retained and published, they form a public record that can contain your personal information and to which the general data protection regulations apply.

03:12

The planning inspectorates practice is to retain and publish recordings for a period of five years from the Secretary of State's decision. Consequently, if you participate in today's meeting, it's important that you understand that you'll be live streamed and recorded and that the digital recording will be published. If you don't want your image to be recorded, you can switch off your camera. Are there any questions with regard to this matter?

03:37

I've been told there were no fire alarm tests or drills today. So in the event of a fire alarm, please exit via any of the doors in the room and use the stairs to the ground floor and then congregate outside the reception area. Does anybody have any questions or concerns about the technology or the general management of today's event?

03:56

Thank you.

03:59

The hearing today will be a structured discussion led by Mrs. Hunt based on the published agenda.

04:05

The purpose of the hearing is for us to seek clarification on matters related to compulsory acquisition to ensure that we have all the information that we need to make a recommendation to the Secretary of State.

04:18

compulsory acquisition hearings can also take evidence in relation to applications through the development consent order for temporary possession or use of land or rights.

04:29

parties with an interest in land affected and owners affected persons and all have a right to be heard in relation to any objection about the effects of a compulsory acquisition request on their interest in land.

04:41

A number of the affected persons are in attendance and are requested to speak on such matters today. I'll run through the introduction shortly.

04:50

The first hearing into compulsory acquisition matters was held on Wednesday the 11th of May. That high level hearing assisted the examining authority into

05:00

eloping early and broad understanding of the compulsory acquisition and related provisions. A number of documents have since been received which provide further detail into sub matters both from the applicants and affected persons. These include answers to the xes first written questions in PD 12, and a range of further written submissions.

05:23

We've had the opportunity to consider all the documents including those received at deadline for at the end of last week. These have provided a greater level of understanding of the compulsory acquisition issues. However, it's noted that a good deal of the negotiations remain unresolved. Mrs. Hunt will remark on this shortly.

05:42

It's expected that both the applicants and the affected persons will provide updates today which will result in a productive discussion and lead to a conclusion on a number of the outstanding issues.

05:56

Rule 14 Two of the examination procedure rules requires that at the start of the hearing, the examining authority shall identify the matters to be considered at the hearing.

06:07

The agenda for these hearings was placed on the pins website on the first of July 2022.

06:13

Mrs. Han will lead the discussion on the following items that you can see on the screen. The format of the compulsory acquisition schedule the tests of section 122 of the Planning Act 2008 being the purpose for which compulsory acquisition may be authorised, which will be based on updates on the progress of negotiations provided by the applicants and will then hear from many affected persons present.

06:39

An update on the use of temporary possession rather than compulsory acquisition and update in relation to Crown land and protected provisions relating to statutory undertakers both standard and bespoke.

06:54

Ultimately, we will be examining the application for compulsory acquisition rights in the context of the powers provided by the Planning Act 2008, specifically sections 122 and 123.

07:07

In brief, we will need to test and advise the Secretary of State on whether the land and rights that sought are required to build or facilitate the proposed development

07:18

whether there is a compelling case in the public interest for the land or rights to be compulsorily acquired.

07:25

And the what is sought is legitimate, necessary, reasonable and proportionate.

07:31

It is for the applicants to demonstrate that all of the proposed compulsory acquisition powers that it seeks are justified within this framework that all reasonable alternatives to compulsory acquisition have been explored, and that there is a reasonable prospect of it having the funds available to implement any compulsory acquisition rights that may ultimately be granted by the Secretary of State in the time allowed with any development consent order.

07:56

The examining authority will form a view over the full course of the examination on each of the requests for compulsory acquisition powers and whether or not there is a compelling case in the public interest. And not just on the submissions and evidence put before us today.

08:11

For the purpose of this hearing, we assume that the representatives of the applicant the affected persons, the statutory authorities, and the local authorities are reasonably familiar with the legislative policy and guidance framework and with the process.

08:26

Please know we may add other issues for consideration as we progress and there will be an opportunity to raise other relevant business towards the end item 10 on the mid to nine on the agenda will conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. But if the discussions can't be completed and are likely to take longer than anticipated, it may be necessary to prioritise matters and defer others to further written questions.

08:55

Also, I remind you all that the examination is a predominantly written process. Therefore, if you can't answer the questions that are being asked or require time to get the information requested, then please indicate you need to respond in writing for submission as an agreed deadline. Also, please note that the examining authority will issue a second round of written questions, some of which will relate to compulsory acquisition matters on Tuesday, the ninth of August.

09:21

Furthermore, as you will have seen from the examination timetable, there are opportunities for further compulsory acquisition hearings in September and October, but only if required.

09:33

It may be helpful to have to hand or open on your device copies of various documents. The key documents are the development consent order revert revised on the fifth of July 22, which is rep 400. To

09:48

the compulsory acquisition schedule which is rep four zero 23.

09:54

Statement of reasons as 141 and as to hundreds.

09:59

The book of reference

10:00

Since which is rep 4005, the land plans as 146. The Works plans as 148 Crown plans as 147 and the Guide to land plan plots, which is as 143

10:19

have quoted the examination library references are the latest versions, including those received last week at deadline for

10:28

we don't foresee a need to screenshare any documents, but if you need to display a plan or document to illustrate a point, please refer to the examination library reference so that the case team can ensure the correct document is displayed.

10:41

Finally, may I remind you that the focus of today's hearing is explicitly on the proposed compulsory acquisition powers and specific parcels of land or legal interests in parcels of land. And we will not be taking any submissions or evidence on any other aspects of the proposed development itself, including its merits or wider concerns. There will be other opportunities to write or speak to us on these broader aspects at other points in the examination, including tomorrow's issues specific hearing relating to environmental matters.

11:11

Similarly, we cannot take evidence on the quantum of compensation that may be sought or awarded to any individual affected person, or the application of the compensation code as this is strictly outside the scope of our Terms of Reference.

11:24

To complete our preliminary item about the purpose of the hearing today, may I request all affected persons who make an oral representation today to submit a follow up written submission after this hearing by deadline five, which is Tuesday, the second of August. written submissions should be based on your representation today rather than any new material, but they can include more detail and corroborative or supporting evidence. Does anyone have any comments on the hearing arrangements and agenda?

