



Planning Inspectorate  
Arolygiaeth Gynllunio

## Hearing Transcript

<b>Project:</b>	EN010128 – Cory Decarbonisation
<b>Hearing:</b>	Issue Specific Hearing 2 (ISH2) – Part 1
<b>Date:</b>	12 February 2025

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

00:00:04:24 - 00:00:19:28

Good morning. It's now 9:30 and time for this hearing to begin. I'd like to welcome you all to this issue specific hearing into the draft development consent order pertaining to the application for the Quarry Decarbonisation Project. Firstly, can I just confirm that everybody can hear me?

00:00:22:03 - 00:00:55:22

Thank you. Can I also confirm, Mrs. Norris, that the live streaming recording of this event has commenced? Thank you. My name is Mr. Jeff Underwood. I've been appointed by the Secretary of State as the examining inspector to examine this application. You may also hear me. Referred to as the examining authority. Some of the points I'll raised shortly will be familiar with you if you attended yesterday's hearing or events held in November last year. However, we're aware that some of you will not have. So please bear with me if you might have heard some of these things before. Um, I'll firstly deal with a few housekeeping matters for those attending in person.

00:00:56:08 - 00:01:31:15

Um, can everyone please set their devices and phones to silent? Island just so we don't have any disturbances. Through and I hope I won't embarrass myself by. Having failed to do the same with my phone. Um, if anyone requires the assistance of a hearing loop. Uh, the the seating at the back of the room encircled by the white tape, um, advises the best place, uh, for that to, uh, for that to work. Um, so if you need that assistance, that's. They're there for you. Um, there are a lot of trees on either side of the corridor leading to the circulation space just outside this room, and I'm advised that there's no planned, uh, fire, fire alarm drill.

00:01:31:17 - 00:02:04:05

So if we do hear a fire alarm, uh, it will be, uh, that the real thing. So you'll need to evacuate this room. And the, uh, exit points are marked by the green signs with the white arrows. And there's quite a few around the, uh, around the room. I think I'm right in saying there's a, uh, a QR code with a link to the agenda for those of you who want to follow it on your own, your own devices. In the interest of impartiality and fairness, all remarks to myself need to be made during the hearing where everybody else can hear what is being said. There's not a opportunity to make private comments to me outside the hearing.

00:02:04:27 - 00:02:36:16

However, my case team colleague will be available if you have any queries, you may. You may see me talking to Mrs. Norris, but that will only be regarding procedural matters and not the merits of the application as well as Mrs. Norris is also a colleague from the Planning Inspectorate joining us today to observe today's proceedings, which is something we encourage as part of continuing professional development. And similarly, if you see me talking to them, it will not be about the merits of the case. It's inevitable, given the layout of the venue and the hotel, that I may see you outside this room. I'm not intending to be rude, but I won't enter into conversation.

00:02:36:18 - 00:03:16:00

By the same token, you can be assured that if I'm in the same spaces as some other participants, there'll be no discussion of the application or the examination with them. And if you have got any queries, Mrs. Norris will be pleased to to to help you. For those attending online, I think the case team will have explained the arrangements. But just as a reminder, please keep microphones muted and

cameras switched off when not speaking, as this avoids background noise and can assist with board bandwidth. And please note that the chat function is switched off, and for those of you watching on live stream, uh, please can you remember to refresh your browser after we have a hearing so that you can follow the follow the proceedings.

00:03:17:09 - 00:03:52:24

This meeting will follow the agenda published on the National Infrastructure Planning website on the 4th of February. The examination library reference is EV 8001. This is a revised and slightly more detailed version of the preliminary agenda that I published in my letter of 13th of January, notifying notifying people of the hearing dates. It'd be helpful if you had a copy in front of you. But also, I noted that the applicant has displayed the agenda on screen, which is very helpful. So thank you for that. And I think the applicant will display it at appropriate junctures. The agenda is for guidance only and I may add other considerations or issues as we progress.

00:03:53:12 - 00:04:25:14

I'll conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. It may be that the meeting continues after lunch. If so, I'll ensure that it closes by 5:00 at the latest. If discussions can't be concluded, then it may be necessary for me to prioritize matters and defer other matters to further written questions. Likewise, if you cannot answer the questions, ask the required time to get the information requested. Can you please indicate that you need to respond in writing? I intend to take a break mid-morning break for lunch and depending on progress, I break mid-afternoon.

00:04:26:14 - 00:05:03:20

Um. Today's hearing is being undertaken in a hybrid way, meaning some of you are present with us at the hearing venue and some of you joining us on Microsoft Teams. But I'll make sure that however you decided to join today, you'll be given a fair opportunity to participate. It is important that I point out that I can refuse to allow representations to be made at this hearing, if I consider that they are irrelevant, vexatious, or frivolous. Relate to the merits of policy set out in a national policy statement, or repeat other representations already made, including those made in writing and by other parties. And I think that's particularly important, given the nature of today's, uh, hearing into the draft development consent order, which I'll come onto in a minute.

00:05:05:05 - 00:05:42:11

Please note that the format of this hearing may be different from other public events you've attended. Please don't signal your approval or disapproval for any comments made, for example by clapping or booing and so on and so on. This is not only off putting to those speaking and attending. It won't assist me in hearing everybody's views. So I'd ask that everyone was courteous at all times and not to interrupt others. Repeated interruptions or disruption of this hearing would be unreasonable behaviour, and any person who's behaving unreasonably may be liable to an award of costs against them. A recording of today's hearing will be made available on the Decarbonisation Project section of the National Infrastructure Planning website, as soon as practicable after this hearing is finished.

00:05:42:13 - 00:06:13:22

With this in mind, please ensure that you speak clearly into a microphone stating your name and who you're representing each time before you speak, whether you're in the venue or online. I know for

those of you who are making repeated contributions, that can can can seem a bit awkward, but it is very helpful on the recording. And for those of you not familiar with with people participating, if you could, if you could do that, if you're not at a table with a microphone, there is a roving microphone that Mrs. Norris has. So please signal for one and just wait for it to be brought to you before you speak.

00:06:14:02 - 00:06:49:19

Uh, that will just make sure that, uh, your comments are captured and everyone else in the room can hear them. Please note that the recording transcript will be the only official record of this meeting. Forming part of the examination documents and any social media post. Blogs, messages or similar forms of communication won't be accepted into the examination and won't be seen by me. I link to the planning and privacy notice was provided in the notification of this hearing. I assume everybody here has familiarized themselves with that, uh, document, and that establishes how personal data of our customers is handled in accordance with the principles set out in data protection laws.

00:06:49:24 - 00:07:20:23

It makes it clear that today's hearing is being recorded and live streamed. So, unless essential to do so, please do not provide any personal information that you would not want to be broadcast or retained in the recording. And that's personal information, both about yourself or other parties. So please bear that in mind in anything you say. And please speak to Mrs. Norris if you've got any questions about this. And I'll briefly explain the purpose of this issue. Specific hearing. The main purpose is to undertake an examination of the draft development consent orders, articles and schedules, and associated agreements.

00:07:21:01 - 00:08:02:20

So this may include clarifying issues about how the draft of the consent order is intended to work, what would be consented, the extent of its powers, and what requirements, provisions, and agreements are proposed. May identify any possible issues of prevention, mitigation or compensation which are not covered by the draft consent order as currently drafted. And it also helped me establish or confirm views of interested parties as to the appropriateness, proportionality or efficacy of proposals, if not satisfactorily resolved in written submissions. I don't intend to look at detail issues such as any typographical errors and so on, which I think can be addressed in writing, unless they are sort of particularly pertinent to the drafting.

00:08:03:16 - 00:08:23:06

And again, it's important to point out that it's not the purpose of this hearing to hear objections into the planning or compulsory acquisition cases of any parties unless and except. There's a specific point about a provision in the development consent order that may or may not address the issue. So this hearing will be different from, say, the open floor hearing or the issue specific hearing held at the start of the examination.

00:08:24:24 - 00:08:57:23

The development consent order, which I think I may well soon start abbreviating as DCO. So you may well hear it referred to as DCO, and I'm sure other parties may abbreviate it in the same way would be the statutory instrument giving consent and setting out the specifications and conditions of such a consent. Should the Secretary of State decide to approve the application, the examination of the

Draft Development Consent Order is standard procedure. It's important to note that this hearing does not indicate that I've made my mind up on the application, and it does not weaken the cases of those parties opposing the proposal, nor the applicant's case that the order should be granted.

00:08:58:07 - 00:09:28:17

Rather, it's expected that a draft development consent order will form part of my recommendation report to the Secretary of State, irrespective of my recommendation is therefore in everyone's interest to ensure that the draft Department consent order is effective and in the best possible order. So we're putting ourselves in many respects into a hypothetical situation at this time where we're looking at the DCO and with an understanding as to if that were to have if an order were to have been made, how it would take effect and how it would work.

00:09:28:28 - 00:09:47:25

So I expect the hearing would be more discursive in tone than other other hearings. I've got revision F of the draft development consent order, which is examination. Library reference rep 3003 open. Can I just confirm that that's the most appropriate one to be referred to.

00:09:48:15 - 00:09:51:14

Mr. Fox? Yes, that's right, sir. Thank you.

00:09:52:15 - 00:09:55:24

Are there any questions on the procedural aspects of this hearing I've just run through?

00:09:57:26 - 00:10:32:09

Thank you. I'm now going to ask those of you who participate in today's hearing to introduce yourselves. When I state your organization's name, could you introduce yourself stating your name and who you represent and which agenda item or items you want to speak on? If you're not representing an organization, please confirm your name. Summarize your interest in the application and again confirm the agenda item on which you wish to speak. For larger teams, there's no need to introduce the whole team at this stage. If some of you are not intending to speak. Just give your name at the time it transpires that you need to make a contribution later on. It'd be very helpful if when you introduce yourselves, you could state how you wish to be addressed.

00:10:32:11 - 00:10:57:10

For example, miss, Mr., Mrs., doctor, and so on and I'll now ask participants to introduce themselves. I'll start with those in the room and then move on to online Participants. However, if you're part of an organization or group where there are members online who are going to speak, it would be most effective to introduce themselves at the same time. So can I start with the the the applicant and your your advisors, please?

00:10:58:07 - 00:11:18:22

Thank you sir. Mr. Matt Fox, senior associate at Pinsent Masons. Acting on behalf of the applicant. I'm expecting that I will do most of the talking today, but I am joined at the table by my colleague Richard Griffiths, partner at um Pinsent Masons. Um, if any of your questions require other inputs, I have the rest of the team and we'll introduce them as necessary at the time.

00:11:20:07 - 00:11:24:17

Thank you, Mr. Fox. Um, the London Borough of Bexley council.

00:11:31:11 - 00:11:48:18

Good morning. Um, Kane Chao for the number of council. I'm the council's solicitor, and I'm joined by, uh, Ian Smith, who is the, uh, planning officer, and also, Mrs. Paula Young, who's also the council's planning officer. Uh, sorry. Uh, solicitor as well.

00:11:49:04 - 00:11:54:00

I do beg your pardon. I didn't catch your name or the colleague immediately to your right. Sorry.

00:11:54:06 - 00:11:59:02

Uh, Mr. Keng Chow. Thank you. And Mrs. Paula young.

00:12:01:22 - 00:12:05:27

Thank you. Uh, landfill limited and Munster joinery limited.

00:12:09:02 - 00:12:35:13

Good morning, Sir Richard. Attorney King's Counsel, instructed by Toesies solicitors on behalf of Lantau Limited and Monster Joinery UK limited. I've also got Doctor Craig Edgar next to me who you met yesterday. Um, we are um, have some comments to make on, um, various agenda items related to requirements and, um, potential changes to the DCO. Uh, but nothing on protective provisions.

00:12:36:07 - 00:12:39:27

Thank you. Thank you, Mr. Attorney. Ridgeway uses. Is.

00:12:43:04 - 00:12:47:07

If you just wait. The microphone will be brought to. Brought to you.

00:12:48:07 - 00:12:49:05

I'm online.

00:12:50:23 - 00:12:57:29

Yeah. Hi. My name is Doctor Huang. I'm from the Ridgeway users. I've also got a colleague at Djokovic's online as well.

00:12:58:16 - 00:13:01:17

And on that particular agenda, items you want to speak on?

