

CAH3_NETZERO_SESSION2_19102022

11:28

The time is 1155 and the hearing is resumed.

11:35

Thank you before I move on to the applicant, so there was this one effective person here today that I didn't ask for their comments is Mr. Nesbitt for tea side wind farm? Did you have anything you wish to raise on? Update on compulsory acquisition matters?

11:55

Thank you, madam. No, I think Mr. Bottomly is summary of the position was was clear and up to date. It's a very minor point was just to say that I think I think we're actually waiting for the documents to be returned to us. There's no criticism intended that it's that there's a lot of to and fro on these agreements. But just just to be clear, and to make sure I haven't missed an email. I think we are waiting for the applicants comments on our comments on the site agreement and protected provisions. Thank you.

12:32

Okay, thank you very much. Okay, that's the applicants then for their comments on what the affected persons have just said.

12:41

On that last point. I've been told that he's right, that that, that explanation of the position. Thank you. They're just two other matters that I wanted to come back on. First of all, I'm going to ask Mr. Stubbs from Darko McLaren, just to pick up the point made on behalf of NT G, about slowness and negotiations. So I'll hand over to Harry Stubbs from Darko McLaren.

13:10

Yes, good morning. Just to clarify, I think we wanted to put into the room that we've had consistent engagement with noughties group at a senior level, and we're very willing to reach a voluntary position. Some of the terms been proposed by NTG have been unacceptable to the project on numerous clauses. The engagement is ongoing and consistent since January 2021. And such now it's led to a 39 page document that speak to the terms with numerous iterations. And where NTG have provided comments to us on those terms, we've sought to provide complete responses on those points raised to make the discussions productive. On many occasions, suppose this has just led to time taken to undertake diligent review by the project require many disciplines such as engineering and environmental factors as well as the property point. So we just do believe that we've acted reasonably in a timely manner to progress those negotiations.

14:08

Thank you, I the only other point that I was going to respond to was just the points that have been made by Mr. Ennis, on behalf of Te GRP will provide a full response in writing, I don't want to take time

to go through each all the intricacies of it now. But um, just by way of overview, we responded to the generality of this point at deadline six, and as for your notice in rep 612, to page 23, and the explanation of the approach and the rationale is in paragraph 11 point 2.5. And there is another point which is on that same page, which is a general point 11 point 2.2 and which relates to the relationship between the powers that are sought the rights that are sought in relation to the order land, and the protective provisions which govern the exercise of such powers and the use of such rights. And the broad position is this that, whilst we don't accept, for reasons, we'll explain in detail in writing, that it would be appropriate to change the scope of the rights sought. And to make changes to that part of the DCO. We hear the way that that particular issue is described by Mr. S. And we think that insofar as that requires a response, the appropriate place to capture that response and to respond to the concern is in the protective provisions, which will govern how such rights are used in a way to ensure that, in practice, the the reasonable interests of his clients in ongoing access, and the ongoing operation of their business is not unduly affected. So it's not that we're not alive to the concern, but we think that's the appropriate vehicle through which to address it. But having heard what's been said, we'll engage with them outside the examination, see if that that's capable of resolution, but in any event will respond in detail the next deadline?

16:41

Okay, that's fine. Any other comments on on what was said in the last session?

16:45

No, I doubt that anything else I'd say would be of particular assistance to you. We're not going to go into the ins and outs of all the negotiations.

16:55

Okay, thank you. So we'll move on to oh, sorry, just before we move on to item number five. Yeah, it just it just struck me. I was talking about the outstanding matters with with compulsory acquisition, that we have the compulsory acquisition schedule, which is really useful, but and we'll be getting a couple more versions of that in the next deadlines. If there could be a final version, perhaps alongside the main version that concentrates on the parties that are in dispute, the ones that we've just run through. So there's zurka comprehensive as a glance less not not just for ourselves, but for the Secretary of State.

17:45

Thank you. Yes, we will. We'll ensure that provided

17:48

Okay, thank you. Okay, item number five temporary possession. Could the applicants provide an update on any amended amendments to proposed use of temporary possession powers since issue specific hearing to and their post hearing? Sorry, compulsory acquisition hearing to and their post hearing submission? And could you provide a summary of any reasons for any further changes that were expected to come from compulsory acquisition to temporary use? Will there be any further changes?

18:24

I'll deal with the first matter and I'll just check on the second before I provide confirmation so far as the first matter is concerned, we submitted a change request at deadline six on the 23rd of August, and that request consisted of four discrete changes to the application, three of which impacted on temporary possession powers. The first was a removal of work number six option two for the crossing of the T's by horizontal directional drilling that resulted in a significant reduction in areas over which temporary possession powers were sought north of the T's, which would have supported the construction of the crossing. The second was the removal of parcels of Borderlands subject temporary possession powers, reduction in rights from compulsory acquisition to temporary possession within North tees group interests. And the third was the removal of parcels of all land subject to temporary possession powers within SDDC interests. I've previously alluded to the outfall issue and the effect that would have are just check

19:45

if the T's dot road change were to come back with also a temporary possession but that's that's again, that's the point I've covered it. There's nothing else that is anticipated in terms of change to temporary possession Palace

20:06

Okay, thank you. And it's just a reminder to make sure that schedule nine, table eight of of the DCO, and the book of reference, and the Guide to land plan plots will tally up in the end the correct port numbers,

20:21

of course, we'll take that on board.