11:53

And are there any questions of an introductory nature?

12:01

On our take the introductions from participants here in Middlesboro, today and on teams who have registered to speak at this meeting.

12:08

If you're a representative, please state who you represent. Please also state how you wish to be addressed. Can we start with the applicants? Good morning. My name is Harry Woodfill Park Queen's counsel. I appear together with Miss Isabella to forgive counsel to my left. We're both instructed by Pinsent Masons on behalf of the applicants. Also speaking today on my right, Mr. Bid our armoured business developer at BP, Mr. Harry stamps from Darko McLaren, to his right, and then Mr. Jacques

Bottomly, Pan BP project engineer to his right, so you'll you'll be hearing from probably all three of them during the course of the hearing.

12:50

Thank you, Mr. Phillipotts, local authority.

12:55

My name is Adrian Miller. I'm the head of planning and development for the council. I'm here to assist the examining authority on any questions that arise as a result of CPR. I don't do with CPR matters as a matter of course, but I've got an update from the asset manager, I thought it'd be helpful. Thanks, Mr. Miller.

13:15

If we got any of the other local authorities online,

13:20

South East Development Corporation.

13:24

Good morning, madam My name is Tom Henderson. I'm a solicitor and partner at BDB Pitmans representing southeast Development Corporation, which we'll refer to as SDDC. To my right is Mark Reynolds, from SDDC and to my left is my colleague, Rachel Hogue from b2b Pitmans.

13:43

Thank you.

13:45

And then moving on to other effective persons, Anglo American would Smith

13:53

Good morning. My name is Maura Thompson.

13:56

Or take auto camera off in hotels.

14:00

My name is Mark Thompson. I represent Anglo American I'm a freelance solicitor.

14:06

Thank you, Mrs. Thompson. Anyone from Austin today.

14:17

PDT sports.

14:22

Good morning. My name is Peter Nesbitt. I'm a partner at eversheds Sutherland representing PDT sport.

14:32

Was there anybody else from PTTs boards? No, not today. Thank you.

14:37

Red Car bulk terminal.

14:41

Good morning. I am John Webster. I'm a system partner of Russell Kirk LLP and I'm on behalf of red carpal tunnel limited. Thanks Mr. Webster. Same court

14:57

Good morning ma'am. I'm

15:02

My name is Andrew bias I'm instructed by counsel instructed by DLA Piper representing Sam court today

15:10

thank you cats North see

15:17

anyone online from cats

15:22

and North tees limited

15:29

Is there anyone I've missed that should be on my list who wants to speak today

15:38

Thanks, everyone. I'm now going to pass over to Mrs. Hadden to lead on the main discussion starting at item three of the agenda.

15:46

Thanks very much.

15:49

Just a slight change to the agenda. Just before I begin on the main items, deadline for last week, the applicant submitted a documents entitled notification of proposed further changes and update on remaining optionality which she is examination Library Reference rep 4031. And the number of the

other deadline for submissions refer to such changes. So I think it's relevant for us to have an update on that before we start the conversation. And so for context, and to update those who may not be aware of the proposed changes as yet, could you summarise them the reasons for them, and in particular, how they affects compulsory acquisition matters. And you will have the opportunity tomorrow as well to discuss any environmental matters that arise out of it. Thank you, I will do my best to summarise it from Document rep four, zero 31, which is a notification of the further changes, there are three changes that are proposed. And at this stage. This is a notification that the these changes are proposed to be made in due course. So it's not

17:20

yet an application to make those changes. The three changes are first of all, the selection of the method of crossing the t's for the co2 gathering network. That's what number six. The second is the selection of the electrical connection routing, that's word number three a over the tees Valley railway line within the T's work site. And the third is the reduction of a temporary possession land or in progress made during the front end engineering design and land owner discussions. And these changes, as the Nate explains, are related solely to reductions in the order limits, there's no increase in the order limits associated with them. And the removal of optionality that there are considered to be non material, they don't give rise to any new or different environmental effects. And they don't introduce new options or all options that were considered before. So taking those in order dealing with their co2 gathering network. First, you'll recall that there were there are two options for the crossing identified in the application. There is option two which is the horizontal directional drilling approach, which is would instal the crossing using

19:05

a horizontal directional drilled or HDD bore from land on the north bank of dappin got to land near to navigate terminals on north on North tees. And then the other option, option three

19:22

is the use of the existing sencor number to tunnel from navigate terminals to the northern bank of the mouth of DAB home got

19:34

and through further work, technical work supported by the feed contractor

19:44

and stakeholder engagement. It is now proposed to select option three. That's the use of the existing sencor tunnel and then as a result, remove the

20:00

option two the HDD drilling from the draft DCO. So that removes one of the key remaining parts of optionality now in terms of compulsory acquisition, that is a positive impact because it reduces the land requirements that are

20:25

that are associated with obviously with option two. And although I didn't propose to go through those, there are plans at appendix one to this document, which identify the relevant land that would be affected. So that's the first change and the second change relates to the electrical connection, routing. And this is a situation where two possible routings identified for that connection, one A and one B. And that they relate simply to routing of the cables across part of the T's worksite and crossing the t's Valley railway line. And through technical discussions with STD C, we've agreed in principle

21:18

that the option one a routing should be selected.

21:26

And as a consequence, option one B would be removed. Again, that has a beneficial impact in compulsory acquisition terms, because it takes up the land requirements that would have been associated with one B, it also has the beneficial effect of reducing the interaction between the proposed development here and the Anglo American project. So again, it has that beneficial impact, so far as those provisions relevant to the exercise of compulsory acquisition powers are concerned. And then the third matter temporary possession, land requirements. This is, as with the others, a combination of landowner engagement and design development. But we've identified through that process, certain areas of land shown for temporary possession that we now believe can be removed from the order limits.

22:29

And that is as a result of

22:34

checking and concluding that the project can be delivered. Without those areas of land, those proposed changes have been shared with the relevant landowners in advance. And they're also shown on the Indicative plans at appendix, one.