00:13:02:12 - 00:13:10:27

Um, there doesn't seem to be, but, um, we wanted to, um, raise a question around the water Framework Directive. If that is part of the DCO.

00:13:12:19 - 00:13:13:21

Uh, okay.

00:13:14:03 - 00:13:18:05

And, uh, Mr.. Mr.. Djokovic online. Sorry.

00:13:19:29 - 00:13:37:16

Um, yeah. Um, sorry. Djokovic. Um. Yep. Sort of just echo I think it was more just, uh, one thing on about schedule 12, the preventative provisions and the marine licence. Uh, thank you. And also, I guess I'm also here as part of the media, which I guess sort of answers maybe a later question. Uh, thanks.

00:13:38:25 - 00:13:51:10

Well, actually, you mentioned you're part of the media. Since you've seen if you've raised that. Um, can I just ask, uh, how you're intending to, uh, record proceedings? I'm conscious. Obviously. You're joining us on online.

00:13:52:19 - 00:13:58:00

Um. Not really. In this particular case, I'm here more just observing at this point, but, um. Yeah.

00:13:58:26 - 00:13:59:19

Okay. So.

00:13:59:21 - 00:14:05:25

So obviously you're aware that the session is being recorded. You're not proposing any additional recording. Is that is that correct?

00:14:06:28 - 00:14:10:14

Yep. At this hearing, no additional recording. Uh, yeah. Thanks so much.

00:14:11:04 - 00:14:17:01

Great. Thank you for clarifying that. Um, uh, next I've got, uh, save Cross Ness nature reserve.

00:14:18:28 - 00:14:37:22

Um, Mr. Ackland, Brian barrister, on behalf of save this nature reserve. To my left, I've got, um, Mr. Jed Holloway, my instructor solicitor from Civic Law Center, and to his left, Mrs. Lawrence Pinto, part of the campaign group.

00:14:40:04 - 00:14:50:18

In terms of agenda items, um, predominantly agenda item three and potentially agenda item six, but depending on how the discussion unfolds.

00:14:52:04 - 00:14:53:01

Thank you, Mister Bryant.

00:14:54:04 - 00:14:54:19

Uh.

00:14:54:21 - 00:14:55:16

Thames Water.

00:14:58:03 - 00:14:59:10

Uh, morning, sir.

00:15:00:11 - 00:15:34:25

Emil Jones. EMI. Uh, for, um, Thames Water, I'm instructed by Mr. Martin Pennington. Um, sits on my left of Eversheds Sutherland. Um, on my right, uh, is, uh, Miss Karen Sutton, who is the Cross Ness Nature reserve, uh, manager. I anticipate most of our representations will be made by me or by Mr. Pennington. Uh, we have, um, two members of the team, I think, who have joined on online.

00:15:34:27 - 00:15:39:18

I don't anticipate that they will be, um, contributing, but they may.

00:15:40:05 - 00:15:44:21

Okay, well, if they do, they can introduce themselves at the appropriate time. Yeah.

00:15:44:25 - 00:15:53:23

Uh, in terms of agenda items, I think we'll have something to say about it. Most of them, uh, say for item five.

00:15:55:07 - 00:15:56:24

Okay. Thank you, Mr. Jones.

00:16:00:15 - 00:16:08:20

In terms of the list that I was advised of people, uh, speaking, uh, that's covered that. But can I ask if there's anyone else in the room who intends to speak today?

00:16:11:27 - 00:16:24:23

I can't see any. Hands up. So, uh. Thank you. Um, I've been advised that, uh, as long as those online have already introduced themselves that, uh, the, uh, the Environment Agency are joining online.

00:16:27:29 - 00:16:41:11

Good morning. I'm Joe Martin, planning specialist team for the Environment Agency. Um, I'm joined by my colleagues, Robert Williams from our flood risk team and Mark Davidson from our marine team, will probably want to comment on agenda items 2 to 6 today.

00:16:42:24 - 00:16:48:08

Sorry. Mr. Martin, can you just say which agenda items again? I didn't quite catch the items.

00:16:48:10 - 00:16:48:29

2 to 6.



00:16:50:08 - 00:16:51:00

Thank you very much.

00:16:52:20 - 00:16:54:27

And the Port of London Authority.

00:16:57:04 - 00:17:27:08

Good morning. Morning, sir. Yes. My name is Mrs. Vicki Fowler. So I'm a partner and solicitor at Gowling Wlg. And I'm joined by Miss Lucy Owen, who's the deputy director of planning and development at the Port of London Authority. So, so we've previously indicated that we wanted to speak regarding agenda item three, but due to agreement now being reached, we don't believe we'll need to address you. But we are here in case you have questions of the Port of London. Thank you.

00:17:28:13 - 00:17:35:15

Okay. Thank you, Mr. Fowler. Is there anybody else online? Um, who intends to speak today?

00:17:38:06 - 00:17:51:20

I can't see any hands up or microphones changing, so I assume that's not so. Thank you very, very much. Um, can I just ask if there's anybody else from the press in attendance? Uh, Mr. Jokanovic has already, uh, advised.

00:17:54:05 - 00:18:01:20

Again, I can't see any indication there. Does anybody else intend to? Sorry. Does anybody intend to record the proceedings?

00:18:04:15 - 00:18:13:07

Again, I can't see anyone indicating that they want to do to do that. Um, so just just to confirm. Anyone wishing to speak who I've missed.

00:18:15:18 - 00:18:16:07

Thank you.

00:18:16:26 - 00:18:48:26

So, moving on to the main agenda items. Um, the. Yeah, I mean, the agenda is it's fairly straightforward. And, uh, generally in terms of the terms, I've got some specific questions, uh, under each, uh, under each item. Um, as I did yesterday's meeting, I've asked the applicant if they could provide a record and summary of any action points during the meeting, and I'd be grateful if these could be confirmed at the end of the hearing. Um, and I think that's probably covered everything. On item one of the agenda I wanted to cover.

00:18:48:28 - 00:18:54:26

But just before I move on to item two, is there anything that anybody wants to raise in terms of procedural matters at this point?

00:18:57:14 - 00:18:58:03

Thank you.

00:18:58:26 - 00:19:21:26

Um, so item two, um, is about the articles and schedules of the the draft DCO. And I'd like to start off, um, with, uh, the, the definition in the, uh, in the, in the DCO. Um, apologies. I thought I had it open and I haven't said that, so I'll get to the right spot.

00:19:31:00 - 00:20:13:18

So yeah, in terms of different definitions, interpretation. Um, uh, I'd like to, to, to ask some questions about the preliminary works, which I think are defined as any other works that do not give rise to any materially new or materially different effects which are worse than those assessed in the environmental statement. Um, now my question, my question to the to the applicant, um, is that that that could be quite wide and could be imprecise. And, uh, to start off with, I'd like to explore whether it's necessary, given the comprehensive list of preliminary works, both in the definition itself and in light of article five, which references the appendix to the ES, which considers preliminary works.

00:20:14:00 - 00:20:15:08

Um and

00:20:17:02 - 00:20:51:11

the the the sort of the, the context of that is that I'd like to explore that the absence of a materially different effects in, uh, in environmental statement terms, you know, whether whether or not that's too wide a threshold to include and whether there's a risk that that could inadvertently permit works, which it may be undesirable to enable without further consideration or scrutiny, but may nevertheless still not hit that threshold of that significance for the for the. Yes. Um, and I'd refer the applicant to, to to evidence from Mr.

00:20:51:13 - 00:21:22:05

Kraft yesterday which was actually discussion, I think, around, uh, landscaping in response to a question that Mr. Turner had raised. And I think I'm right in saying that Mr. Kraft had sort of confirmed that, uh, that there can be effects which might not meet the threshold of, uh, significantly harmful in environmental statement terms, but nevertheless have a materially harmful impact that something that needs to be considered in the mitigation hierarchy. Um, so that was a sort of rather rather lengthy introduction there.

00:21:22:18 - 00:21:41:07

Um, so it's definitely a preliminary works. And the reference to, um, the, uh, the it's uh, you know, not having materially different effects to, to those assessed in the is the appropriate definition for those, uh, preliminary works.

00:21:43:23 - 00:21:46:15

Thank you sir. Um, so I think I would throw.

00:21:46:17 - 00:21:47:02

It with.

00:21:47:04 - 00:21:48:27

The folks, if you don't mind. Introduce yourself each time you speak.

00:21:48:29 - 00:22:21:14

Apologies. Um, so, Mr. Fox, on behalf of the applicant. So the context for the preliminary work that you've touched on, um, is that they are controlled by appendix two, one to the as updated um, and, um, the requirement in the DTA, um two point um, paragraph 2.4.8 of the ES makes clear that with the commitments set out in appendix 2.1, the disciplinary works would have negligible or relatively minor, uh, environmental effects.

00:22:21:23 - 00:22:40:14

And so, in the context of the drafting of that definition. Um, essentially that's that's the starting point. So we've said in the is that the preliminary works would have minor and negligible. So any material in new or materially different effects would be things that are, um, above and beyond that.

00:22:42:24 - 00:22:53:03

So in terms of, uh, works that would be considered preliminary works. What what is the, uh, the control mechanism in the, uh, in the draft order.

00:22:53:22 - 00:22:59:18

Um, requirement five. So the the need for any particular work to be carried out in accordance with the measures in that appendix.

00:23:00:10 - 00:23:12:00

So you're saying that the the requirement is that the controls are all contained in the, uh, the preliminary works, uh, annex, sorry, appendix of the of the. Yes.

00:23:13:16 - 00:23:17:05

Yes, sir. That's why we put requirement five into the, um DCA.

00:23:18:00 - 00:23:18:15

And.

00:23:18:27 - 00:23:47:14

Are there I mean, are there, um, In the way it's written. I mean, are there any works that sort of. Sorry. Does that does the way the read through from the, uh, development consent order, uh, to that uh, to that appendix, uh, does that is that inclusive so that anything that's not mentioned in that appendix is not considered a preliminary work and therefore would have to be considered under a different package?

00:23:48:05 - 00:24:21:06

Yeah. In that instance, it wouldn't be a permitted preliminary work because it wouldn't fall within the definition. So so I think it's it's seeing that definition alongside paragraph 2.48 of the. Yes. And the appendix together. So because that definition is referring to which are materially, materially different effects which are worse than those assessed in is, the is is assessed on the basis that appendix 2.1

applies. We'd have minor and negligible effects. So anything above and beyond such effects would be materially new given they're negligible.

00:24:29:04 - 00:24:38:04

But so I would say, and I do understand that we need to be clearer on that nexus so we can take away to look at that if that's necessary.

00:24:38:15 - 00:25:03:15

Yes. And again, I and I, I haven't for today's meeting done a complete read through between the, uh, the interpretation for permitted preliminary works and the and the annex. But is your understanding that you know that there's nothing in that interpretation that isn't in the annex, and there's nothing in the annex that isn't in that, uh, permitted preliminary works interpretation.

00:25:04:15 - 00:25:29:25

Of the applicant. So the, the annex itself, um, in tabular form, and it lists all of the specific matters that are listed in the rest of that definition. Um, the idea is that the kind of catch all at the end is related to kind of things associated with undertaking those works that are identified in appendix two one.

00:25:31:21 - 00:25:32:06

Yeah.

00:25:32:08 - 00:25:57:24

And I think it is it is that I mean, obviously the first part of the interpretation is quite specific in terms of particular particular things, you know, talking about display of sight notices, advertisements, etc.. It's the, the any other works that do not give rise to material or materially different effects. Um, so just to be clear, you're saying that any other works is defined by that, that appendix.

00:25:58:24 - 00:26:30:10

Well, it's not that. No, no it's not. I think what I'm trying to get at is it's seeing the phrase as a whole because it's referring to material, new material, different effects. And the s is saying that on the basis that, um, the controls in 2.1 will control how we carry out contemporary works, um, that we couldn't do anything that would lead to materially new effects. But as I say. So I think I think there is a lack of clarity, um, between how the three things work together.

00:26:30:12 - 00:26:32:06

So I think we can take away to look at that.

00:26:33:00 - 00:27:00:06

Yeah. Because because I think my concern is that that last, the last phrase and any other works could mean that there are some things which even through the read through of the, of the article and then the, uh, then the certified document, which is the, uh, which is the appendix, might mean that actually there are other things which aren't there and therefore, actually there isn't a there isn't a mechanism to either provide mitigation for those or to or to control them. So.