20:40

Okay, the second item on this part of the agenda it relates to second written questions see a 2.7. And the applicants response at rep 6121. And this is in regard to reasonable alternatives in relation to plots that are proposed for temporary possession. That's having regard to se Development Corporation submissions, which were at rep 6144 and rep. 7017. And so we had the response from South tees, and we had your take on it as well. Just whether there's anything else that you want to add today? And do you want to explain your response to SES submissions? And what what approach you consider the examining authority should take in reporting on this matter to the Secretary of State?

21:45

Yes, my I'm very happy to. To do that. The applicants have considered what STD see is said in rep 6144. And it doesn't change their position. The position is in relation to the T's dock road access blocks is set out in as rep 6121. In broad terms, and I can provide more detail now, if you find it helpful or deal with it in writing, if not in the context of both compulsory acquisition and here use of temporary possession powers. The simple existence of a suitable alternative is not an in principle obstacle to the confirmation of those powers. Particularly where as here the applicant does not have control of the alternative land. And the alternative is one that's only advanced by the affected person after submission. And a critical factor in the justification of compulsory acquisition or temporary possession will often be the substantial public interest benefit of securing the certain and timely availability of the

land in question. In all cases, that needs to be weighed against harm, private harm, public good versus private harm. And so it will be necessary to look very carefully, not only at the Public Interest benefits of securing the certain and timely development that is proposed, which we've set out in detail in writing, but also the evidence that has been brought forward as to the nature and extent of any private loss that would arise as a result of the powers being exercised and the availability of compensation, where loss does arise. And that is, then obviously the matter that goes into the balance in deciding whether the taking of temporary possession of that land would be proportionate. I can go into those matters in more detail. If you find it helpful. I can put them in writing, if you would prefer, you may want to hear from SCDC first I'm in your hands as to that but if the position remains as it is now, which is what we anticipate, then it deadline 12. We will set out in full, our written explanation as to why we should be given the powers that are sought in relation to the T's dark road plots. So given that we anticipate doing that at any in any event that deadline 12 I didn't want to take it time I'm going through all those matters in detail now. But I'm obviously in your hands as to the way you'd find it most helpful to deal with the matter.

25:08

No, that's fine. We soon given that the T's dot rose situations moved on. And it was from last time we worked with him from when we asked this question. I'll just see Mr. Henderson's views on this, because, in particular, he mentions human rights, and whether there's a need to demonstrate a compelling case in the public interest. I just want his further comments on that. Please, Mr. Henderson.

25:45

Thank you, Madam Tom Henderson. For SDDC we have prepared some short submissions, specifically on the human rights point notes in your question. So I can run through those. And obviously, they will form part of our summary of evidence. But the next deadline that I can, I can run through those now, if that would assist.

26:08

I think that that's the sort of matter we can deal with in writing wants you to raise it today, just to stress the importance of the matter. But to get both both of you to respond in writing at the appropriate deadline, that's fine with me.

26:26

But you might have I mean, if I may, just to summarise in much shorter form than I would have done the position. I mean, I don't think it's in dispute at all. That article, one of the first protocol is engaged in respect of temporary possession. And that requires a consideration of whether the interference with private property is necessary and proportionate. Balancing the public interest and the private loss. And we've, we've explained in previous submissions, our concerns about the formation of the axis there and the impact on our private interests. So in considering whether whether that interference is necessary, it is, in our view, appropriate to consider whether alternatives exist. And we've we've established there is an alternative, it's suitable for the applicants. And we say, either they should have adopted that into the order limits, which was a matter they elected not to as part of, of this process. And in that set, no circumstances the matter can be sorted by agreement. And so we haven't changed our position that it should come out from the order limits, whether or not separate property agreements done. And the final

point I wanted to make was that it it was communicated to us earlier in the process, that the axis way would be removed at one of the previous deadlines, but instead of decision was taken to essentially queue that up behind completion of the main site option agreement, again, that's a matter for the applicants to take that position. But in our view, they're not bound up. It's equally possible to have agreed dependently of the main site option the lack of the gate access, and that would have allowed the order limits to have been amended now. So I mean, that's a summary of where we stand on the position and and we'll expand on that in writing.

28:37

Thank you, Mr. Henderson. Yeah, applicants got anything further on that.

28:41

I think if I did respond, I'd end up extending this into a full blown debate. I suspect that it's better just to deal with the matter in writing.

28:51

That's absolutely fine. Okay, so I'm gonna move on to the next item which was North tees group and Mr. Daniel green, could you provide a summary of your concerns which relates to temporary possession matters? And that's further to your deadline nine submission rep. 9031.