22:54

So that those matters are then

22:59

considered further in terms in the document in terms of what that means for environmental assessments. And as I've indicated, it's purely beneficial, because none of these are new work that simply reducing the optionality that existed between work that had been assessed, identifies the documents that would need to change. And then it identifies in Section five, an indicative timeline for reducing the remaining optionality that exists within the order. So that's by way of an overall summary. If there, if there are questions about any detailed aspects of those changes, then I may be able to assist with those with some of the other speakers I have.

23:48

Okay, thank you. And so timetable for submission. Do you say that I don't know the intention is to update the relevant application documents, submit those that deadline six formally requesting that they be accepted, then?

24:13

And are you satisfied that changes could be comfortably accommodated within the examination? Indeed, as I've said, they don't involve any additional land. There's no

24:26

additional environmental effects. So the the compulsory acquisition regulations are not triggered. There's nothing in what would be in the amended form of the order that is new. No one would have to be

24:43

consulted on anything that they haven't already been consulted on. It simply means that some issues which arise which otherwise arise, as a result of the options which are to be discarded, will no longer have to be dealt with because they

25:00

As matters would have been addressed by the changes. So in terms of the running of the examination, the implications should be entirely benign. Because it should hopefully reduce time that's required to scrutinise the application and address some of the issues that are otherwise raised by affected persons.

25:23

Okay, thank you very much.

25:26

Okay, we'll move on to Item three, the compulsory acquisition schedule.

25:33

And,

25:36

say, case team could just open up just an extract from the schedule that we've presently got.

25:45

So we discussed the need for a compulsory acquisition schedule at the first compulsory acquisition hearing, for sort of an an at a glance, lockers. So what was happening with all the CA matters. And we have received a version at each deadline since then. And that's based on the template that our case team provided to you. And we did say that that might be letter refined as we go along. And depending on what information goes into it, and it has been useful.

26:23

But we do feel that it could be amended. So the information is presented more succinctly. And because there's a lot of complex matters going on, it could be easier to navigate, given the complexity of the land interest and number of plots and the number of affected persons that that are involved. And

26:44

so

26:46

yeah, they got that on the screen in front of this. Now, there's just a couple of issues just to point out with it, and then I'll show you a sort of

26:56

an example schedule that we will send through to you that we feel might contain the information that we that we need to progress. But firstly, the examination library references we've got, you've got columns, 234, and five, they're all then several of them are redundant. So is that all examination library references could perhaps go in one column for each affected person.

27:29

column eight.

27:32

That doesn't really tell us anything, the entry just says yes, for every single one. So that

27:41

that would need to be refined. So we need to know whether something is actually proposed for acquisition or if it's temporary possession, whatever. Yeah.

27:50

And the status of negotiations. That because there's a lot going on with voluntary agreements, got side agreements, and there's protective provisions as well. They'd be better separated, given the separation matters in in the Planning Act 2008. So we can we can report effectively on protective provisions as being a separate matter to the the other agreements that are going on with compulsory acquisition. So if they could be split accordingly, that would be helpful.

28:29

And the selfcare fisherman's have associations.

28:35

They're cluttering up the table somewhat and making it longer than is necessary. So if all the negotiations are the same for every every person that's involved with the fishermen's Association, just list them all under one row.

28:50

And then that will help make the table shorter and easier to navigate.

28:58

And also the works numbers, if they could put those alongside the plots that would be useful as well to what what works numbers the plots relate to. And if the listed effective persons if the ones that are statutory undertakers could be highlighted as well.

29:20

So if the case team could just display an example of the sorts of table that we will be looking for.

29:38

So without those matters in mind, a simplified table come up on the screen any moment hopefully

30:04

Is that ready for display?

30:24

Yeah, there we are.

30:27

That is just a refined version that we've come up with that is based on what we've already got. But separates matters a bit further so so they're easier to follow. But we'll ask the case team to forward

30:43

to forward you have a copy of this, it doesn't have to be exactly the same. It's it's a suggestion, but we have notes on that plane, we are intending that this document is to assist you as much as possible. So if you find it more helpful to have it present in that way, we will endeavour to do that. So we've got a note of those points. If that can be sent to us, we'll see to push it into that format. Okay, great. Thank you.

31:19

I think it Yes, yesterday's hearing as well, we asked you to provide a schedule list in your organization's for which a side agreement is being prepared. And if that can either be you can do that alongside this all as a separate document, it's really up to you, we'll consider what's the most efficient way of presenting? Okay.

31:44

Hey, we'll move on to item four.

31:48

How to acquisition section 122123 of the Planning Act 2008.

31:54

So to start off with then for context for today's discussions, can I start by asking the applicant to provide a brief update on progress of negotiations towards voluntary agreements in respect of the compulsory acquisition temporary oppression, and predicted deadlines for their conclusions?

32:15

Can we use the latest ca schedule

32:19

which should read for zero to three as a basis for this because this is an alphabetical order. And if you just highlight any

32:27

that, that you've got an update on and go through in alphabetical order and and concentrate on also those affected persons who've raised comments or objections to to compulsory acquisition of land or rights. And we don't expect to hear detailed discussions about what's going on behind the scenes, as we expect you to deal with it outside the examination, but a broad overview. And and then, to protect your provisions. We'll deal with it Agenda Item seven.

33:01

And I'll give the affected persons a chance to have their say afterwards. If you feel like you are going to ask Mr. Bill armoured, pleased to speak to this matter and

33:18

heed our positive agenda.

33:22

Thank you, Madam, I'll provide a very high level summary of negotiations and an update and then happy to take further questions on that. So you will recall that we have 17 identified landowners across the order limits. And at the first compulsory acquisition hearing, we confirmed that we had reached voluntary agreements with with five of those landowners. I'm pleased to confirm that we have subsequently concluded heads of terms with a further three landowners bringing the total with whom we have negotiated terms for voluntary agreements to eight. And we believe there are a further two that are very, very imminent and very close to conclusion.