00:27:00:14 - 00:27:03:22

So that I totally understood and we'll make that clear in writing.

00:27:04:14 - 00:27:22:13

Thank you. That was my first question. I just want to see if there's anybody who, uh, has got anything they want to add to that. Um, I think, um, there's some you got the handouts that Mr. I'm going to get. No, sorry. There's two. There. I won't guess who it is. The initials RW.

00:27:24:12 - 00:27:55:29

Thank you. Yes, I'm. I'm Robert Williams. From the Environment agency. Um, I was just going to note that in version F, some wording has been added, uh, in track changes, the creation of new ditches and the enhancement of existing ditches, and also later including vegetation clearance. Um, and I suppose there is a concern as to whether that includes work that actually requires more scrutiny.

00:27:56:15 - 00:28:36:27

And there's a linked point here that in most Ecos that we've looked at or or considered, there is a mechanism whereby plans are submitted and then approved in writing by the local planning authority. Um, but it's unclear how that works with this. DCO. So those two two points sort of work together. Firstly, whether what's allowed under permitted preliminary works is, is slightly too, um, wide reaching in, in relation to the vegetation clearance but more, more so about the, the formation enhancement of ditches.

00:28:37:21 - 00:28:52:19

Um and also whether there is an overall mechanism for submission and approval, which it was, um, not clear to us in our reading of the DCO. So thank you very much.

00:28:54:03 - 00:29:24:25

Thank you. Mr. Mr. Williams. Can I ask the applicant to respond to that point? And I guess, yeah, the the provision there for the creation of new ditches and enhancement of existing ditches. Is there a difference between something that might be carried out before something else, and something that's genuinely a preliminary work in order to enable the development to go to go ahead again, because I think that creation of new ditches and enhanced and existing ditches could be quite a wide ranging thing. And then the second part of Mr.

00:29:24:27 - 00:29:31:13

Williams question is what is the mechanism for approval and who would approve those preliminary works?

00:29:32:15 - 00:30:20:01

Mr. Fox, on behalf of the applicant. So those measures were added following our engagement with the Natural England in relation to, um, our waterfall, um, mitigation and enhancement measures. Um, and you'll be aware of that. We've been discussing obtaining a letter of no impediment from them. Um, and we've updated the, um, outline, um, to deal with that. Um, I think that, um, as a result of those discussions with the Natural England, essentially, in order for the water augmentation to work, we are going to need to do that ditch work prior to, um, the, uh, kind of commencing substantive development.

00:30:21:04 - 00:30:52:20

Um, so that's why we, um, have added that into the preliminary works, um, definition. Um, I think that, um, having heard what the Environment Agency has to say, I think there's two things I would say. First of all, is that given the Environment Agency's role and the role of the ditches, ditches in relation to, um, flood management, um, we will look at the protective provisions drafting around, um, their planning approval, um, in protective provisions on that point.

00:30:53:09 - 00:31:32:03

Um, and secondly, I think that, um, as I just mentioned, the waterfall aspects are, um, part of the board's. So we will be amending requirement 12 to ensure that because the board does deal with the, the, um, stitches. Um. That to the extent that um commence excludes preliminary works that that won't count for those works. Um because obviously it's important we appreciate for Bexley and the other stakeholders to see how this ditch works and going to work from planning point of view as much as the natural England.

00:31:32:29 - 00:32:01:17

And and is there also a need to be more specific in, in the definition and also possibly, uh, the, the annexes to the you mentioned that actually that those particularly works are ones which uh, you discuss with uh, with Natural England in order to provide uh, sort of habitat, um, either habitat mitigation or habitat replacement. Does that need to be specified in there so that we can be clear as to what that range of, uh, of ditch work is?

00:32:03:01 - 00:32:21:13

So not Mr. Fox the applicant? I would suggest not, sir, in the context of the definition In the DTA. If we make the amendments that I just talked about in relation to ensuring that, um, there is the appropriate sign offs for that, for those for that ditch work. Um, then

00:32:23:02 - 00:32:26:18

at that point we will be putting people with the details of that ditch work.

00:32:28:18 - 00:32:35:02

Okay. Thank you. Mr. Williams, you heard what the applicant had to say. Have you got any further comments on that?

00:32:36:24 - 00:33:12:23

Um, I mean, that that sounded, um, uh, reassuring, and, uh, I, I wasn't aware that there had been those discussions with Natural England. Um, I wonder if there is a sort of duality here that as well as with the protective provisions, it's how the works are approved. Um, before that, because the protected provision process is, is almost a bolt on to give um, statutory bodies powers back that they would have had through their normal permitting, licensing, uh, and consenting regimes.

00:33:13:11 - 00:33:32:11

So, but, uh, I suppose on the positive side is about the creation and enhancement of ditches rather than the infilling, uh, of existing features. So I think it's something that we can take away and continue to discuss with the applicant. Thank you.

00:33:33:23 - 00:33:34:29

Thank you, Mr. Fox.

00:33:35:04 - 00:34:01:03

Mr. Fox. So just to just to be clear, as I said, the if we, um, ensure that these works are covered off as part of getting, um, the relevant bits and the signed off for that part of the works, um, that covers kind of the planning control and then as, um, as rightly said, the Environment Agency would get their plan approval from their regulatory point of view.

00:34:01:05 - 00:34:22:21

Okay. I mean, I think there are some questions I've got around requirements in terms of the procedure, procedures and what needs to be approved by by whom and when. So I might pick up some of these issues later on. Um, is there anything else anybody wants to say on that particular issue of preliminary works?

00:34:27:22 - 00:34:28:07

Uh.

00:34:28:19 - 00:35:01:08

In that case, if I can, uh, move on to, uh, articles nine and ten. Um, and this is particularly around the marine management organization, uh, concerns, uh, unconscious. They're not they're not here today. Um, but, uh, I think I think in article nine, the marine management organization concerned about enforcement, given the number of bodies that would have the benefit of article nine and concerned about uncertainty as to who has the benefit at any, at any one time.

00:35:01:15 - 00:35:15:01

So I'd just like to to firstly ask the applicant whether they've considered sorry. They've continued to have discussions with the Marine Management Organisation over there. That their objections and if so, where you've got to with your discussions on that.

00:35:15:13 - 00:35:45:23

Said Mr. Fox on behalf of the applicant. I would say that that their comments on both of these articles are similar to comments that they make in a number of these examinations, and where this type of drafting has then been made by the Secretary of State. So from from our point of view, there was nothing unusual about our transfer, the benefit of order drafting, allowing for more than one party to have the benefit of the order where it's relevant. And we've set out in our explanatory memorandum why we've taken the approach.

00:35:45:25 - 00:36:19:06

We have, for example, work number two being the connections into the existing Riverside one and Riverside two. It makes sense that, uh, whilst we we we sorry, the applicant might do that. It might also be the case that given its Derek, Rep. Riverside Energy Park Limited and Riverside Resource Recovery Limited um facilities. They they may want to do that given its amendments to their own um facilities. Um and um the in article nine three, which relates to um, some of the heat infrastructure.

00:36:19:13 - 00:36:53:24

Again, it makes sense that as we started to talk about a little bit yesterday, um, the heat network developer might want to, um, operate it if it's going to be operated by an independent entity. Um, there's nothing in the Planning Act which prohibits this. Um, section 161, which deals with um enforcement. Um, just says if a person commits offense, if for that reason excuse, they carry out the element that doesn't have the consent. Um, so I think in short, there's nothing particularly with article nine that's, um, any different.

00:36:54:01 - 00:37:09:02

Um, and you know, look at, for example, gate, Burton Energy Park, water, cotton, solar Park, West Burton, in all very recent orders all have very similar wording here. So, um, I think I can leave it there on article.

00:37:09:08 - 00:37:40:16

Okay. Yeah, but I understand what you're saying, that, uh, you know, there's been sort of other provisions in other, other orders, but we do need to be specific about the particular circumstances of, uh, this one. So, um, it may it may be that something that was appropriate for another order might not be appropriate for the, for this order. But, um, in terms of that, um, the, uh, if I understand their, their concern correctly, I think it was a clarity about, uh, enforcement at any one time.

00:37:40:18 - 00:38:00:26

And I think that's where there's obviously different parties, perhaps doing different things at different times. So you said you don't think the the article needs changing, but can I just test that by seeing whether actually there is something in the article about just making sure that there's sort of clarity of who's doing things at particular times in terms of enforcement.

00:38:03:13 - 00:38:03:28

Well.

00:38:09:09 - 00:38:41:05

So we can take that away because I hadn't contemplated that in advance of this hearing. Because this is this drafting appears in other, other details. And so the for example, the solar park orders that I mentioned, um, often have uh, drafting to allow for National grid electricity transmission to do the works, uh, where they're connecting into the substation, which is directly comparable to the scenario we have here, where we are talking about connections into existing facilities operated by other bodies.

00:38:42:02 - 00:38:56:05

Um, we can take it away, but I don't. I see your point that this is a different DCA, but the logic is exactly the same. So I don't I don't see why suddenly this DCA should be doing something different when when it's the same logic. Yeah.

00:38:56:07 - 00:39:17:18

Yeah. Just I'm not needed. I'm not saying that it needs to be. Everything needs to be bespoke. And if there is something that you know that has worked on other other CEOs, that's not a preclusion to use it. I think I just wanted to make sure that in terms of that specific concern raised by the marine management organization that the drafting was correct.



00:39:21:14 - 00:39:21:29

So.

00:39:24:11 - 00:39:42:02

I would just make the last point that, of course, there's nothing to stop the enforcing authority from enforcing against seeking to enforce against all or any of the parties and the party who has not been doing the work. So I'm sure would very quickly say that we're not doing these works.

00:39:42:12 - 00:39:59:27

So so if I understand correctly, it's saying actually there's perhaps more of an issue for if there is an action to be taken for the person or the body to take the action to investigate correctly who's who's actually done the Indeed, rather than it being a provision in the in the article.

00:39:59:29 - 00:40:00:14

Yes, sir.

00:40:00:27 - 00:40:01:12

Okay.

00:40:01:23 - 00:40:23:11

I understand you understand your point in that. I think, as you said though, it probably would be helpful to, to to just just double, double check that um, and uh, again the, the, the marine management organization's objections to uh, to article ten as well. You mentioned you said that was a similar,

00:40:24:29 - 00:40:25:29

a similar issue.

00:40:27:15 - 00:41:01:27

Uh, Mr. Fox, on behalf of the applicant, say yes. And I think this is very much something that and without getting too much into the detail of it, is is something where this issue around the grappling of how the marine licenses work and how the Marine Coastal Access Act and Planning Act regime works, where I think in the MMO sea that their system, so to speak, is something entirely separate and don't like the that I think have difficulty with the fact that applicants seek to kind of bring it within the process of, um, how to work.

00:41:02:16 - 00:41:35:12

Um, this drafting in relation to the transfer of provisions, um, is again something extremely similar, extremely well presented, and there is nothing different again, from for this scheme compared to any others. There are appropriate protections in the article in terms of the Secretary of State needed to consent and the Secretary of State or the undertaking needing to notify them when a transfer of benefit is happening. Um, the RMA references um section 72 of the 2009 eight nine 2009 act.

00:41:35:21 - 00:41:46:09

But that's not what we're in. We're in the Planning Act 2008 scenario. Transfer of benefit articles are extremely common, well presented, and we've not taken a different approach that's different here from any other DTA.

00:41:46:28 - 00:42:00:21

So so so you're saying that actually sub article three, uh, you know, effectively covers that because the Secretary of State has to advise the marine management organization. Of any any proposed change. Yes,

00:42:02:17 - 00:42:12:23

I understand that I'm unconscious. The marine management organization aren't aren't here. Um, is there anything anybody else would like to say on articles nine and ten?

00:42:15:11 - 00:42:46:08

Because I think that's answered my at my questions on, uh, on that. Thank you. Um, I'd like to move on to articles 16 and, uh, 16 and 17. Um, and, uh, this this was particularly, I think, an issue raised by, uh, by the council. Um, and I think the issue if I, if I remember right, let me just get article 16 or 17. It was to do with the, uh, rerouting and creation of footpaths.