29:14

Thank you, Madam buried on your green for the Northeast group. Madam I'm sorry to go back and appoint earlier but it does bear on our temporary possession concerns I raised earlier there was a plan missing from Ori P seven dash 005. And I wonder if that documents could go up on the on the screen to show why we we still maintain there's a missing plan.

29:46

We can't display a document that we don't have in our examination library.

29:51

No, but my gosh. If we look at why the plan is missing

30:01

Sorry, can you repeat the reference? Rep seven,

30:05

rep seven dash 00500 5k. We're

30:10

just getting that up now. Is there any particular page?

30:46

Yes. Page? I think it's page 12. Yes, page 12. Madam. Amanda, if you look at paragraph 4.23, the last sentence, it says that appendix one A is included to illustrate the direct geographical extent of the order

limit reductions to the nature of the rights to loan which is retained within the order limits. And then at paragraph 4.2. Again, there's a reference to appendix one A, which is the plan a madam the plan is not there.

31:40

I saw see applicants to respond on that. Please.

31:44

Go to ask Mr. Bottomly. To respond to that.

31:48

Thank you, Jeff asked me on behalf of the applicants. To kind of explain this after explaining the timeline of this template common ground so an appendix was included in a draft statement a common ground shared between the parties. In advance of the change requests have been submitted at deadline six. This advanced draft included a illustrative markup of the land plans to show the extent of the reductions that would be made at deadline six. In addition to that, we listed the plot numbers impacted in the text which is shown on the screen. Currently, that draft statement, a common ground was shared between parties, but it was never agreed to publish it in advance of deadline six. So it was never made into the examination library. The subsequent draft similar common ground that was submitted at deadline seven that that plan had been deleted as far the Track Changes exchanged between parties. But it appears that the references to the drawing were not captured in those those delusions.

33:04

Okay, so the simple answer to this is that plan should be submitted with the next version of the statement common ground.

33:13

So the applicants view is that plan is is now no longer required, because the land plans reflect those changes already. So if I made that we submitted a similar plan in the SDDC statement, a common ground for me, I think this was at deadline five and we we were applied a similar approach to how we did the same a common ground with northeast group however, that that version of that similar code never got published, unlike the southeast development cooperation, several common ground but it may worth be worth if I can find the reference showing that on the screen Yeah, that is examination Library Reference rep 5017. And if you go to electronic page number 55,

34:20

a rep rep 5017

34:23

Yes, rep 5017.

34:31

Just finding that one.

34:42

And it's page number 55. They say here we had in advance of the change request with produced some some illustrative markups of the land plans to share know how the the order order limits and or the rights would be changing when we produced similar plans with the Nazis changes after they were not published, I'm more than happy to include that in the finalised. socg If it helps, but it shows historical changes now rather than prospective changes.

35:26

Mr. Daniel green. So what would the submission of these plans add to the examination?

35:33

Well, it turns on the onto I'm going to address next. We have physician had been running dream structure and he's struggling to deal with.

35:59

Yeah, I think that's sensible. If you take instruction and deadline 11 and get a definitive answer really on over this plan should be submitted to the examining authority and this and this purpose.

36:14

Yeah, mathematically, if it helps, we did provide, of course, the plan and the draft statement to common ground so that they've got that in the deadline five draft. But we can provide it to you with the at the moment we're waiting to understand really what it adds.

36:34

Yeah. Did you get that Mr. Daniel green?

36:36

Yes. And certainly, as I indicated, I'll take instructions and we'll deal with the deadline 11 Random flag to our concerns about the exercise of temporary possession. Okay, yeah, go ahead. It's important to understand that the exercise of temporary possession plans involve exclusive possession of land for a particular period of time, unlike the exercise of the new rights, where a landowner is not actually excluded from possession, but obviously the landowner cannot interfere or obstruct the exercise of those rights. So temporary possession land it's tinted yellow on the land land plans, but they are areas over which the undertaker will have for a temporary period of time exclusive possession for that period of time so the lender lender is excluded and Madam our concerns are addressed in our document as dash 207 At paragraph nine and

37:53

is there anything additional you want to add to

37:56

because I think I need to explain something. Madam, I wonder if lamb Plan A S dash 146 can be put up first of all

38:18

they that's the previous version of the lamb plans. Precisely. Yeah. So as

38:24

it's as dash 146

38:29

as 146 and what sheet number

38:33

street number four.

38:37

Okay, well just locate that one now.

39:06

Madam, that's very helpful. The second of our concerns of temporary possession, which is at paragraph nine, B of as to s seven refers to the difficulties of access across the the yellow strip the temporary possession land. Now in the earlier version that's on the screen now. Madam, the examining authority will see that there have been exclusions from the EO land and they are highlighted in the enlargements the first two enlargements.

39:52

Madam is the has the examiner examining authority able to do Appreciate that particular point

40:05

sorry, I'm just bringing it up on my personal screen because the copy in front of me is all fuzzy so we've got the blown up areas

40:23

that's correct in my name, you'll notice that the blue tinting which is new rights in both of those blown up areas the to the to the left cross what is actually now you know, tinting So, under the earlier set of land plans access across the yellow strip of land which is into for B words have been allowed

41:05

Yep, now, Madam if one goes to the current land plans and the equivalent plan which is rep 014.