34:11

Madam, we are continuing to engage proactively and productively with all of the other landowners. negotiations are ongoing and we anticipate that we will be able to conclude all of those within the examination period.

34:28

And we remain confident that the negotiations can be concluded such that we we can negate or minimise the necessity to seek compulsory acquisition powers.

34:43

That is, is a very high level summary of where we are at the moment. I'm happy to provide more specific updates. But just just to be clear, when we say reducing the need to see compulsory powers that's the the need to use the powers

35:00

So that are obtained unconscious that there is an issue over that with certain affected persons. But the general approach is to

35:11

acquire interests by agreement. And then through those agreements, it would not be necessary to exercise the powers unless something unexpected happens in the usual way. And we can talk about that more in due course, if that's necessary.

35:28

Thank you.

35:37

So you consider that as not a risk of any of those remaining unresolved by the end of the examination? Not not at this point now. Okay. Thank you.

35:58

And if any were unresolved, what would be the consequences of this? Well, if the negotiations are not resolved, we would fall back on the compulsory acquisition powers, of course, as I indicated,

36:14

in the first compulsory acquisition, hearing, negotiations, will continue if the other party is willing,

36:23

up until the point that compulsory powers are exercised, because there's no reason why you can't enter into a voluntary agreement right up until that point,

36:34

that clearly,

36:36

the compulsory acquisition powers provide that backstop both in the cases of those where you've got an agreement, and more particularly those where you do not.

37:00

Okay, I'll go. I'll go on to the effective persons that are present here today. Sarah, affected by the poultry acquisition matters. I'll start with Southeast Corporation, Mr. Henderson.

37:13

Firstly, can I just check a few you've, you've been consulted on seeing the forthcoming proposed changes set out in red 4031.

37:26

Thank you, Madam. Yes, we

37:29

we were advised that the changes were coming. And we saw some plans in a different format to those that were tabled the deadline for so

37:39

the actual materials before you we we saw on Friday.

37:44

Okay, thank you.

37:48

So,

37:50

you know, I understand what and what has been said yesterday about the the lateness of things that have been received in relation to this week's hearings, and that you will be providing an update in writing for deadline five. But is there anything that you wish to raise today, by way of an update place?

38:09

Thank you yet, we won't comment today on the revised protected revisions and related side agreement, we need time to reflect on those. We did want to address you on

38:21

the subject of the proposed construction access from T stock road.

38:29

This is a matter of temporary possession rather than compulsory acquisition. So if now's the appropriate time to address you, then I can do that. Yeah, yes, you can go through that. Thank you.

38:39

It's a reasonably lengthy submission, but I'll be as quick as I can it falls into four points.

38:46

So

38:48

firstly, just to summarise why the proposed means of access is not acceptable per two SDDC. essentially two reasons for that.

38:59

And the first one and the main one is the SDDC is currently engaged in a legal dispute with PD ports, about this proposed point of access. And just for context, the access is currently an unused secured gate. an STD C's position is that PD ports do not have a right of access to the T's work estate from that road.

39:24

And the matter is now the subject of an ongoing dispute. And therefore, the inclusion of the access in the DCA proposals and all of you as a potential to undermine that dispute.

39:38

And that was a matter of great concern to SDDC.

39:43

The second point

39:45

is that we don't consider it to be suitable or safe as a

39:50

means of construction access when compared to the alternative that's available, which I'll now come on to. So secondly, our submission

40:00

Is that

40:02

a reasonable alternative to this means of access exists and this is access via black and be gatehouse,

40:11

which we

40:13

drew your attention to in our written representations. Reference rep 297. A. And we can, I guess, bring that up on screen if it would be useful to

40:26

have regard to it.

40:28

Is there a sheet number of the land plans that it's on? Or? Or was it within the rep two that you just mentioned? Already representation tabled at appendix to the alternative?

40:43

The applicants probably best place to can you land plan? Can you repeat the rep to reference so the case team can find that yes, Rep. 297. A, it says TDC has written representations. Rep 297. A, and it's the appendix to appendix to be able to bring that up.

41:06

And the moments it will be useful to look around.

41:10

Shall I continue all? Yeah, continue? Yeah, well, that happens. Thank you.

41:18

Just a bit more information about this proposal tentative. So this is a means of access, that SDDC already has the right to use, and also has the right to grant tenants and other users of these works are state to us. So we've got the permission, we've got the position that we can make it available to the applicant.

41:38

The route is physically suitable for

41:41

construction traffic, and indeed is already use by heavy goods vehicles.

41:48

You will have seen in the statement of common ground between the parties that deadline three that the applicant has confirmed in principle that they are willing to use the access, they have some conditions around that which we'll come back to.

42:04

And my understanding is confirmed it's also accepted. But in traffic terms.

42:10

The applicant submitted a sensitivity assessment at deadline three,

42:13

reference rep 313.

42:20

And therefore, in summary,

42:24

there's nothing to suggest that it's not a reasonable alternative that that could be adopted.

42:29

And on that basis,

42:32

our position is that the case for taking temporary possession of land to form a means of access via the tea stock rose is not made out and should not be granted.

42:44

Because we say it would have a disproportionate impact

42:49

on STD C's interests,

42:52

and a reasonable alternative exists.

42:56

Now, we can get into the relevant law guidance around this as I say, this is a matter of a temporary possession. So strictly speaking, not compulsory acquisition. But clearly the same principles fall to be considered, in particular, the interference with with human rights. And as I say, we say that

43:17

weighing up the private impacts, which is significant, is disproportionate bearing in mind the public benefits and the existence of this alternative.

43:30

Turning then to hell the matter could be resolved. There are a number of options.

43:38

Three of which I'll identify and two of which would be acceptable to us.

43:42

But I should emphasise at the outset, laying these out that irrespective of which option is taken our position is that

43:50

the applicant should amend the relevant plans, land plans, rights away plans and the DCO to omit this access from the proposals.

44:00

So turning to the options, option one would be to add the lack and be gate means of access into the order limits.

44:14

My reading of this is procedurally it doesn't fact engage the compulsory acquisition regulations

44:22

for making changes because it's a matter of temporary possession or compulsory acquisition.