00:42:46:25 - 00:43:14:14

Um, and I think the council, uh, was saying that on those particular articles. They would like to be involved. But I think the question is also about the council's sort of responsibilities and legal responsibilities to do with footpaths and etc.. So maybe I can just ask the council to start off with, just to say a bit more about what your concerns are. If you still have concerns about articles 16 and 17.

00:43:18:10 - 00:43:21:02

Sir, I believe those concerns have now been.

00:43:21:06 - 00:43:21:21

Sorry.

00:43:21:28 - 00:43:23:05

Can you just introduce yourself?

00:43:23:12 - 00:43:50:06

Paula Young Bexley. Um, I believe those concerns have now been, um, addressed by means of the amended leopard, which, um, enables the authority to be involved in the proposed rerouting and creation of footpaths. Um, and I believe in the representations that we last made, we acknowledged that, that those concerns have now been being addressed.

00:43:51:25 - 00:44:00:07

Okay. Well, thank you for that. And, um. I'll just double check with the applicant. That's that's your understanding as well. In which case I probably haven't got any further questions about articles.

00:44:00:11 - 00:44:01:25

So that's that's our understanding.

00:44:01:27 - 00:44:35:11

Okay. Thank you. Thank you. Um, next I'd like to move on to article uh, 51. And this is relating to, uh, Thames Waters. Uh, comments particularly relating to uh, to, to to bylaws. Um, if I've understood Thames Waters concerns correctly, uh, it was about, uh, Thames Water. I think we're seeking the DCO to enable them to, to make bylaws. So I suppose the question is, is, is that actually appropriate? But, uh, perhaps Mr..

00:44:35:27 - 00:44:40:24

Uh, Mr. Jones could, uh, sort of just elaborate on on your concerns about article 51.

00:44:41:12 - 00:44:43:24

So sorry. I think you mean article 53.

00:44:44:13 - 00:44:46:15

Uh, it's quite possible I've got the wrong one there with me.

00:45:03:27 - 00:45:12:24

Thank you, Mr. Fox. Yes, I did mean article 53, because article 51 relates to planning. Sorry for the confusion and thank you for.

00:45:13:12 - 00:45:38:08

It's Mr. Pennington on behalf of the applicant. Um, on behalf of. I'm sorry. Um, you sure don't want to be in your shoes right now. Um, yeah. We have agreed provisions, um, with the applicant, um, in terms of amendments to the DCO, which I think are going to be submitted at deadline for, um, so assuming those will be implemented, we no longer have any issues with article 53.

00:45:39:29 - 00:45:43:17

Okay. So, so the next deadline. I'll hear what you've got to say.

00:45:43:22 - 00:45:49:00

Oh, no. I think the applicant's going to submit amendments to the drafting of article 53, which will address our concerns.

00:45:49:02 - 00:45:50:15

Okay. And what are.

00:45:50:17 - 00:46:33:28

They? Mr. Foxman, the applicant. So we flagged this in the SSG with Thames Waters in as zero 81. But essentially we've agreed that, um, the article 53 has an element of duplication with, um, what's actually going to be in the ads. So the proposal, sir, is that we will in article 53 one, delete sub paragraphs A and B, um, because those measures will actually be done pursuant to, um, the um, and on the basis of that, so that the bylaws will then only cover maintenance of order and conduct of persons, which is what bylaws are supposed to cover.

00:46:34:15 - 00:46:54:01

Um, we will then amend, uh, the kind of the starting point, the starting wording of 53 one to say that essentially only Bexley may make byelaws following consultation with the applicant and Thames Water. So removing the ability for the undertaker to make bylaws

00:46:55:18 - 00:47:27:07

and as a result of that. We've also sort of agreed that on that basis they wouldn't then also make, um, wouldn't want to need to be added into the article. Um, there would then be consequential amendments in paragraphs four and five, um, to delete um, what was for B and to delete the undertaker from the start of paragraph five. So it will become wholly the thing that only the council can do.

00:47:28:12 - 00:47:34:20

Okay. Understood. And Mr. Pennington, from from that description. That's that's what you're anticipating is.

00:47:35:07 - 00:47:35:22

Correct.

00:47:35:24 - 00:48:10:01

Sir. Thank you. Okay. Well, thank you for the clarification. Um, in terms of the articles itself, I think Things I wanted to actually ask. Uh, orally. That's probably covered those. I think other things can be considered in writing, but, um, this is an opportunity if any other, uh, any other interested parties have got, uh, any particular points they want to make about, uh, articles. Um, uh, so effectively the first, uh, the first part of the development consent, uh, consent order,

00:48:11:21 - 00:48:12:12

Mr. Jones.

00:48:12:28 - 00:48:28:00

Thank you, sir. Emma Jones for Thames Water. It's just a flag up. Something about article 50, which relates to the discussion that we had yesterday. Uh, and Thames Water's contention that.

00:48:30:01 - 00:49:06:01

Outright ownership of, um, the mitigation and enhancement area, um, is unnecessary and disproportionate. And we say that, the works are mine could be covered by rights, and that we could then manage it the way to do that. Um, so it would be to amend article 50 C so now it reads, uh, effectively after the completion of work number seven, which is the mitigation and enhancement works.

00:49:07:00 - 00:49:12:18

Uh, clause four of the 1994 agreement shall be abrogated in its entirety. Um,

00:49:14:14 - 00:49:42:28

that could be amended so that, uh, the 1994 agreement is modified as follows and the as follows I haven't done the drafting, but it would effectively be to alter the management scheme to include, um,

management of those additional works carried out on our land. So it's not to it's not to argue what we said yesterday simply to flag up. That would be the way of doing it.

00:49:44:13 - 00:50:16:24

Yeah. And thank you, Mr. Jones, for pointing that out. And, uh. Yeah. Um, I understand the the sort of objection, but it's helpful that you've, uh, suggested how you think the DCO would, would, would, would address that. Again, I'll just ask the applicant again, as Mr. Jones pointed out, we probably don't need to rehearse. Um, Thames Water's sort of an objection to the to the principle of, uh, of the acquisition of the, uh, of the nature reserve. But do you have any particular comments about that?

00:50:16:26 - 00:50:56:03

Yes, sir. Mr. boxer, on behalf of the applicant. So, yes, I won't relitigate yesterday's discussion, but I would say so. We don't, um, believe that the, um, that such an amendment would actually be lawful because what that would be doing is imposing on Thames Water additional obligations additional to what was necessary for them to them to enter into the sexual politics agreement in the first place. And we say, sir, that that would, um, not meet the tests for planning obligations because what's being imposed are requirements that are a result of our development, not of the sewage treatment plant amendment.

00:50:56:05 - 00:51:21:24

And that 1994 agreement is a planning obligation relating to, uh, the plant, sorry, discharge, incinerator development, um, that, um, that an agreement is to do with that development, not with the development. So using the DCO to amend an existing 106 to impose new obligations that doesn't meet, we say, sir, the relevant tests being relevant to the planning of the sludge incinerator.

00:51:22:09 - 00:51:37:28

So so again, not not going into the, uh, the different parties views on that would in order to satisfy Thames Water, would it just be to remove clause C and allow the planning obligation to remain as it was. So that actually the That the.

00:51:40:04 - 00:52:12:07

Echo doesn't try and change that that obligation. And I know that's not what you want to do and not what your proposal is. But I think there's a question to both you and Mr. Jones is to would that be the approach so that, um, again, we're going into sort of, uh, you know, speculative territory and I don't perhaps want to go too far down there. But if the, uh, if the 1994 106 agreement was, was, was just left out as it was, that wouldn't necessarily prevent enhancement works to take place.

00:52:12:11 - 00:52:18:09

But it would it would mean that all the responsibilities would remain as they are with, uh, with Thames Water.

00:52:18:19 - 00:52:52:25

But so that the applicant. So that would leave the applicant in a position where we've had a requirement of the DCA requiring us to deliver the LaBarge, which includes more activities on Thames Water land. Um, and, you know, um, extensive management responsibilities, and no way to ensure this isn't a scenario where we don't have CCA panels, because that's the snow we're talking

about here. So no way to ensure that that actually happens, because all Thames Water have to do is comply with their 1994 agreement, which doesn't say what the board says it has to do.

00:52:54:25 - 00:53:15:28

But could could an alternative mechanism. I mean, obviously you put forward some alternative mechanisms to control different, different matters, which will come on to later. But um. Would they not be an alternative legal mechanism that sort of sits outside of the DCO? Um, that gives that could give certainty to, to working with Thames Water on those works.

00:53:18:20 - 00:53:26:02

Was that that's this is, that's trying to achieve the same. At the moment we don't have that legal agreement. So in the absence of a legal.

00:53:26:12 - 00:53:27:01

I know you don't.

00:53:27:12 - 00:53:50:11

But but in the absence of legal agreement, that's where you have the DCO that has the ability pursuant to section 120 To include provisions are necessary for the authorized development. So I don't. I don't see. So this is a this is a different argument to the key argument. This is about whether it's appropriate for the DCA to include drafting to deal with the very issue that we're concerned about.

00:53:52:04 - 00:53:59:05

Okay. Thank you. Miss miss miss Holloway wants to say something, but, Mr. Jones, I'd invite you to, uh, to respond.

00:53:59:23 - 00:54:16:17

Uh, yes. Thank you sir. Emma Jones for Thames water. Um, first point I make, sir, is, as you say, one alternative is simply to leave it as it is, um, on the basis that the enhancements are, in the context of this scheme, pretty trivial.

00:54:18:28 - 00:54:34:16

Uh, the second response is to take issue with what Mr. Fox says about the, um, the proposal that I flagged up for a modification of the 94 agreement. that that would be somehow unlawful.

00:54:37:08 - 00:55:05:06

It would be, first of all, it's to do with development because it's to do with this development. And secondly, it's rendered lawful by the, um, by the DCO. Um, there's a clear power under section 123 and four of the Planning Act 2008, uh, which refers to schedule five, paragraph three. So for your reference,

00:55:07:04 - 00:55:37:16

um, to, to abrogate or modify an agreement, um, but it is with respect that bizarre to submit that that would somehow be unlawful, uh, if it's contained in a statutory instrument and where the party being affected, namely Thames Water is saying that that is an option for, um, the Secretary of state, with or without our agreement.

00:55:37:18 - 00:56:18:09

Obviously, it would be better if we can agree it and tidier, but it can be because of this power. It can be modified without our agreement at the final and third point. Uh, sir, is that again, it's counterintuitive to suppose that it it's unlawful to impose what in the scheme of the management agreement would be modest additional burdens that that is somehow unlawful, but that it's lawful to take entire ownership without our agreement, for all the reasons that we explored yesterday, both in the context of our land and the land of others.

00:56:20:17 - 00:56:25:24

Describes Mister Holloway to make his comments. I will ask Mr. Fox if you want to respond.

00:56:25:26 - 00:56:26:11

To.

00:56:26:13 - 00:56:26:28

To those points.

00:56:27:09 - 00:56:30:06

Mr. Fox and the applicant. So just on the point about

00:56:31:27 - 00:56:44:00

the appropriateness, I should put it, of, uh, amending the 52 as suggested. So it's not just about unlawfulness. It's about the policy tests of the acceptability of planning obligations.

00:56:44:12 - 00:56:58:03

I think Mr. Jones point was that there is a mechanism within the within the act that means that it's not. It is something that you could technically do and legally do. So just putting aside the rights and wrongs of it.

00:56:58:19 - 00:57:00:09

Um, sir, I think.

00:57:00:11 - 00:57:02:00

I think is that what you're disputing.

00:57:02:02 - 00:57:23:11

That that because I think Mr. Jones was responding to your point that you you said you just couldn't you couldn't do it. You can't you can't change, uh, the planning agreement because it's nothing to do with the development, and it's nothing to do with your, your land. But I think if I understand Mr. Jones's point correctly, he's saying, actually, yes, he can, because there's a provision in the Planning Act.

00:57:23:24 - 00:57:42:09

So I think there's two different concepts here. So the section 120 gives us the ability to modify agreements and I don't dispute that. So. But what I'm getting at is the effect of modifying that agreement, is that it is now imposing additional obligations

00:57:43:27 - 00:58:05:16

that are not relevant to Thames water sludge incinerator development. So it's the the the effect of that means that the 1994 agreement is not not in itself. Um, meet the policy test because it would be varied to be including measures that are not relevant to make the sludge incinerator development acceptable in planning terms.