41:20

So, rep 60140

41:23

Yes sorry rep 6014 And what sheet number again it's so powerful.

42:04

I imagine you will see that those two enlargement errors have been removed that plot two four is now two four A is now only thinking yellow and therefore subject to exclusive possession rights and that therefore, therefore, my clients cannot cross 124 for the needs maintenance safety and all the rest of it under the earlier plan, land plan we my clients could they now no longer can i and the right one of the reasons for raising the issue about the missing man earlier was that we understood that the restoration of rights across one to four a can sorry one to four B had been accepted at least in negotiations

43:18

Okay,

43:19

so we accept what Mr. Phillips said earlier about a very, very small reduction in the area of the yellow tinting temporary possession land but what's been removed is absolutely crucial accesses to the pipeline corridor which might translate for safety and maintenance and so on.

43:57

Okay, is there anything further you want to raise on that before I ask the applicant for their take on this just

44:02

just one further point as as we've explained in paragraph nine, little b. There are other access points along the southern boundary of the pipeline corridor. In the previous land plans we looked at on April this year, they hadn't been provided with a with rights new rights across and omitted from the temporary possession yellow Tintin only two of them had. So we would ask that, that all the access routes along that route should be removed from temporary possession so that my counsel will have access across all access points along the way for the purposes of maintenance and safety.

45:09

That's understood. Thank you,

45:11

Madam I do have the other submission is on clocks 124 A and 128. A but shall I wait for the moment?

45:19

Yeah, just asked the applicants come back on that particular point about the the access over the yellow land.

45:27

Thank you very I'm just dealing with that particular point rather than anything wider. As I understand it, the reason why those areas which were shown blue as sort of carve outs from the yellow land in the early land plans were switched to yellow was simply that it was recognised at that stage, that in fact, it was only required that land was only required temporarily. So there was not a need for permanent rights over that land. accordingly. There was no justification for seeking permanent rights as opposed to

temporary possession only. Now so far as the concern about access is concerned, arises that is addressed as one might expect, in the protected provisions that govern the exercise of those rights. You won't be surprised to hear that in a site such as this and indeed, generally, where temporary possession powers are sought. They're generally associated with protective provisions that regulate how they are to be exercised, so as to ensure that practical problems are avoided as much as possible. And in part 26, all of schedule 12 The protective provisions, you'll you'll find when you look at that, that there is a requirement for consent by the Entity Group, before commencing any part of the authorised development, which would have an effect on amongst other things access to any land that is owned by the group with width, which is adjacent to the old limits, The Undertaker must submit to the enth degree with the worst details for the proposed works and that includes plans and sections. Details of the proposed method of working and timing of execution of works details of vehicle access routes, the construction, operational traffic and any further particulars provided in response to a request from the NPD Group. Those have to be submitted together with any further particulars that they may reasonably require, within 28 days of receiving the submission, and then no works comprising any part of the authorised development which would have an effect on access to any land owned by the NT group adjacent to the order limits are to be commenced. Until the work details and respect of those work submitted under the first paragraph have been approved by the NT group. Now, approval mustn't be unreasonably withheld or delayed, but may be given subject to such reasonable requirements as the NT group may require to be made for them to have reasonable access with or without vehicles to the operations and any land owned by the group adjacent to the order limits. So having established that permanent rights are not needed, that what is needed is temporary possession of that land. It's entirely appropriate indeed inevitable that it shifts from blue to yellow, it's then appropriate to ensure through appropriate provisions that access is maintained. So far as the regulation of the two then competing potentially competing requirements for use of any such land is concerned, that is dealt with in an entirely fair way. Under the protective provisions, insofar as there is any need for further protection. The answer to that is for the NT group to suggest different are additional protective provisions as opposed to seeking that permanent rights are taken overland, which is only needed temporarily. So that's the answer to that particular point. I'll wait to see what other submissions are made.

49:48

That's helpful. Thank you. And Mr. Daniel green.

49:55

Do you want me to reply to that point or proceed with the next point I wish to

49:59

weigh in Need. You'll be following this up in writing at deadline, anyway, won't you? Absolutely. Yeah, that's fine. If you can move on to the next point. Yes, certainly.

50:10

Can we have learned plan? Our EP 60114 on the screen again, please. And it's planned for

50:32

you just rep 6014 Did you say yes plans shameful.

50:57

I'm obliged for that plots 124 and 128 constitute the yellow tinted triangle at the left hand end of the pipeline corridor. And Madam, I want to make clear that that area contains an active water, fire, water tank, fire, water pumps, and ancillary equipment for the whole of the Northeast chemical works and therefore access is required at all times. To that, further, it's not obvious when you look at such a sheduled nine, table eight. Why this land is required in any event, it's not required for a site compound, it's meant is specified as being required to facilitate work six, and my clients. So that's not good enough, it's a large area, they will be excluded from possession, excluded from possession for lived up from time to time, urgent and emergency purposes. I have what Mr. Phillipotts said about protective provisions. But the reality and practicality is that matters arise of great urgency, which may or may not be adequately covered by pre arrangements. And that is why my clients say that that area ought to be excluded from temporary possession. Powers.