44:28

It's unlikely to generate any materially new or different environmental effects.

44:35

And as I've mentioned since SDDC can already grant there's the means of access.

44:41

There's a question as to whether any consultation is required in order to incorporate it. But if it is, the process

44:49

is likely to be very contained and in our submission,

44:54

could be easily accommodated in the time remaining in the examination.

45:00

So that's option one. Clearly this is a matter for the applicant to respond to.

45:04

Option two would be to secure a means of access by agreement. SDDC is very willing to grant that mean means of access, and is willing to expedite an agreement to do so.

45:17

But I should emphasise that removal of the option in our position is not conditional upon that agreement having been entered. Whether that agreement is entered into now or at a future date, that does not change our position, that the order should be amended before the end of the examination to address this issue.

45:35

And finally, the third option, and I think this is the option which subjects so a further review of the protected revisions is the one that's been tabled by the applicant.

45:45

And that is to effectively

45:48

create a sort of lift and shift mechanism in the protector provisions whereby

45:55

should SDDC be able to bring forward alternative option. Under those protective provisions,

46:02

the applicant is in a position to decide not to utilise the tea stop road means of access and adopts the alternative that SDDC provides. And again, that's not an acceptable solution to SDDC because it leaves open the option of potentially having a means of access created to stock road.

46:23

Lastly, just to distinguish this from some of our other submissions, because we've made various submissions about potential future developments on the T's works estate, which might require aspects of the

46:35

anatomy at Site proposal to change in those circumstances. We're talking about prospective changes where there's no alternative identified at this point in time. The T stop road is manifestly different to that we have tabled a clear, acceptable agreeable option, which we say the applicant should adopt.

47:00

So that concludes what I have to say obviously happy to take questions on any of that.

47:06

Okay, apologies, Madam the plan is actually it's the wrong index one my mistake I do apologise

47:15

it shape 15

47:22

See, it's the one before this oh yes, that's right.

47:30

The same document but it was just before that plan you just displayed

47:44

that's that's the that's the correct one. Yes, if you could just see me

47:49

again, Could you could you just explain the location of this any land land ownership issues understand you've got rights over it, the

48:00

land ownership and

48:03

exactly where that comes in off off the highway? It's difficult to tell.

48:08

That's right Ana plan might have I'll invite Mr. Reynolds who's more familiar with the locality, they'll have to trust you on that point.

48:19

Thank you Mr. Mark Reynolds for SDDC so the plan is actually quite small.

48:26

What it does show is the access from the lack of the gate

48:32

which is a main access from the trunk road

48:36

and there's a route shown on red there which ultimately ends up at roughly the same position as as where the applicant needs to be on the main internal So can you just explain which which trunk road that is the the the a road reference

48:56

I could do with the plan on this on my screen if that's helpful that's really small.

49:02

What's the best way to deal with this

49:11

give it help. Mr. Bottomly into Mr. Bottom is familiar with the details of this explanation just a bit of background about what where exactly this successes, how it how it links to the proposed development. We're going to zoom in on the screen as we're doing that cell phone

49:35

cell phone

49:40

so the trunk turret

49:42

what's going on

50:00

I

50:08

think I think we are where we are with that plan

50:14

so what what what what the plan is showing the MME is it's a red line that links from the main lack and big gate on the on the trunk road there give me our current model number the trunk road Jack, you might know that it's the a 1085185

50:32

which is an established gatehouse used by heavy goods vehicles for the the

50:40

the factories that are on site and the steel factories that are still on the site. So it goes through the main axis there. And then around the site and links back onto the main internal site or road SDDC has rights of access to use that gate to use that red route and to also transfer

51:03

those rights to tenants on the T's works estate.

51:20

And where does that link up with the order limits.

51:26

So if you follow the red line on the plan, it connects back into the internal, the main internal site Hall Road, which is the red bordered route shown on in the applicants plant.

51:45

Just to the east of where the T stock road access point is show.

51:59

I think Mr. Bottomly may be able to assist on Yes, Mr. Balsam lady, we've got anything extra to say on that. Yeah, just that. So where it links into the existing one limits it enters plot 283 And then essentially follows what the order limits are subject to the removed plots that Mr. Henderson has mentioned already.

52:31

Okay, sir, is there anything additional you want to say on that matter before I go back to the applicant? No, thank you.

52:38

Okay. Thank you, Madam, I'm going to make some brief introductory comments to set the context. And then I'm going to pass over to Mr. Ahmed to explain where we are in terms of negotiation. And I should stress in what I'm about to say that I'm deliberately going to hold back from making detailed submissions about the suitability of the existing access

53:08

for reasons which will become apparent when Mr. Hamid explains where we are in terms of negotiation. But it should make very clear that we do not accept that the existing access that we are proposing is in any way, unacceptable or unsuitable. But I'm not going to make detailed submissions about the points that have been advanced thus far. But I reserve the right to do so in due course, should that become necessary.

53:39

But just by way of context, as you

53:43

will be aware that the proposal in the order is to use plots 274 and 279, which is T's dot road, on a temporary basis for construction traffic, and to construct a a gate to facilitate that use and I believe on your accompanying site visit. You'll have seen the existing gate, which is a low level gate

54:12

chained up at the moment.

54:16

And what one can I don't need to this stage go any further in terms of its physical suitability, but you have seen that on site the need for suitable access for construction purposes, for

54:37

road access to the site, I don't believe is a matter of dispute. And as I've indicated, the applicants position is that the proposal and the DCO would provide that access in an acceptable way.

54:56

We are conscious and it's been explained

55:00

The STD C would prefer that we use an alternative route, we have assessed

55:07

the alternative route in terms of its

55:11

technical suitability, and its environmental effects. And we're comfortable in both of those respects, we don't suggest that the alternative is not technically suitable, or that it would give rise to unacceptable effects.

55:32

The protective provisions within the order that we have added a deadline for include what was referred to colloquially by SCDC, as a lift and shift

55:50

provision. And so within the

55:57

it's part 19,

55:59

of the shedule, of protective provisions of sheduled 12.