00:58:06:05 - 00:58:10:10

So just so I understand your point, you're saying that, uh.

00:58:10:12 - 00:58:11:15

The, the.

00:58:11:17 - 00:58:18:28

The the mechanism exists legally, but you're saying to, to do what was proposed, you don't think it would meet a legal test?

00:58:19:11 - 00:58:23:08

You mean the policy test for the 1994 agreement?

00:58:24:24 - 00:58:59:13

Um, and so just just as an overarching point to respond to what Mr. James was saying and your earlier question, this is all in the context of, yes, we could do a number of things by agreement, but we don't have that agreement and we're seeking to do that. But as with, um, much in the DCO, including CCA powers, it's to deal with the scenario where there is not agreement. We've, you know, obviously are doing what we can to reach an agreement. But as in the circumstances where there is not one, the DTA is accounting for that.

00:59:00:12 - 00:59:11:27

And as we've discussed in previous hearings, to the extent that agreement is reached, obviously we could look to um, very drafting the DTA were necessary. But at the moment we don't have that scenario, sir.

00:59:13:20 - 00:59:29:18

Mr. Jones so I know others want to speak. Mr. Jones, Ember Jones for Thames Water, just on that final point that Mr. Fox made. If it's lawful by agreement, then clearly it must be lawful. Um, by imposition.

00:59:34:04 - 01:00:04:27

It's not a coherent position to say we're trying to achieve, uh, a modification of the, of the section 106 by agreement. And if we can get that agreement, fine. We'll we'll amend the DCO and and promote it on that basis. But if we can't agree, it's somehow contrary to the policy test. That's not a sustainable



position. And we'll make further representations in writing for the next deadline on that. But I thought I should respond now.

01:00:05:28 - 01:00:29:25

Thank you, Mr. Jones. Yeah. Well, I think I, I think I understand that. I think, uh, as, as you mentioned, Mr. Jones, um, you know, if there are going to be sort of further written, uh, representations on that that could be addressed. I can see there's a there's there's obviously disagreement, which we're are probably not going to get any further with today. So. I'm not going to ask. Sorry. Mr.. Mr. Holloway, you've been patiently waiting.

01:00:30:09 - 01:00:31:13

Thank you sir. Good morning.

01:00:31:15 - 01:01:05:12

Uh, Jed Holloway, on behalf of Save Cross Nature Reserve. Um, firstly, I would like to just confirm that I agree with Mr. Jones view that a variation of the. 1994 agreement is possible and appropriate. Um, so you asked if another mechanism would be possible, and in our view, that other mechanism would be a new section 106 agreement that binds the full nature reserve land, um, to which Thames Water is a party that would have the advantage of setting up a new, single comprehensive management regime that the applicant has referred to, um, that aligns with their proposals.

01:01:05:19 - 01:01:31:09

It avoids any issues with any potential messiness, which we don't see. But with the 1994, um, agreement and that management regime, and importantly, it would avoid compulsory acquisition of the land. Um, we also believe that that would give the applicant the same level of control and enforcement powers as compulsory acquisition would. All of these issues can be resolved through that agreement.

01:01:31:28 - 01:01:47:22

So how do you envisage that that working? Because my understanding is if the applicant doesn't have any interest, I know they're proposing to that. Their proposal is to acquire an interest, but if they haven't got an interest in land, how could they enter into a planning planning obligation?

01:01:48:03 - 01:01:48:26

They they could.

01:01:48:28 - 01:02:19:08

Enter into the agreement, um, as just as a contractual party. And then what that would establish is a contractual relationship between Thames Water and Cross and, um, and the applicant, some sort of contractual relationship is going to be required between them even with compulsory acquisition, because ultimately it's going to be Thames Water, it's going to be the Sutton on the land doing the management, and there's going to have to be some sort of contractual agreement to ensure that happens with enforcement powers on behalf of the applicant.

01:02:20:08 - 01:02:43:09

Those exact same provisions could just be put into a section 106 agreement and achieve the same thing. It just compiles it into a single comprehensive agreement. The section 106 obligation, insofar as it binds Thames Water, runs with the land and works as a section 106 agreement. Any further contractual provisions in there just work as a enforceable contractual obligation between Thames Water and the applicant.

01:02:44:24 - 01:03:28:23

Well, yeah. And we may well come on to some of these later. But I will ask the applicant on this because um, again it would be helpful to get some, some, some clarity around, um, you know, in terms of the particular circumstances, uh, whether, you know, a planning, planning obligation under the Planning Act would, uh, would, would sort of be effective in those, uh, in those circumstances. Given that I think for different reasons, the applicant originally proposed the section 106 agreement with, with Thames Water to agree different things, but, um, because if I've understood correctly, a lack of, uh, a lack of the applicant's ownership, he's now proposing to use different provisions under the the local government and the Localism Act.

01:03:29:20 - 01:04:03:26

If I can add, sir, um, uh, Jed Holloway, on behalf of this nature reserve, I think we'll get to this point later when we discuss, uh, schedule two and the board's requirement. It's our view that even if compulsory acquisition was, uh, pursued, a section 106 would be required specifically to the, uh, non retained Thames Water land. Um, we don't think the regime is anywhere near detailed enough or enforceable, uh, to give proper effect to the regime. So any the situation, our view is that section 1 or 6 agreement is required.

01:04:04:03 - 01:04:29:02

And once you see that that's true, it becomes much less of a step to say, well, if we've got that 106 regime to ensure management of the of the land, ensure proper effect of the LaBarge, why does compulsory acquisition even need to happen in the first place? So it's not just our view that a deed of obligation is not is not enough for the members area. It's also that a section of six is required for the members area and the whole land in any event.

01:04:31:07 - 01:04:36:18

So just before I ask the applicant to respond, the council would like to say something.

01:04:37:06 - 01:05:21:18

Paul Young, London Borough, Bexley I just wanted to confirm that that is our preferred method of proceeding. We believe that a section 106 agreement, covering the full extent of the extended law would be required to ensure its future maintenance and, um, secure its ongoing maintenance and details. Um, and our main concern, as we probably get to later on, is the lack of, um, that the mechanisms for securing that and for its enforcement, should there be an issue would not be secured by the proposed way forward, and only a section 106 could could secure that.

01:05:22:18 - 01:05:27:16

And ask for the applicant to respond to that. And and to Holloway's point.

01:05:27:22 - 01:06:01:11

Say Mr. Fox, on behalf of the applicant. So just on that last point, I would say that we don't agree that, um, you can't, you know, you can enforce that. You can't enforce an agreement if it's not a 106. There are different enforcement mechanisms, but you you certainly can enforce it but not notwithstanding that. So I think in, in principle carefully we don't, um, disagree with what said process. And, and I have said but, um, I think what we're talking, talking about here is a number of different scenarios that could play out.

01:06:01:20 - 01:06:32:28

And the underlying, um, matter that is not resolved is ensuring that there is a voluntary agreement between ourselves and Thames Water, um, to deal with the property arrangements, but also dealing with the issues we've said before. Around stepping rights and where, um, uh, our compliance with the requirement 12 is at risk. But so what we have, uh, what we are doing in the background, um, we haven't done it yet because it's quite complicated.

01:06:33:03 - 01:07:12:28

Drafting is we are going to be looking to develop the deed of obligation that we submitted. Deed of obligation be, um, to turn it into a section 106 agreement, but with because, um, well, at the moment, we're the best one in the world. It's not certain that we will reach a voluntary agreement before the end of examination, and you will need to report on a section one six that's in front of you. Um, we'll essentially do have drafting that deals with the different scenarios of if, um, a voluntary agreement has been reached or not with Thames Water, and then the obligations that then apply in that situation.

01:07:13:04 - 01:07:47:22

So by way of example, sir, if a voluntary agreement land agreement was able to be dealt with with Thames Water, then the obligations will look quite different as you can imagine. So just by way of example, the endowment, some provisions that we have, who that would go to in that scenario, we've also got to account for the fact that the expanded process, Eleanor, isn't just Thames Water land, it's also inland. So they would also need to be the Norman road builders to fund that limited. So they would also need to be a party. So the drafting will need to deal with, um, the different scenarios.

01:07:48:09 - 01:08:22:05

Um, but of course there is a scenario where voluntary property agreement is not able to be reached with Thames Water. So therefore the applicant needs to take on ownership. So obviously I appreciate that an evolution of what we've said before, and you will need to look carefully at that drafting which we are working on. But so I think I think the fundamental position is that The applicant is happy to enter into as many agreements as possible to ensure that its concerns of delivery and not being enforced against are dealt with.

01:08:22:24 - 01:08:34:23

Um, but in the absence of those agreements, the DCO and the powers that we've sorted through compulsory acquisition are necessary to ensure that those risks are, um, dealt with.

01:08:36:04 - 01:09:11:02

Thank you. And as you mentioned, that is, uh, that is a change. And we're going to come on to, um, I think towards the end of the, the agenda, uh, the, the currently sort of worded deed so that that would be helpful to understand because obviously there are some concerns about the effectiveness of the

way certainly the deeds are drafted at the at the moment. Um, from what you said, it sounds like there's there's further information that it's probably not going to be helpful to sort of explore until I've actually seen what what was I think also.

01:09:11:04 - 01:09:45:22

Obviously. Um, Thames Water Safe Cross Nature reserve and the council would probably be very keen to, to see see what those and I would encourage you to, uh, you know, irrespective of the common ground, continue those discussions with the parties so that they can understand what you're going to do. I realise in terms of your proposals for compulsory acquisition, the parties probably might not necessarily agree with, you know, where you're going on that. But I'd still encourage the parties to to look particularly around the mechanisms and making sure that the mechanisms that are going to, to link in to the, to the, um, control.

01:09:45:24 - 01:09:57:10

So I've got DC on my development consent order, uh, you know, are the other right mechanisms and will have the effect that is that is intended.

01:09:57:26 - 01:10:28:18

So absolutely. So I mean, I think I know it's not in the examination timetable, but our aim is to submit the updated versions at deadline for um, I think and obviously we would look to that's the formal submission, but we will be looking to have the discussions. So just to reemphasize this, so that this, this drafting that I'm talking about is to try and the obligation is currently drafted. Just deals with one scenario which is assumes compulsory acquisition powers are necessary and has drafted accordingly.

01:10:28:24 - 01:10:44:24

What this is what I'm talking about is doing drafting that are caters for the voluntary agreement being able to be reached in the background. So it's not it's not a it's not a change. I wouldn't say it's a change in our position. It's just ensuring that the 106, when everyone is drafting council.

01:10:44:26 - 01:10:45:11

That.

01:10:45:13 - 01:11:08:21

You're not you're not going to keep those parties happy in terms of the principle of it. But I think I particularly interested in the legal mechanism to make sure that it's the correct mechanism to do what it needs to do. But it's helpful that you're going to provide some further, further information. As I mentioned, I think, you know, in between that if discussions can continue with the parties, that would be helpful.

01:11:11:07 - 01:11:16:28

Thank you. Is there anything else on articles that anybody wants to to raise?

01:11:19:01 - 01:11:40:06

I can't see anything there. As I mentioned, that doesn't mean to say that I might not have some some written questions, but at the appropriate stage. But in terms of things I wanted to raise at this, this

meeting, I think that's covered things in articles. Um, I want to now turn this link back to one of the points I meant earlier to to schedule. Schedule one. Um.

01:11:44:14 - 01:11:46:03

Just to make sure I got in front of me. So

01:11:48:02 - 01:12:20:00

the schedule one is a is effectively the, the authorized development. So if the development consent order were to be granted, it effectively sets out what what gets permission. And um, I think the what's the issue I'd like to explore is that There still doesn't seem to be a complete read through as to how such works will be controlled by way of requirements, given how wide the scope of ancillary and related development is. So it's a similar point I was making about preliminary works, but obviously it's a different, uh, a different package.

01:12:20:09 - 01:12:53:07

I'm also conscious that I think, um, this this this is a minor, a minor point, but I think there was some misunderstanding, certainly on my part, uh, in terms of the, um, uh, the just the way it's been drafted in that, uh, the, um, uh, the, the ancillary and related development looked like it was part of work number nine, but, um, I've been corrected. It's not. So just just on a basic thing, I think a heading or something in there. I know that's a minor drafting thing, but that'll probably be helpful.