52:29

Okay, thank you. I suppose the applicant has to come back on that point.

52:33

Yes, but what I'll do is, if I relay my understanding of why those areas of land are needed, if there's anything more in terms of the particular extent of land, I'll hand over to Mr. Bottomly on that. But of course, the starting point, I won't repeat the submissions I've made about the protective provisions and the protective provisions I've explained, you'll see how they work, you'll see the extent to which they provide for reasonable eventualities in that respect, but so far as this area of land is concerned that these particular areas of temporary possession are included to support the construction of work number six, over the existing elevated pipe bridge. And the area of construction will require extensive scaffolding preparation of the pipe bridge to facilitate safe and efficient construction. And the elevated working will also require the support of crane operations. So the temporary possession powers are required not just for the footprint of the crane, of course, but for the oversell movement with the boom, and plus 124. A and 128. A, make allowances for material lay down and crane operation. And just my understanding, and if there are, if there are particular questions you've got about this, I'll ask Mr. Bottomly. To explain it is that at this stage, the precise location of the crane within that land is not yet fixed. And that will be affected by ground conditions and all sorts of things. So one needs a reasonable element of flexibility, as opposed to just pinpointing where the crane is going to be and drawing a circle around it. And the applicants are well aware of the existing apparatus within these plots. And it may be that the construction of work number six, will need to take place above the active fire tanks and as you might imagine, that's where the fire protective provisions come into their own, because we'd have to explain how that is going to be done and to obtain the consent of NT group in relation to it. I'll just see if Mr. Barton has anything to add. He's indicating that he doesn't.

55:19

Know, I think you understand what we'll be going to see this this part of the site, and our company's site inspection tomorrow morning as well. Mr. Danny Granger have anything further to add before we move on?

55:33

Well, I just want point for the examining authority, and certainly the appeals to think about, as I read the protective provisions, they concern circumstances where NTG have land outside the order limits, what we're concerned here are their concerns of land within the order limits. And so I'm not sure I miss an estimate for Phillipotts is able to help us otherwise, I'm not sure that the current protective provisions are adequate for that purpose.

56:08

And I think the best way to deal with that is if we explain in writing how they work, but if the if the NT group have suggestions as to how they think the projector provisions need to be changed, we'd be happy to receive those outside the examination. And to discuss them with them. We'll look at that point and see whether it is a practical application. But I don't think it's likely to be useful to engage in some detail, drafting discussions during the course of this hearing, bearing in mind the limited time we have.

56:46

Thank you very much. You have anything else? Mr. Danny green before we move on? No, thank you very much. Thank you. Are there any other effective persons in in attendance today who wish to raise anything regarding temporary possession of land or rights? Anybody on teams?

57:15

Can't see any hands up? We'll move on to item six. She's crown lands, the section 135 tests. Firstly, could the applicant just confirm the plot numbers? The Crown land is affected.

57:43

Not off the cuff? Madam, I'm fair love to be able to say that I was had all the details at my fingertips to that extent. If you'd like us to provide a list in our post hearing note, I'm happy to do that. But I don't think I'm likely to be able to pull that together quickly.

58:03

That's okay. It's just it's just for ease of reference. I realised during the book of reference, the the forthcoming change request will affect this as well understand. That's fine. So at deadline five, the compulsory acquisition schedule, which was after compulsory acquisition hearing to stated that it hopes section 135 is received by deadline six. And then later versions indicated deadline nine and we're now beyond deadlines hen deadline nine, the applicant submitted a further document which provided a response further response to second written questions, see a two point 19 One that indicates that the examining authority might not receive notification of section 135 consent by the end of the examination. So there appears to be quite a significant change in the expected timescales for Section 135 Crown consents. Could you explain what's happened in the meantime? And timescales for what's happening next place?

59:21

Yes, ma'am. Just before I do that, just if I may just come back to the practical point that we were dealing with earlier about the plot numbers, you made the point that those that will be affected by the change request. And so it has been suggested to me that with that in mind, it might be better if we

supply that list of plot numbers that deadline 12 so that it incorporates those changes. By the way, in a moment, I'm going to just ask those two I write as to what has led to the change in expectation in terms of the crown position. But I wonder if I might just provide some sort of overview in terms of how this relates to your reporting and decision making before and before I come to that. As we are today, we have no reason to believe that crown consent would not be granted, there has been nothing mentioned in correspondence with the Crown do indicate any uncertainty as to whether crown consent will be forthcoming. And therefore, we continue to expect that section 135 consent will be provided before the end of the examination. We explained in our deadline nine response that the Crown has confirmed that section 135 consent will be granted in relation to the land within the order limits. But importantly, in this comes to the position in terms of not having the consent now, we also explained and gave examples of where crown consent is granted late in the DCO process, including a number of instances where consent only comes after the close of the the examination. And that that is reflective of the Crown's approach to these things we can't control when they issued consent, we can only negotiate with them and seek to encourage early grant of consent. And so it's not unusual that we don't have consent at this stage. And it would not be atypical for the Crown only to provide its consent after the examination. And if the consent is not received, by the end of the examination, we'll continue to work with the Crown to secure consent as soon as possible. And prior to the Secretary of State's determination. Now I realised that if the crown doesn't provide its consent before the end of the examination, then any recommendation you make to the Secretary of State as to granting the powers and rights sought in respect of Crown land, that would have to be subject to the Crown giving its consent. So it would have to be dealt with in that way suggest in terms of recommendation. And then clearly it would be necessary before the Secretary of State could in fact make an order authorising rights taken and land and work that will affect Crown land, that the crown consent would have been obtained by that that stage, but that is the crunch point. That's the crunch point is the point at which the powers will be made. And that is what section 30 135 regulates. It doesn't prevent a positive recommendation. But if the crown consent has not been obtained, it would have to be a conditional recommendation.