56:07

And what that

56:10

does, is provide a mechanism by which alternatives may be adopted in place of what is proposed within the order, subject to the die was defined as the diversion condition

56:30

being met, and this is a paragraph two to six in part nine.

56:36

And you'll see that the diversion condition is in fact, a list of conditions which relate to matters such as

56:50

the ability to construct and commission the works, reasonable costs, planning permission, and also the ability of the teaser entity to grant an adequate interest. So what that does is encapsulates in drafting the principles which you will have seen, generally referred to, in the applicants written submissions about the acceptance of alternatives that are advanced by St. DC.

57:25

And that allows for alternatives to be used where all of those matters are met.

57:36

The applicants are confident that the individual concerns that have been identified by SDDC at various stages in relation to the use of T stock road could be overcome. But

57:51

we are negotiating with STD C to seek to find a way to resolve this by agreement, if possible. And against that, as I've said, deliberately constrained and restrained introductory contests. And I'm going to ask Mr. Harmon just to explain where we are in terms of negotiation.

58:13

Thank you, Madam as as as Mr. Philip Phillpotts mentioned, we are in in productive conversations with the Saudis Development Corporation to conclude

58:26

the first set of commercial agreements in relation to the to the main site and its, and its access. And firstly, just to confirm what's already been said, the alternative that has been proposed by the Saudis Development Corporation, we believe works for what the project requires. And in principle is suitable for for the heavy goods vehicle access that is required for the project. So we can confirm we are in we are in agreement on that point.

58:58

We are seeking to have assurance of that access being available by means of the the commercial agreement, which is in discussion, and we believe we are nearing conclusion of that commercial agreement, and therefore that remains our preferred option for having access secured via the alternative that has been proposed.

59:23

And I think that's, that's all I've got to say on that matter for now. So, Madam What what I think one can take from that is that the parties are

59:35

moving towards a position where hopefully we will be able to conclude the relevant agreement. And at that stage, it will hopefully be possible to find an agreed way of dealing with this in terms of the order number of options have been discussed, but at this stage, in view of where we've reached in terms of the negotiations, I

1:00:00

Don't think it would be productive for me to make submissions about what isn't or isn't appropriate. If your content, I would suggest that those negotiations are allowed to continue. And then we can report where we are hopefully agreed, hopefully, therefore, non-contentious. If heaven forbid, it is contentious, we can make submissions at that point.

1:00:23

Okay. Understood. So a potential timescale for such agreements. I

1:00:32

think we we can't provide a definitive date at this stage. But I think we will be able to provide a substantive update on this in terms of progress by by deadline five, if if not then then certainly by by deadline six.

1:00:57

So, in in the event that the lack of v gate access is agreed, with the T stock road come out of the order? Well, that that that brings us back to the options and I think at this stage, rather than committing as to what we would do, I think, if I, if I may, I'd rather keep that back, because it depends on where we get to that there, as you might imagine, in the process of seeking to conclude an agreement of this sort. There are all sorts of matters that go on in terms of due diligence in terms of checking land interests, and so on and so forth. And so before we provide a definitive answer on that, I think it would be sensible to allow that just to continue a little bit longer. And hopefully, we can then agree on what the approach

would be, but if not, as has been identified, there are, in fact, a number of ways in which this might potentially be resolved.

1:01:55

But the mood music looks fairly positive in terms of the negotiations between the parties. And so at the moment, I think there are grounds for optimism about this being dealt with by agreement, rather than leaving you with with a decision to make.

1:02:10

Okay, thank you. Sounds sounds like there's there's a way forward is continuing discussions. That's great. Thank you.

1:02:19

Um, before I move on to other affected persons, or anything South tees wish to raise?

1:02:29

No, thank you, Madam. I mean, we would concur that the negotiations are productive.

1:02:35

But as I've said,

1:02:37

ultimately, our position I think will remain that the relevant rights plots need to be adjusted, irrespective of the way in which lack of emphasis is utilised.

1:02:51

Thank you very much.

1:02:55

Can I ask Miss Thompson for Anglo American

1:03:01

just to update on on matters in relation to the plots that affect your interests place?

1:03:09

Yes, I think

1:03:11

can you hear me?

1:03:13

Yes, can hear you. Thank you.

1:03:16

position is that we've now advanced matters in the sense that we have received from the applicant drop property agreements the week before last, and they're under active consideration. And we are in the process of agreeing to meet hopefully next week with the applicant in relation to those agreements. And also, on the back of that to progress, the site agreement and protection provisions that are still under discussion. So I think things are moving positively forward. And but it wouldn't be sensible to dive into the discussion now in relation to those agreements or in fact, the site agreement

1:03:56

Okay, thank you very much. She sounds sounds positive anyway, and Mr. Philpott Have you got anything to add? Only the time told that we are going to make ourselves available next week for that meeting.

1:04:08

Okay, wonderful. Thank you

1:04:20

Hey, North tees limited.

1:04:24

Mr. Hunter.

1:04:32

Mr. Teasdale is the North cheese limited?

1:04:36

Are they here?

1:04:38

No.

1:04:43

Cobalt terminal Mr. Webster.

1:04:47

Good morning.

1:04:49

Thank you.

1:04:53

Could you outline the current position and any updates particularly in terms of the

1:05:00

The plots that are in the red car bolt terminal and the the other interests that if you've got rights over that you mentioned in your last submission, please.

1:05:10

Yes, certainly. So, as you recall from yesterday, it's probably easier if I split the RBT interest into two categories, those being within the terminal operational area, which is plot 222, and 223. And those which are outside of the terminal, or operation area, which are those ports listed at paragraph 11, of RBTs, original representation, rep 2095. And line 454 of the construction schedule, which we're looking at now. In respect of those of in the terminal operational area, we have agreed heads of terms and draft side agreement is currently being negotiated. And that was that is worse right now. There are some concerns about the status of this agreement and the need for temporary past exists after its completion, I broke up or tasks positions that they should be removed from the DCO.

1:06:04

Our view is that the commercial agreement which is within this site agreement parts, the applicants onto RBT standard commercial terms as if they were paying customer and what the applicants say is that these powers should be retained in case the default of the agreement by

1:06:27

RBT.