01:12:53:19 - 01:13:25:20

But going back to the actual, uh, thing I wanted to explore, um, was, uh, at the moment, I don't think there's a requirement that requires those details of the ancillary related work to be to be approved. Um, and again, I think at this point there could be a range of effects that may fall short of new or materially different effects in environmental statement terms, which could nevertheless require some form of control, uh, or approval to make sure that undesirable effects are avoided.

01:13:26:04 - 01:13:44:16

Um, and I think so. I think that's the first one. Is that this at the moment, there doesn't seem to be a mechanism for those for a lot of those things to be approved by by someone. Some things there may be less of an issue, but because it's such a wide ranging, uh, selection of ancillary related works, I think some

01:13:46:09 - 01:14:11:21

may need that. Um, I think there's also a question as to whether all of those things are actually are they appropriate as ancillary related works, or should some of them actually be in another, another work package? Um, because, uh, you know, particularly around sort of temporary, temporary works. I think there's mention of, um, sort of funds and swales, pipelines and things, which, um.

01:14:13:29 - 01:14:30:13

It's unclear why they're not actually part of the, the more substantive work package. Um, and whether actually, you know, as perhaps other other CEOs have done the ancillary related development to affect you just be a work package in its own, which would give you the, the, the shorthand to link to a requirement.

01:14:33:22 - 01:15:08:16

For the applicant. So, so I think in simple terms, the, the ancillary works are um, part of the, the wider works. So the, the, the general approach to draft DCO drafting with the ancillary works is to, uh, not need to essentially list the vast majority of those ancillary works under each and each and every work number. So these things that are the examples that you gave would be a part of.

01:15:10:21 - 01:15:43:09

An work. Number of work works 1 to 9. So that's the reason that they're not their own package of work. So because essentially that if you if you were to create a work number that would be washed across the whole board limits, the whole point of this drafting is to say, we've got permission for these specific works and these ancillary works that are part of those specific works. So therefore, in terms of the requirements, and I don't have the reference to hand, but in one of the written questions you asked. So for example, requirement for why we'd only give them work number one and number five.

01:15:43:28 - 01:16:16:01

Um, and we answered that. So but the, the, um, to the extent that those temporary works or other ancillary works, um, form part of work, number one, then they would be approved pursuant to requirement for the, um, the temporary works construction activities. All of them are um, because the new works form part of the necessary sorry part of the authorized development are part of requirements. Um, seven with the CSP. Um, they're part of the authorized development.

01:16:16:03 - 01:16:27:01

So things like the CMP, uh, construction hours, etcetera, etcetera, all apply. Um, to the extent that, for example, the, um.

01:16:29:04 - 01:16:50:29

Uh, example things around landscaping, biodiversity mitigation, for example, that they part of the, um, the baths and or the drainage strategy as, as necessary. So, so I think the fundamental principle is they are part of each and every work. And so the sign off of those relevant work numbers wouldn't consider those works.

01:16:53:15 - 01:17:27:02

The way it's staffed at the moment is Is that clear? And actually, are there things in that, in that schedule that could sort of effectively, if they weren't part of one work package, effectively slip through the cracks? I mean, again, just for example, um, you know, retaining walls and firewalls. Are you saying that every single retaining wall and wall would be part of work, package number one, and therefore there is a mechanism to require details to be approved? I think in that case probably by the council or it might be the, the, the Environment Agency.

01:17:29:29 - 01:18:02:23

Because what happens if, if some of these things like again um, gate gate houses and control rooms, are they all in. Are they all in one package. One. And also if they are in work package one. What? Why are they. They're not in work package and work package. I know what you're saying about there might be things that are generic across the piece. Perhaps more like, uh, hardstanding landscaping, uh, Air traffic management facilities, fences, gates and things. Um, I think it's just just understanding.

01:18:03:17 - 01:18:37:18

Does does this all all need to be in there? And is there a mechanism to make sure that things can, that there is a control mechanism? Um, you know, you know, even something that, you know, fencing, which I, I agree, you know, in comparison to the scale of the development, it might be quite minor, but I think, again, going back to what Mr.. Uh, Mr. Kraft was saying yesterday in a in a slightly different hints about landscaping. Um, some of the, some of these things, uh, you know, can can make the difference between something that's, you know, particularly in visual terms or particularly in sort of management terms or accessibility terms.

01:18:37:21 - 01:18:50:17

There could be a huge range that doesn't get reached into, uh, environmental statement, uh, material different effects, but would still need control. So yeah, hopefully you understand what I'm getting to.

01:18:50:23 - 01:18:52:23

I do, sir, but I think.

01:18:54:29 - 01:19:32:12

I don't want to freak myself, but said, but they will be. The details of those works will be signed off pursuant to the different requirements. So to the extent that these are, uh, part of work number one or work number five, they would be signed off by the detailed design requirement, which within it has, you know, the fact that we need to, um, construct, uh, the authorized development in, in accordance with the design parameters and the design code and the parameters in the schedule at the back of the um DTA. And to the extent that they are not, not not that, then obviously we wouldn't get approval for, for those works.

01:19:33:17 - 01:19:57:04

Um, so I think, I think my concern is that the, the drafting which introduce is the less it's extremely present into drafting and has been taken to, to to mean that in, in other years and, and and I don't, I don't want to repeat myself from earlier sir. But there's nothing different about our our approach to introducing the ancillary works compared to to others. Yeah.

01:19:57:15 - 01:20:16:11

I'm not suggesting a particular solution. I'm just highlighting my concern that that there are that from my reading of it. And perhaps, you know, I think I'm perhaps then asking for some more reassurance that there aren't things in that sort of ancillary related development that wouldn't, wouldn't be approved in some shape or form. Because.

01:20:19:10 - 01:20:46:16

Please, please correct me if I've sort of misunderstood it. But, you know, they do seem to be things which, you know, if they're not, that would come forward, which aren't in the packages where the requirement requires that submission of details and improvement. So I think that's where I'm getting from. I'm not necessarily saying that it needs to be written in in a particular way. I'm asking you if you to to look at that and sort of identify, either give me the reassurance that that I'm after or identify how that can be be controlled.

01:20:46:29 - 01:21:02:18

So what we um we will go through the list, sir, and consider if there are things that realistically should be limited to specific work numbers, particularly if they're repetition and thinking of the the gatehouse and control room, for example.

01:21:02:29 - 01:21:05:02

Um, I guess that's the one that stands out.

01:21:05:15 - 01:21:30:26

Yes or no. And I appreciate that. Um, I, I mean, I said we'll review that seems to me, realistically to be the only one where I think, um, uh, it's likely that we can change the approach because even retaining walls and power walls. So, um, and not just relevancy, one word number, but we'll review and consider.

01:21:30:28 - 01:21:31:13

Well.

01:21:32:03 - 01:21:45:18

I think that's the thing is, you mentioned because some of them are they go across work packages. It's just making sure that therefore across the work packages they would be covered with, is there a mechanism in their requirements to make sure that those details can be observed.

01:21:45:20 - 01:21:46:05

Or.

01:21:46:07 - 01:21:47:20

Would they be missed. Yeah.

01:21:47:23 - 01:22:01:20

So we'll do a review of this. We'll take out anything that is specific to a work package. Everything else that remains. We'll give some examples and we'll then confirm that requirement for deals with it in the detailed design. And that will solve your concerns okay.

01:22:02:02 - 01:22:05:12

That'll be helpful because that's effective in my question. Thank you.

01:22:06:29 - 01:22:13:11

Are there any other points on the schedule. Schedule one which is the list of effectively the list of works? Mr..

01:22:15:27 - 01:22:40:14

Richards on behalf of uh, Lansdale and Munster Joinery. So, um, so we we have two points on schedule. One, um, which just in broad terms are about heat transfer. And then secondly, about any amendments to schedule one that would be required if the land sale amounts to joinery land was to be excluded from the compulsory acquisition. Um, so.

01:22:41:04 - 01:22:45:00



On the second point, well explain what you want to say. Yeah. Okay.

01:22:46:09 - 01:22:49:17

Um. Um. Would you like to see that one first? Is that.

01:22:49:19 - 01:22:51:25

No, no. Sorry I was interrupting you. Please say.

01:22:53:07 - 01:23:37:07

So. So on heat transfer. Um, I think we obviously, we've had clarification during the examination process that the heat transfer station, which is proposed, is limited only to the heat from the carbon capture facility. Um, and we have that clarification. There was a debate about it, I think, at CRH. Uh, no. On issue one and then clarification in writing afterwards. Now, as drafted, in my view, the DCO would allow the heat transfer station to serve for the recovery and transfer of heat from Riverside one and Riverside two, and indeed replace the existing obligations for heat transfer on those developments.

01:23:37:24 - 01:24:11:28

Um, and that's not the applicant's intention, at least no longer the applicant's intention. So that issue first arises in work to a, um, and you'll see there's a modification to an interconnection with existing generating station generation stations, including and it's, uh, work number two, a process steam and condensate connections and heat offtake infrastructure, including heat recovery equipment, etc.. Now we know that there needs to be a steam offtake from the existing generating stations.

01:24:12:20 - 01:24:44:06

Um, but, um, the description, heat offtake infrastructure and heat recovery equipment suggests that the intention is to take heat into the proposed development, um, for the purposes of onward transfer, and that's no longer the applicant's intention. And just to make that sense of that with the other provisions, and I know you'll come on to requirements, but just so you can understand the point.

01:24:45:13 - 01:25:22:27

Requirement 25 at the moment is concerned with heat strategy. And you'll see in that that the heat strategy that that was proposed here was supposed to deal also with heat produced, uh, as a result of the authorized development. And then Riverside one and Riverside two captured and exported offsite. That's 25, two and then 25 three provisions that effectively override the existing planning obligations for Riverside one and Riverside two in respect of their heat transfer obligations.

01:25:23:19 - 01:25:51:21

Um, a combination of 25 three and 25 four, uh, would effectively allow those provisions to be incorporated and then, uh, supplanted by the new heat strategy. Um, and then the final point is an article that you've already touched on, and it is a small minor, a minor sort of consequential point, but you've touched on article nine already. Article nine two,

01:25:53:06 - 01:26:40:04

um, you'll see, refers to the benefit of the order and in respect of work number two, a 1 to 2, which is the, um, heat transfer, the provisions of the order have effect for the benefit of both the Undertaker

and a heat network company. So that would effectively allow the heat network company to make a heat connection to Riverside one and Riverside two. Uh, under the terms of this order. So, um, the effect, as I say, the effect is drafted is would be to allow the heat transfer station that is proposed in this development to, um, uh, facilitate the transfer of heat from Riverside one and Riverside two.

01:26:40:21 - 01:27:12:18

That is not the applicant's intention and obviously that's relevant to the compulsory acquisition case. Um, Riverside one and Riverside two have existing heat transfer obligations which are being in the process of being discharged. Um, and therefore, um, our submission is that changes need to be made first to schedule one work to a to delete the reference to, um, uh, heat offtake so that it's limited to the, the steam which is required for the, uh, process.

01:27:13:22 - 01:27:36:11

And um, uh, uh, that's so that's heat offtake infrastructure into a heat recovery equipment. Again, remove that because that's not it's already provided for in the heat transfer station, uh, for the works themselves. And then consequential amendments to requirement 25 and article nine.

01:27:38:05 - 01:28:06:08

Before I ask you on on the article nine point about the transfer of benefit to, uh, heat Operating company. Um, I understand you. I understand your point, but what? Why wouldn't, um, the heat operating company not also operate something on the Riverside one and Riverside two, which is different from actually, I think your your point is about actually the heat isn't dealt with on Riverside one and Riverside two. It would all be brought onto this site.

01:28:07:19 - 01:28:38:06

So that's, you know, that's not the applicant's intention. I know. Yeah. Um, so what they intend is that heat obligations in respect to Riverside one and Riverside two will be dealt with on Riverside one and Riverside two, and the heat transfer station that's proposed is limited to heat generated from the carbon capture process. But so I can see the I can at the moment if this development order was granted, um, the heat transfer company could use that.

01:28:38:25 - 01:29:09:00

This order. The carbon capture order to install a heat transfer station at Riverside one. And to install pipes from that heat transfer station to the rest of its network, because it would have the benefit of development consent for modification of existing generation station for heat offtake infrastructure, including heat recovery equipment and pipes.