1:03:27

I'm going to ask Mr. Stubbs, just to deal briefly with the most up to date position in terms of the discussions.

1:03:34

Good afternoon, Madam Harris dubs on behalf of the applicant. So we've been engaging with the grounds appointed agent, Carter Jonas, for some time, we've agreed heads of terms with them. And alongside that we're discussing producing the section 135 notice, and the likely timeframes for that. The project and the applicant has obviously been in discussion with the Crown director as well, both offshore and onshore. And we have as of yesterday, been able to appoint sisters to progress the land agreements with the crown as well. This is a more detailed update.

1:04:08

Thank you. Is there a specific reason for the slippage and they expect to timescales from from what was said originally?

1:04:23

We've been working with the crown and I think naturally they've wanted to progress the London agreement before having that the section 135 notes has been produced.

1:04:48

Okay, thank you. I think you've answered my second question. There's also the third written questions as a similar question as well. So we'll get the next update in writing. Are there any further comments on Crown consent before I move on? Not from us, Madam Thank you.

1:05:28

Item seven statutory undertakers. Could you summarise any outstanding matters relating to protective provisions for the for the listed statutory undertakers place?

1:05:44

Yes, ma'am. I'll work through that just by way of prelude to it. In the event that the applicants and the relevant statute Undertaker or electronic communication network operator as the case may be are unable to agree protective provisions will include our proposed version of the protective provisions in the deadline 12. DCA will also explain why we consider those to be adequate having regard to the relevant statutory test in each case, and obviously the undertaker will be able to respond and submit their preferred version at deadline 12. And that reflects the process we discussed yesterday and I sh five, just running through the relevant parties. So Openreach limited, so far as the applicants are where there are no outstanding matters relating to the protective provisions for open reach, limited. The applicants right to a can reach in advance of deadlines six, but have not received a reply. They haven't provided any comments on the protective provisions and we consider that what is in part two of sheduled 12 provides appropriate protection for them. Then I'll deal collectively with Telefonica, UK, Vodafone, and cornerstone. The position for these three companies is similar. There are no outstanding matters relating to the protective provisions for these parties. None have responded to the applicants, none are provided comments on the protective provisions provided a part two. And part two nevertheless, should be retained both to protect parties with known apparatus. So that's BT Openreach, but also any other apparatus, which the applicant is not aware of, that might exist within the order limit. So if anything unexpected does turn up, then party will be effective to deal with that as well. We then come on to national grid electricity transmission, PLC and National Grid gas PLC. So this is now part three National Grid return comments in June 2022. On the version that protected provisions that were alive at that time in the dark DCO. That's the application version. At this point, we were also made aware that because of a splitting out of functions within national grid, separate protective provisions are required for N G, E T, and NG G. On the 22nd of July, we provided comments on the draft protective provisions and received a copy of the ng t side agreement on the 29th of July. We return comments on the site agreement on the 12th of August, ng t solicitors returned comments on the draft protective provisions and signed agreement on the 12th of October. We're currently considering those documents we expect to respond to ng t solicitors shortly as we as I speak, we have not yet received a set a bespoke NG G protective provisions or an NG G site agreement. However, on the 12th of October, we were informed by NG G solicitor that instructions are being sought from NG G and documents will be provided shortly. Notwithstanding those delays. We are optimistic progress can now be made on these protected revisions in the side agreement. Next is Network Rail infrastructure limited so this is part 10. An initial draft Framework Agreement was received from Network Rail on the fourth of

May 2022. We returned relatively minor amendments on the 24th of June. A substantive response is awaited. From Network Rail, we anticipate that the framework agreement will be entered into alongside the property agreements or the property agreements being in an agreed form. The northern power grid northeast PLC part 11 parties continue to negotiate the protective provisions with a draft of the protection revisions and sign agreement most recently returned by the applicants to mpg so this is on the 13th of October. The DCO version of the protective provisions are updated a deadline aid to account for minor changes.