1:06:29

Our argument back to that is that in that circumstance, the applicant should rely on the standard dispute resolution procedures in the commercial agreements if that event ever occurred, that being the normal and acceptable commercial position accepted by any paying user of RBT facilities. Therefore, passports and other plots TT 23 not required if the commercial agreement is entered into

1:06:54

separately to that in respect to the RBT interests outside of the terminal operational area. As noted in our deadline for submission rep 404 to the heads of terms agreed to not include reference to exercise of powers over over plots which RBT holds interests outside of town operation area.

1:07:14

These powers which are being sought have the potential to interfere with our beauties, roads, and rail accesses, utility cabling, pipelines and communication cables which are essential for RBTs ongoing operations, and those of its customers. Number of these interests are overland owned by SDDC. It's presently unknown what arrangements applicant is making of STC which is relevant not only to the easements granted out to RBT, but also interference calls to RVTs utility cables, pipelines and media connections. Only one meeting has been held today between RBC and advocates discuss this potential interference. And further work is still required to fully understand the impact of the project or not, which is interesting within these plots.

1:07:58

The position of RBT on the spot says that, at minimum equivalent rights and replacement or diverted connections must be provided prior to the interference by the project. That present it's unclear if the applicants can regress or provide these equivalent rights and diverted or replacement connections to RBT and DCA powers. This will need to be clarified by the applicants to confirm that RBT will not suffer any disruption to their services and rights to access as a result of the project.

1:08:31

That is what happened. We have an update at this time.

1:08:36

Thank you very much, Mr. Webster.

1:08:42

So could the applicants comment on that, in particular, the reference to the second thread so that the plots that are outside of our BTS operational area I understand are on Southeast Development Corporation land? Yes, when I go to ask Mr. Ahmed, it may also be Mr. Bottomly. To respond to that.

1:09:06

But thank you, Madam, we recognise the the concerns that have been raised by RBT. In relation to those plots outside of the main terminal area. We are in active discussions on protective provisions and an aside agreement associated with that with that set of protective provisions, which we believe will be the vehicle by means of which we will address the concerns that have been raised. We have had an initial discussion running through those concerns in detail with RBT. And we will look to accommodate those concerns in the drafting of those. Those agreements.

1:09:45

Mr. Bottomly, I'm not sure if you have anything further to add by way of context.

1:09:53

Not particularly I guess we were aware of the plans that RBD shared at deadline forward. We'd seen some draft of these

1:10:00

In the meeting that Mr. Webster had referred to,

1:10:04

I guess it's probably too detailed to get into here. But each one of the existing access rights or easements relates to different work numbers in our proposed development. So through the protective provisions, we'd propose alternative solutions dependent on the interaction.

1:10:24

I would also just add that

1:10:27

it is in our interest given given our need to use the DRBC facility to bring in modules during construction, it is in our interest that the there is minimal disruption to their ongoing operations. So I think we are aligned on that point and that we will seek to

1:10:48

to mitigate any potential impact on on our BTS operations through those through those agreements.

1:11:04

Okay, thank you, Mr. Webster. Anything else before I move on? No, I'm grateful for that motion and the silence being negotiated. Hopefully cover those.

1:11:18

Thank you very much.

1:11:23

Could we move on to some cop?

1:11:33

Mr. Vyas Yes, thank you, ma'am.

1:11:37

Yes, Andrew, Vice counsel representing some call.

1:11:42

Ma'am. Probably three messages from us. We agree with what the applicant said earlier in relation to the use of number two river tunnel that's subject to ongoing engineering and commercial discussions but subject to those. That is what the applicant says is agreed.

1:12:03

Secondly, so far as negotiations are concerned, they are ongoing.

1:12:09

Our latest proposals in relation to sign agreements work was provided and may I believe, we're hoping, obviously that there continues to be early and constructive engagement on those proposals, and we look forward to a response.

1:12:24

And in the meantime, and my last point really is we do maintain in the interim, our serious concerns about the justification provided to date for the acquisition, how was sought,

1:12:37

there is inconsistency in the whip sawed across the pipeline up to 35 metres are sought in some places in other places for pipelines and your metre is sought.

1:12:49

There is three, there are three levels in which consideration needs to be given to the rights that are sought. There's the construction of a new pipeline, and plainly consideration needs to be given there for temporary use of land. There's the siting of the pipelines, and the pipelines themselves proposed to be 550 millimetres in diameter.

1:13:15

Our representations describe how you can have out of that five pipelines in a widths of between five and 10 metres. So not a significant amount of land required, and pipelines being able to be sited on top of each other and also a separate and important justification in relation to maintenance. The applicants response to our concerns about justification refer to maintenance. The problem is so far as that is concerned is that the pipeline corridor is used by multiple operators 12 important industries in the local area as well as others, and they will have an interconnecting system have rights of access for maintenance. And justification needs to be provided, if that is going to be interfered with because of the delicate way in which all those interact and the way in which one gives way to the other and No, no one operator or user of the pipeline corridor has priority. And if there is going to be a compulsory acquisition of rights in respect of maintenance, then there is particular justification there's needed there and account needs to be taken of those matters. And finally, the the ongoing concern about the duration of the rights sought whether they do need to be for longer than the lifetime of the project or not.

1:14:32

To the man knows those concerns remain. We we remain concerned that there isn't justification for it, and I did and it is for the applicant to do that. But in the meantime, insofar as we can have constructive engagement about projected revisions and side agreements that will be welcomed.

1:14:53

Okay, thank you very much. So, the SILOKING establish this three separate

1:15:00

points there the outstanding concern?

1:15:04

Can we start with a matter of the construction weights

1:15:08

and the justification for the 35 metres?

1:15:15

I've seen what's in the written submissions about why you consider it's necessary.