01:29:09:19 - 01:29:37:24

So at the moment it would be able to use this order to do that. Um, and that's obviously not what the applicant intends. So as I said, it's consequential, but I don't have a problem in principle with the heat transfer company having the benefit of the order for the heat transfer station. That makes perfect sense. But what doesn't make sense is that it has this sort of free standing benefit for a power that is not reasonably related to this development.

01:29:39:09 - 01:29:59:09

Well, I think the best thing to do is I will ask the applicant to respond to those points. I mean, also, you know, in terms of, um, you know, the intentions, you know, are the provisions sort of too wide that is necessary in terms of your intent for how the heat transfer station would operate.

01:30:01:01 - 01:30:22:13

So Mr. Fox and the applicant so I, I think I'll bring Mr. Alderson in, but I think there's a slight mis characterization of our position here, sir. And I would directly take you to, uh, paragraph 1.6.2 of Rec 126, which is appendix A to our written oral submissions at, uh, one.

01:30:22:26 - 01:30:25:02

So can you say hang on. Sorry.

01:30:25:19 - 01:30:29:20

Rep. 120 610 26.

01:30:30:15 - 01:30:32:24

Just bear with me on that. So it's.

01:30:37:19 - 01:30:38:04

So.

01:30:38:06 - 01:30:39:23

126.

01:30:39:25 - 01:30:40:28

Zero 26.

01:30:55:03 - 01:30:59:09

Apologies, Mr. Fox. I'm still trying to load that document. What was the paragraph number.

01:30:59:11 - 01:31:00:25

At 1.6, one and two.

01:31:10:06 - 01:31:13:21

I've also got a very slow connection. I'm afraid so. Wearing away.

01:31:33:13 - 01:31:34:06

All right. Sorry.

01:31:43:18 - 01:31:46:25

Sorry on that. So 1.1.6. Did you say.

01:31:47:07 - 01:31:48:27

1.6.2?

01:31:48:29 - 01:31:50:13

1.612. Apologies.

01:32:03:14 - 01:32:03:29

I think.

01:32:04:06 - 01:32:12:28

So. I can't find your reference. I think given the number of documents in that, which page of a PDF would it be?

01:32:13:08 - 01:32:14:04

Page six sir.

01:32:14:13 - 01:32:15:03

Page six

01:32:16:19 - 01:32:17:14

on screen as well.

01:32:20:01 - 01:32:40:07

I think it's a it's a simpler point, which is I see the point about synergies and we read that. But the heat transfer station that is proposed is it to transfer heat from R1 and R2, or is it just from the CSS? And the answer that we were given was it was just from the CSS.

01:32:41:29 - 01:33:31:15

From the applicant. So yes, the heat transfer station currently is sized on the basis of heat capture from the carbon capture facility. But the reason I brought up that paragraph says because work needs to be seen in the context of what we're trying to do here, which is bring forward a consolidated approach to the heat infrastructure at the Riverside campus to facilitate, uh, an overarching heat network which has policy support. What we've been pushed to do by LBB um, and um, GLA um, and this is all and that's why the, the, the um included in work number two to allow for those synergies to build the rest of that note, which is not not on the screen, talks about what's, um, currently consented For Riverside one and Riverside two.

01:33:31:22 - 01:33:40:04

But what we're talking about here is that on the campus, there will likely be essentially this infrastructure that's mentioned in two way to

01:33:41:21 - 01:33:46:24

connect between the different bits of infrastructure. And I think that Mr. Alderson just expand on that.

01:33:47:16 - 01:33:51:12

Well, if I can just just interject for a second there. So I think

01:33:53:01 - 01:34:29:19

I think it's that thing about synergies does with synergies allow us, Mr. Turner is concerned synergies to effectively mean that the whole all the heat transfer that's necessarily happens on this side uh not the other one. And therefore it goes back to his argument about the space required for it. Um, or or is it clear and will the provisions of the DCO make it clear that, you know, those synergies are between effectively the the two or the three components of of what might be a larger but separate, uh, heat transfer stations as part of the network.

01:34:30:16 - 01:35:00:24

I will bring Mr. Alderson in, but this comes back as part of the discussion we were having yesterday, which is that at the moment it's size on the basis of the heat for the carbon capture facility. But in bringing forward the heat strategy, um, there's the flexibility that, um, it may need to be, for example, a bigger facility to deal with the, um, synergies of the of the heat being captured from someone facility. But, sir, I'm straying into technical engineering here. And before Mr. Hurley comes in, I think it's be better if Mr.

01:35:00:26 - 01:35:02:22

Alderson was to give more details on that.

01:35:02:28 - 01:35:03:25

It's just.

01:35:04:21 - 01:35:10:28

I think that's Mr. Alderson. See his piece, and then you can come back on that. Thank you sir.

01:35:11:00 - 01:35:44:04

Tony Alderson, on behalf of the applicant. So, as Mr. Fox indicates, the the heat transfer station is currently sized based on the recovery of a nominal 100MW of high grade heat from the carbon capture facility. And that's the footprint of the facility, The heat transfer station is based on that. Further work has indicated that there may be potential to recover further heat from the carbon capture facility. Up to a figure of around 300MW. As we indicated yesterday, some of which would be lower grade heat requiring the use of heat pumps to upgrade to the temperature level required by the district heating scheme.

01:35:44:07 - 01:36:17:27

So that potentially would require a larger heat transfer station for the recovery of that greater quantity of heat from the carbon capture facility. But another potential is that rather than having three discrete heat transfer stations, one for R1, one for R2, and one for the carbon capture facility, there may be the potential to consolidate into a single heat transfer station, providing all of that functionality. However, that is not the basis on which the the indicative layout has been presented. As I said earlier, that's purely based on the basis of 100MW of high grade heat recovery from the carbon capture facility.

01:36:18:01 - 01:36:30:06

But it would be remiss in terms of sort of good engineering design practice not to consider whether it will be potentially viable to integrate three facilities into one, rather than having three discrete heat transfer stations around the campus.

01:36:32:11 - 01:37:09:17

Said Richard, attorney for Chancellor Munster. So the the difficulty here is obviously, as we explained yesterday, um, and, you know, you're, uh, you've heard the evidence on this and you'll consider our further submissions in due course on it. But there is an existing heat demand identified, an existing heat source identified and existing planning requirements to meet that heat demand through the heat source. And that involves an obligation which is materializing or about to materialize? I don't quite know.

01:37:09:19 - 01:37:42:01

We haven't quite got a full account for Cary to develop heat transfer stations for at least Riverside one and probably Riverside two as well. So that's the current planning position. Now our Case is that that those provisions having been complied with. The case for building another heat transfer station is not met because of an absence of demand, absence of proven, immediate demand for that heat. That means that within a reasonable timescale, the development will come forward.

01:37:43:18 - 01:37:51:27

Now, I think we just need absolute clarity from the applicant that that they that the need for the heat transfer station

01:37:53:15 - 01:38:25:14

on, um, the carbon capture side is only being advanced on the basis of the need to supply additional heat that could be recovered from the carbon capture, and not on the basis of the heat that could be recovered from Riverside one. Riverside two. So that's the need case. Now I see the point that the applicant might want in the future, if it could show that it had a need for carbon capture. Sorry for heat recovery from the carbon capture.

01:38:26:20 - 01:38:53:18

Why in the future, it might say. Well, actually, could we consolidate these three heat transfer stations? I see that point, but it's just making absolutely clear that that's not the case that you're dealing with. Um, when you're considering these provisions because, as I say, as they read at the moment, they would supplant or could supplant the existing obligations which are yet to be met, but will be met for heat transfer from R1 and R2.

01:38:54:26 - 01:38:55:11

Yeah.

01:38:56:10 - 01:39:15:26

Does this not the way that the, um, uh, I mean, those particular, uh, sort of, sort of items in the work package is does that not allow the flexibility that the applicant's referring to without necessarily going to the position that you've sort of outlined, which is your, your concern about, um, what,

01:39:17:11 - 01:39:34:27

what, what what heat is is required, or what there's a demand for and where that plant's going. Just not the way the DCO written. Sort of give the applicant the flexibility for those future things, which would not be short sighted. Not to put that into the detail at this stage.

01:39:35:23 - 01:40:08:19

Uh, Richard, attorney for Llandysul and Munster. I my client's position is agnostic about how the DCO is operated so long as their land is not taken. Um, but on this point, I think as long as the applicant confirm that the need case for the heat transfer station within the carbon capture facility is predicated on need above and beyond the heat transfer that could be secured, uh, that is secured under Riverside one and Riverside Two consents.

01:40:08:21 - 01:40:14:12

If they can clarify that, then I don't have any gripe with any provision. And they can, uh.

01:40:15:23 - 01:40:50:11

Mr. Fox, Mr. Fox, without the applicant, as we said yesterday, and we'll put in writing a deadline before we absolutely make the case that there is a need for the, uh, what Mr. Attorney said, essentially for the for the heat transfer station to deal with the carbon capture heat above and beyond that for everyone. So that is okay. So, um, and on the basis of that need, um, the the duty is set up to allow then for, um, synergies and as you said, for the flexibility for how that then is built alongside what's being captured from Riverside University.

01:40:51:17 - 01:41:06:22

Well, I think I can understand Mr. Attorneys why why he's asking those, those questions in light of their, their case. Um, you've mentioned you're going to provide some further, uh, further confirmation of that. Is there anything else you want to add, Mr. Attorney?

01:41:07:08 - 01:41:54:02

Not on that, sir. So I can move on to the the second point if you'd like me to. So, um, we have, uh, reviewed the, uh, works packages, including the works plans to consider what, if any, changes would have to be made in the event that the elements to join the site was excluded from compulsory acquisition. Um, and if I just set out what what, uh, I think the position is in terms of any potential changes, it is that the work's the description of the work's subject, um, to any findings you make about, um, not just the work's not being justified in CCA terms, but also that they shouldn't be granted consent.

01:41:54:04 - 01:41:58:00

And as I said yesterday, you could still consent particularly.

01:41:58:02 - 01:42:15:08

So is this not getting a bit hypothetical because, um, I've got to make a recommendation on the application before me. I fully understand your your argument about compulsory acquisition, but is it much mileage to to do about tweaking what's in the deal?

01:42:15:10 - 01:42:37:28

Absolutely, sir. Because? Because our position is you don't need to recommend refusal. If you're with us on compulsory acquisition, you can just recommend changes to exclude. And I think we made that point throughout. We if, if, if um, our position is that development consent can be granted with the exclusion of the land elements to join us.

01:42:38:02 - 01:42:38:29

I understand that was the point.

01:42:39:06 - 01:43:02:08

So but that will require amendments in the same way that I work with Mr. Fox, Mr. Griffiths on Sonica. And that's an example of the examining authority recommending that changes were made to the DCO. That that should be if the DTA was going to be made, that it should be with particular changes to exclude particular areas. And it's exactly the same proposition. You would exclude parts of the areas. So the question really is what would need to change.

01:43:02:24 - 01:43:14:19

But just just on that I mean in terms of the, the the application has been tested into, there are spatial implications for the ES in terms of the assessments made. So

01:43:16:05 - 01:43:40:06

would I actually just hypothetically, would I be in a position to, um, also accept that in theory, I could, I could maybe. And I think your point was that there's the potential to find that there isn't a case for compulsory acquisition, but there is a case for, in planning terms for the development. Um, but effectively, I think what you're saying is I'd be finding a different, different scheme. I'm not sure I don't.

01:43:40:08 - 01:44:16:18

And this is this is the point. I don't think it's a different scheme because of course, you've got various provisions that show, for example, an illustrative layout, but they're not they are just illustrative. Yeah. And um, so the question is whether there would in fact be any change to the works. And in my submission, there would be no change to the description of the works. So the issues and this is why I want to isolate the issue. And then obviously the applicant can say if there would be more changes. But as I understand it, for work to see the electrical connections That those works in the area identified on the works plans.

01:44:17:14 - 01:44:53:05

Um, which is, um. Uh, I think, uh, I don't sorry, I don't have the reference to hand for the work plans, but the electrical connections area, uh, work to see that that would encompass the area where the works would be carried out for an 11 kV solution, as well as the area that works would be carried out for A132 kV solution. In terms of the power that's being taken out of um, uh, R1 and R2, but that's how we understand it.