1:10:42

Then PD Teesport limited as part 13 protective provisions of the deadline eight DCO are agreed between the parties. Sign side agreement is also agreed but is not yet completed. Northumbrian Water limited part 24. parties continue to negotiate the protective provisions. The nwhl protective provisions are based on their template, which we agreed to use as a starting point. The DCA version was updated at deadline a to incorporate some of the agreed amendments to the protective provisions in relation to notification and coordination of works. Northern gas networks I think this is the final one in my list part 25. Draft side agreement was issued to them on the 28th of July 2022 comments received on the pic for November or September, further amendments returned to them on the fifth of October and we're awaiting a response. So those are the updates that I have on negotiations on the protective provisions with those parties

1:12:05

or any of those likely to be fully agreed before the end of the examination.

1:12:32

Madam, thank you just taking instructions on that. The two national grid protected provisions should be agreed. PDT sports is a great as I understand it. The others maybe but we're we're not as confident on those as we are on the others. But we're not sort of ruling out the possibility that they might be

1:13:05

okay, thank you. I'll just have some clarification on the situation with ADF and T side wind farm, correct that there. They've been removed the EDF have been removed from the book of reference. And that's section 127. Is not engaged.

1:14:01

Yeah, I think I think we'll have to check on I think we did deal with this at the last the compulsory acquisition hearing, too. We just want to check back and see what it was but I think it was that section 127 wasn't engaged for one or other reasons. I would just rather than give an off the cuff answer just like to check what that was.

1:14:24

Yeah, that's fine. You can get that in writing. I was just a bit confused because there were two entities with the EDF anti side wind farm and the so EDF have have been struck out of the book of reference and Tayside wind farm have got bespoke protective provisions. I don't know if Mr. Nesbitt, do you want to add anything on that? You got any clarification?

1:14:50

Thank you, Martin. I strongly suspect it will be to do with how the assets held and also the extent to which they have a generation licence. But I've actually written this morning just seeking instructions on that. So perhaps the applicant representatives and I can just agree the position and confirm that.

1:15:15

That's fine. Thank you.

1:15:17

We're very happy with that suggestion that's eminently sensible from SSA.

1:15:28

And the other one I just wanted a bit of explanation on was the the, the latest compulsory acquisition schedule referred to this is in relation to Network Rail. And it refers to a request by Network Rail for an updated commercial stance and just explain what that means. It says that in the schedule says there'll be putting forward their position at deadline 10 Assuming that means deadline 11 Now is there anything you can clarify on the position of Network Rail?

1:16:08

I have to take instructions on that day with.

1:16:22

Good afternoon, Madam Harry Stubbs on behalf of the applicant, Network Rail, we are in discussion with their property team. And they have just merely asked us to put forward our commercial offer for their crossing agreements.

1:16:43

Okay, is there anybody in attendance today that wishes to speak in relation to a statutory undertakers? I think the only one in attendance is Mr. Nesbitt, who we've just heard from? Is there anything else you wish to raise in relation to PD TS Porter's statutory Undertaker, Mr. Nesbitt?

1:17:10

Thank you, madam. No, not at this stage. I think the as the agreements are so close to being completed, I think at this stage, I can't help you any further. I think it's probably appropriate to let those complete and then and then hopefully we'll be able to write and be of more assistance.

1:17:30

Okay, thank you. And anything else relating to statutory undertakers and or any other protective provisions more generally following yesterday's hearing?

1:17:57

I don't have anything further to add No, thank you, Madam.

1:18:07

Moving on to Item eight statement of statements of common grounds that's relevant. So effective policies, post requisition, temporary possession, interesting lands and rights as a big list of them that are set out in the latest statement of commonality, which is rep 901. To understand there's a few there's a few of these that are still at initial stage. Just just to name of some of the telecommunications companies got net Network Rail products, Marlowe food MPL waste, etc. Will any of these statements are common grounds just fall away? If they're not, they're only at an initial stage?

1:18:57

Well, Madam, if they are, if we've had no comments on them, they effectively then become our statement as to what we suspect will be common ground and if you find that of assistance, we're happy to put in a finalised version at deadline 12. If on the other hand, you think they didn't serve any useful purpose, we're happy to leave those where they currently stand.

1:19:30

What I would say is that in an effort to try and provoke a response, so we haven't had one, we will be issuing updated versions of all of them to the relevant parties in order to hopefully get some response that we can report it deadline 12 So we will be doing that. But obviously, if we don't get anything then its utility is more limited as a result.

1:20:00

Okay. Yeah, I think if you if you do in that final chase up and the next versions, is that any you've not received a response on at all, then they're not they're not common ground then are they? So

1:20:14

exactly my point there are, there are statements of what we think they might reasonably agree to. But without

1:20:21

that they don't really serve the purpose of a particular document. As long as we've got the status of any negotiations or lack of response in in the compulsory acquisition schedule, we'll know where we stand on those particular parties. That's fine doing

1:20:39

we'll make sure that the final version of our shows will reflect where we where we are at the end of things

1:20:45

to become more useful where you've got the the the young common ground. Exactly, yeah. Okay. Thank you. Is there is there any particular update on any of them that you wish to raise now?

1:20:56

No, there's no particular update. The key thing is the arrangements for the versions that will go in at deadline 12 In their final form, and as I said, we will issue updated versions and hopefully therefore what you receive it deadline 12 will be as useful as possible.