1:15:23

And why it's different to other parts of the order limits such as the self, the self TAS land. But I still need the information as to

1:15:35

how, how is that 35 metres what what's going on within within that corridor to make it 35 metres Malama. I understand that. And I think there was a suggestion it may even have been, in some calls, representations that deadline for but forgive me if it was someone else, that we provide a written explanation in more detail about the widgets. And actually, having been shown around the different areas of pipeline

1:16:07

recently, and having had the position explained to me on the ground up, it is apparent that different factors arise in different parts, and that there would be I think, benefit from having a written explanation of why it is as it is in different areas, which goes into more detail. So we're happy to provide that.

1:16:31

A and that will come at deadline five,

1:16:36

however, has just been said on behalf of sem Corp. We are in, I think productive negotiations on those matters with simple insofar as any of that has the potential to affect the weights. Obviously, we pick that up in due course. But we can see that there is

1:16:58

merit in the suggestion that you can be provided with a greater level of granularity in the explanation of the widths in different parts of the corridor.

1:17:11

So that's what I was proposing to say on that point. And then Mr. Ahmed had a couple of points he just wanted to make by way of general response. But I want to see if there's anything else you wanted to ask about Friday that?

1:17:25

Yeah, I think I think that will be useful that further explanation of why why these weights are required? Is it possible, something can be provided diagrammatically as well.

1:17:37

I agree, I tend to find when these matters come up, it's helpful to have something which explains whether it's by means of a sort of simplified cross section or something about sort of how the width is made up. And in this case, I can see that that may will be particularly helpful because the arrangements are different in different places, and different issues arise. So insofar as we can illustrate that, to make it simpler and make it more easy to follow them will seek to do that in the note.

1:18:12

Yeah, that will be useful. Thank you. And Mr. Ahmed,

1:18:18

just just two quick points really just Firstly, to comment on the other uses of the of the same court pipeline corridor and the corridor as it extends across other landowners. We are in discussions not only directly with Tim court, but as as you'll be aware, madam, with other

1:18:41

operators who have assets in that corridor, and are seeking to provide assurances to them through protective provisions in tight agreements with respect to continuity of their ongoing access and operational rights in that corridor, and elsewhere across the audit limits. So just just a minor comment on that point. And secondly, yeah, I think we will come back in writing and with diagrams on the cross sections, but but just just to point out the, the the, there are a number of pipelines of different type and media that are across the order limits that are required by the project. And therefore the widths required will vary depending on the safety considerations and access requirements in the long term associated with each one. And indeed, will vary based on existing assets and existing land that they're interacting with. So you know, what, I would make one point that it is for those reasons difficult to have one consistent with for each type of pipeline across the order limits.

1:19:50

My Okay, thank you. Yeah, that that's understood that they do vary across the order limits, in particular for for the same court

1:20:00

pipeline did that that 35 metres seems to be particularly in dispute.

1:20:06

Thank you.

1:20:12

Yeah, I think you've just mentioned those points to introduce was it point through the duration of riots? Mr. Byers mentioned there anything on that? Yes.

1:20:26

No Not Not for now. We'll come back in writing on that on that one.

1:20:34

Mr. Bias if we got anything to respond to their

1:20:38

man No, thank you. Well, obviously,

1:20:41

consider carefully the note.

1:20:45

Thank you very much.

1:20:56

Can I now move on to PDT supports Mr. Nesbitt.

1:21:04

Good morning, madam. Could you provide any further comments further to what's already been submitted in writing? And the broad overview of the current situation? Please? Yes, certainly, I don't have a lot to add, in addition to the summary that's contained in the most recent version of the statements of common ground.

1:21:25

Generally speaking, PTTs ports encouraged the applicant to engage with the occupiers of a number of its plots in the state are obviously occupied by other parties that have spoken today. So RBT, Sembcorp, cats, etc. And we continue to encourage the applicant to engage with those parties directly.

1:21:48

There is one plot in relation to seven core access corridor, which we've now received heads of terms, to consider granting an access and that's being considered

1:22:01

at the moment, and progressed. And, and then finally, there is some outstanding concerns with regard to access in the seal sounds area, seal sounds Road, some very sensitive, just in time businesses up there, who, who we've requested, on behalf of which we've requested, some more detail in terms of how traffic will be managed along that road, during the course of works and exactly what those words will be,

1:22:32

which we'd like some further clarity on. And that's the moment as much as I think it's probably helpful to say, obviously, protected provisions are still being negotiated. I would just note that I'm not sure if it's the appropriate time, but

1:22:45

the protective provisions currently presented in the draft order, I don't think quite reflect where we've reached in terms of negotiations. But I think that's something that other parties have already already mentioned in terms of how they're presented. So there's, you know, those negotiations are continuing to reach the reasonably advanced stage.

1:23:10

Okay, thank you. I'm

1:23:14

sorry, Mr. Nesbitt. Again, just just wanted to ask you whether there was anything further you needed to add about plot 112 on the on the cats North Sea lands, is expecting cats to be present today. But do

you have any further update on that? No, I think, madam, we're content to allow the applicant to deal directly with cats on.

1:23:38

Okay. Thank you.

1:23:41

Thank you. Okay. Thank you. The applicants got any comments? Just briefly, Mr. Ahmed wants to comment on the seal sands road point that has been raised as to help you with where we are on that.

1:23:54

Yeah, just just a very minor commentating just to confirm we recognise the concerns raised by Mr. Nesbitt with regards to seal sands road. We agree that is a very important access route for a number of businesses in the area. So we will seek to provide the necessary assurances and details that PD Teesport have sought. And also that the other businesses that we are interacting with along seal sands road have also sought those assurances. So we recognise those concerns.

1:24:31

Okay, thank you I

1:24:42

don't think there's any other affected persons present today.

1:24:47

If there is put your hand up.

1:24:54

Now, there's a few on my list that aren't here today.

1:24:59

Okay,

1:25:00

I suggest we take a break before we move on to the next item on the agenda.

1:25:09

Mr. Gleason?

1:25:13

Sorry, Miss Davis.

1:25:16

I agree. I had 20 minutes. Okay with everyone.

1:25:21

So I think our clock here is a little bit fast, isn't it? It's about 25 past.

1:25:27

Now, it's a bit fast, isn't it? So if everybody's back here at quarter to 11. That's everybody. Quarter to 12 even

1:25:41

so ology in the reading now at 25 plus 11.