1:21:16

Okay, thank you very much. Don't have any more questions. So I'll pass back to Miss Davis.

1:21:26

So moving on to other matters. Your company site investigation arrangements were published on the 12th of October. That's PD 020. We're meeting at nine o'clock the location shown on Annex B at the SABIC gate house that was slightly amended on the 20th of October. I wanted to check North T's group, can you confirm that you've seen the latest itinerary? Binary

1:21:58

forms. structures on the agenda has been seen on Earth,

1:22:09

think you applicants? Do we know if they have seen the latest version?

1:22:16

Jeff asked me on behalf of the Afghans. Yes, that might is my understanding. I shared a copy as well by email to representatives of Northeast group as well. And I've had confirmation arrangements are in place.

1:22:27

Great. Thank you. And can someone confirm that those are still the current arrangements? Has anything changed since then?

1:22:33

Yeah, that the arrangements are as per the itinerary.

1:22:37

Great. Did we get the PPE sorted out as well as that are being provided?

1:22:42

Yeah. PPS covered yet with the exception of safety boots.

1:22:45

Yeah, that's great. And well, we still need to leave our phones behind, you know. Yes. Thank you. We've not been notified that anyone else wishes to raise any other business not specifically noted on the agenda. Are there any other matters to raise after what's been heard today? So moving on. Oh, Mr. Henderson, have your hand up?

1:23:11

I have Madam Yes. And atomism for SDDC. I just had one point of clarification that I was seeking on a procedural matter if now's the right time to ask.

1:23:22

Yes, please. It just relates to

1:23:26

the sequencing of submissions in the run up to the end of the examination. So I think if I've heard correctly, the applicant will be submitting their final version of the draft element consent order a deadline 12. And alongside that, the changes that will be made to address the outfall optionality and also the schedule of changes that would be that would be made if if the tea stopped road access were to come out of the order. Now, I mean, all of those are quite key points for us. And I'm just seeking clarity as to whether we should submit our preferred forms of drafting for our outstanding issues also a deadline 12 or whether we should do that deadline 13.

1:24:20

Thank you. I suppose the benefits of submitting a deadline 12 is that the applicants can then respond at deadline 13. If you think you can submit deadline 12 with no disadvantage to you, then I think that would help the examining authority can ask the applicants for their view on this.

1:24:43

Yes, we have a strong preference for deadline 12 because obviously we need to have an opportunity in fairness in order to comment on anything that is suggested by way of a change to the order that is that we seek and that can only be done if it comes in a deadline tall realistically.

1:25:03

Thank you. Mr. Hanson. Is that okay for you?

1:25:07

Yes, that's fine for us. We obviously will continue to negotiate with the applicants and we would expect as well. We'll make our submissions then. And then if there is anything further so we can honestly say that they're not 13. That's fine. Thank you. Thank you very much.

1:25:24

Thanks, Mr. Henderson. Were there any other matters that anybody wants to raise? Moving on to action points. Mr. Gleason has been taking down the action points during today's hearing. Would you like to run through those now?

1:25:39

Yes, thank you. Just briefly then, before we need to finish by 115 first action points for the applicants to provide an overview at deadline 11 of the proposed changes intended to be submitted deadline 12.

1:26:00

Secondly, the applicant to provide the response to comments of Mr. Anderson on behalf of Teesside gas and liquids processing and Teesside gas processing limited about CAA concerns not to be done the deadline 11.

1:26:23

Thirdly, applicants to provide no view at deadline 13 summarising latest position regarding status and negotiation with land interests, thereby providing an update of the CA shedule with particular reference to affected persons which have engaged with the examination.

1:26:54

Action for applicants to supply supply a list of Crown land plot numbers at deadline 12.

1:27:08

And Action five, the position with regard to EDF and Teesside wind farm limited to be confirmed by the applicant Santi south wind farm in respect of whether section 127 is engaged. And that's it done deadline 11 or deadline 12. So,

1:27:35

would you mind just repeating the timescale for that is tighter.

1:27:39

The last one is deadline 11 or deadline 12 Olympic food for parties to come to an agreement on how that can be achieved.

1:27:48

So there was one other matter that we noted which was the NT group again to provide their response to the corridor wits justification document for deadline 11.

1:28:02

Thank you are there any other actions anyone's identified?

1:28:16

As good thank you. Okay, those actions published as soon as possible on the project page. If there's no other relevant business, may I remind you that the timetable for this examination requires the parties provide any post hearing documents by Wednesday the 26th of October, which is deadline 11. On the timetable. May I also remind you that a recording of this hearing will be placed on the project page of the inspectorates national infrastructure website. Thank you all very much for attending today and for your participation which has been very helpful to us. We shall consider all of your responses carefully and it'll inform the examining authorities recommendation to the Secretary of State. The next hearing is at two o'clock this afternoon to issues specific hearing number six on environmental matters. Once again, thank you the time is now 12 minutes past one and this compulsory acquisition hearing into the proposed netzero Teesside project is now closed