01:44:53:07 - 01:45:05:11

Looking at the works plans and looking at what we understand to be both the existing arrangements at R1 and the proposed arrangements at R2, then work number three. Um,

01:45:07:02 - 01:45:37:25

the question on work number three is whether the that work which effectively uh includes a um substantial utilities corridor down Norman road would be sufficient to provide connections, uh, to any infrastructure that was located to the south of the landfill and Munster joinery site. Um, it would appear that it would be sufficient, but again, if it wasn't, then, um, there may need to be a change.



01:45:38:11 - 01:45:45:08

So again, I mean, from your, your scenario, would it not just be a case of changing the work plans rather than the schedule?

01:45:46:21 - 01:45:53:29

Yeah, I think potentially. And that's what I was trying to identify whether there's any change to the works or the plans. Yeah.

01:45:54:29 - 01:45:58:25

If I understand your argument, you'd want the work plan not to include the landfill site.

01:46:00:15 - 01:46:13:21

Well, yeah, precisely. The work plans would exclude the landfill site. So it's the consequence of the exclusion as to whether any other changes would need to be made. So effectively, there'd be an area saying no development in this location and no compulsory acquisition in this location.

01:46:14:05 - 01:46:17:17

But presumably for your scenario, it's just a case of whether

01:46:19:08 - 01:46:28:27

I haven't got it. Another thing we're going to be able to do that this morning is whether there's anything in a particular work package that would need to be moved into another work package, because the work plan shows that somewhere else.

01:46:28:29 - 01:46:30:21

So as I say, yeah.

01:46:31:02 - 01:46:44:05

I think perhaps rather than going through in detail on that, I mean, I think I understand what you're suggesting, which is that the, um, yeah, the work plans were changed to permit your, your, your site.

01:46:44:26 - 01:47:05:04

Um, but it's just there's just one more, which is work number eight. So the existing area identified for rerouting of the Thames water access, at least on our alternative layout, would have to be changed slightly to include where Mr. Edgar has shown the Thames water access road, so that essentially what I identify is,

01:47:07:29 - 01:47:51:06

The only that. So? So it's first of all to give effect to our objection. No changes would need to be made to the works packages as described. So there have been no no change to schedule one. All that would be required is a change to the work plan sheet 40 of the works plan which is in respect of work eight rerouting of the Thames Water Access Road. But we would invite the applicant to review whether there would also need to be a change to work, to see um and work three um and work three sheets, 16 and 17, the um utilities connections.

01:47:52:15 - 01:48:10:09

Um, so I raise that now because obviously, um, that might be relevant to drafting, um, drafting of the order. And, and whether you invite the applicant to submit plans that would accommodate that.

01:48:12:27 - 01:48:34:09

Okay, well I understand. I understand that. The point you made there, Mr. Turney and. Yeah. And I think I've understood what you're you're inviting me to to take into consideration of Outlands land and the relationship between the works plans and the and the schedule. I will ask the applicant whether they want to respond to, to to that.

01:48:36:14 - 01:49:09:27

Said Mr. Fox on behalf of the applicant, I think our position is that we wouldn't want to countenance this. We feel that we've demonstrated and will continue to demonstrate that all of the lands that we have are within the works. Plans for development is necessary, and we don't think that putting forward amended work plans, which, just as an aside, I think would be more complicated than Mr. Attorney suggests, would lead to a viable development. and I would just make the point that this is different from the Sonica example that you just gave.

01:49:10:23 - 01:49:39:29

And also a recent example of the West Burton DCO, whether that was talking about taking out individual fields or solar panels. What we're talking about here is an area of land that is in the middle of our carbon capture facility, which is what the development is. So, so we we, um, we agree that conceptually, if you were to do this, it would not be about changing structure one. It would be about updating the work plans, but that would be more complex. And we don't agree in principle with the with the doing that.

01:49:40:18 - 01:49:55:01

So from from our perspective, I'm sorry, Richard. Turning to a mindset, I think from our perspective, the question is whether you want to have those revised plans, because the difficulty, of course, is that if you're with us and obviously, um.

01:49:55:13 - 01:50:03:03

Well, that's, that's that's not something I'm going to indicate at this, at this hearing. Mr.. I'm hearing the the various.

01:50:03:10 - 01:50:03:25

Know.

01:50:03:27 - 01:50:04:18

The various comments.

01:50:04:22 - 01:50:05:27

But it's.

01:50:06:18 - 01:50:38:00

The purpose of this is not for me to, uh, to to to rejig the proposal in light of the particular objections I'm testing the, the the how the DCO is drafted. You've clearly explained to me how you think, if again, if I'm not misrepresenting you, you've explained to me how you think that if I so decided to, I can make a recommendation with limited things. But you're. What you're saying is that that would require a revised, um, revised work plans, uh, in order in order to do that.

01:50:38:10 - 01:50:40:16

Um, so I, I understand the position.

01:50:40:18 - 01:50:45:13

So the question, sir, is, is how do we get those revised work plans?

01:50:45:15 - 01:50:53:15

Because I'm not asking for a revised work. I'm just I'm just saying we're not using this meeting to to pursue a particular, uh, particular thing.

01:50:53:17 - 01:50:54:22

So it's about.

01:50:54:24 - 01:51:02:11

You're you're saying you would like the applicant to provide revised work plans, omitting your site. What you're saying.

01:51:02:21 - 01:51:26:13

Sir. That would seem to be the most logical approach, because obviously you don't want to be in a position where you accept our argument, but nonetheless have to refuse development consent or have recommended refusal of consent, because our argument is you don't need to refuse to consent. And I believe the applicant's position is also that if the landlord wants to joinery site is excluded, you should nonetheless grant development consent,

01:51:28:01 - 01:51:30:15

Mr. Fox confirmed. But as I understand, that's their position.

01:51:31:07 - 01:51:31:22

Well.

01:51:32:12 - 01:51:51:21

And again, I'm not going to go too much into that. But I mean obviously that there exists for the for the applicant, the, you know that they they've got the ability to do that. Should they should they think. But I don't think it's appropriate for me to speculate on. And obviously there's probably a whole series of different configurations that other parties might want.

01:51:51:28 - 01:51:52:13

So but.

01:51:52:15 - 01:51:53:00

But.

01:51:53:03 - 01:52:09:02

But it's not appropriate for me to, to, to instruct the, uh, the applicant at this stage to do one particular sort of rejig. I mean, I'm sure other parties in the room would, uh. Like other configurations, I've got to consider the, uh, the application before me.

01:52:09:07 - 01:52:41:18

But the point is that it's not a configuration. It's just the consequence of success on our point. So if you're satisfied that compulsory acquisition should not be granted for the landslide Munster Joinery site, for all the reasons we've explored yesterday, and we'll explore further in written submissions, if you're satisfied about that, then you will still need to make a recommendation on the development consent order. And the question is the material that you will need to make that recommendation

01:52:43:14 - 01:52:44:25

and but that.

01:52:45:01 - 01:53:10:17

But but equally, I guess I don't want to put words in people's mouths. So across this lecture, reserve might say, well, we want we want to see some work plans which omit the, uh, the field to the north and include your site. side. My concern is that I think we could end up with a whole series of different, you know, configurations that, again, we're going into this hypothetical situation about what my recommendation was.

01:53:10:25 - 01:53:37:25

I don't think it is a hypothetical situation, if I might say, because it's we've made a clear case to say you should exclude the landlord Munster Joinery site. And unless you have the material to allow you to make, what effectively is it? You call it a split decision to grant development consent in part, but not in full unless you have that material. The risk is that you will have to recommend refusal because you don't understand that.

01:53:38:03 - 01:53:53:22

And in a in the same sense that if if across the same crossing, it's no apologies. I'm just using you because you're interested in a slightly different land. Uh, they can make the very same point. And if I don't have material in front of me that work plans are meeting that.

01:53:54:04 - 01:54:11:24

But if they do, then, then it would be that they may make that point. But we made that point, and it's clear point and we've provided supporting evidence for it. And the question is, well, the applicant obviously couldn't.

01:54:11:26 - 01:54:37:08

I think I think Mr. T what is it? I think as you said, you need to make that point in writing. Maybe you want to illustrate how you would see the, the work plans, uh, sort of showing. And, you know, again, I've already said I'm not going to instruct the, the, the applicants of this, this meeting to change things

in that sense. In the same way I wouldn't do in terms of the nature of it. That's not the purpose of this meeting.

01:54:37:22 - 01:54:56:06

Well, it's but it's I mean, it comes down to the point, I suppose it's partly for the applicant to say. I mean, if the applicant's position is that development consent should be refused, if the if landfill and monster is excluded, that's that gives a very different approach. But if their position is that if we succeed on our argument.

01:54:56:08 - 01:55:07:05

Not willing to put words in their mouth. I mean, obviously they don't want to see it refused, but it isn't that they've said repeatedly they need that land. But there is another option. So presumably they are saying they didn't.

01:55:07:07 - 01:55:12:24

They said this isn't the scenario where where sir you find otherwise you find. They do not need that.

01:55:12:27 - 01:55:14:13

Yes I understand. I understand the.

01:55:14:15 - 01:55:23:29

Scenario. In that scenario, you've made a finding that to deliver this infrastructure, they do not need the land slammers to join. Recite. The question then is, is Corey saying.

01:55:24:27 - 01:55:34:19

I understand what you're saying? If I did take that decision at the moment, I haven't got I haven't got something that I could put on a DCO as a certified plan to back that up. That's what you're saying, isn't it? Yes.

01:55:34:21 - 01:55:36:09

Surely, sir. Can I just.

01:55:37:06 - 01:55:41:05

On the up. I just clarify that, Mr. Elder. I'll let you have you say.

01:55:42:10 - 01:55:42:25

Sir.

01:55:44:04 - 01:56:15:16

Mr. attorney, just I'm just clarifying what you're saying is that the issue is that I don't. If I was minded to agree with you, I don't have work plans that I could put on an amended DCO that that would actually support that. That's that's what you're saying, isn't it? And you're saying you're saying I should do so that I've got that flexibility that should I so decide to recommend that a DCO is um, is made that in some form amidst that site, that that's what I've got.

01:56:15:18 - 01:56:16:25

Isn't that what you were asking me?

01:56:17:00 - 01:56:50:16

It may be the position that you simply don't need to make any changes to the plans, and and you can simply conclude that this development consent order can be granted, but without any rights over the land and months to join re land. So, in other words, you're satisfied that the works plans will lead to a carbon capture facility that is operable and can be delivered in accordance with your findings without using the land elements joinery site.

01:56:50:18 - 01:57:13:17

The the the legal effect of that would be that it would be hatched over as being an area that is part of the development consent order. But because Lanza and Munster Joinery would remain owners, they can take the benefit of that development consent order and there would be no development consent on that parcel of land unless and until the operator, the undertaker, took control of that.

01:57:14:04 - 01:57:29:26

I think I think I understand the point you're making. Mr.. I'll now give the applicant a chance to respond to that, but I'm not sure how much more time we need to spend on this particular matter. The applicant can you if you've got anything you'd like to say.

01:57:30:11 - 01:58:07:01

Thank you, sir Richard Griffiths, on behalf of the applicant, I'll keep this short because it's quite simple. Our position is quite simple. Our position is quite clearly that we do not consider that the content site, as put forward by Lanson and Munster, is feasible and workable. And as following on the hearing yesterday, we'll be putting in further submissions to that effect before you, and you will have the two cases therefore, before you. As a result of our position, we're not going to be putting it in a without prejudice set of plans to give effect to Lance and monster's position, because that is simply not workable or feasible from our perspective.

01:58:07:03 - 01:58:17:25

And the Secretary of State, where you will have to make a recommendation based on those two positions, and the Secretary of State will then have to make their decision based on those two positions. And I think that's the simple point.

01:58:17:27 - 01:58:37:07

Yeah, I think just just to bring that to a close, I mean, I think what Mr. Turner is saying is that that probably is a risk, isn't there, that if I did agree with Mr. Turner. Um, but I might have to make a recommendation that's not as flexible as Mr. Turner's, uh, trying trying to point out. So I think I think I understand that.

01:58:38:12 - 01:59:13:04

From British attorney for Lance joinery, it seems, given that, um, the only alternative would be a sort of minded two decision that requires the submission of further information to make any clarifications or corrections. Given that you have before you a clear technical case on the exclusion of that site and the ability to deliver this scheme with the exclusion of that site, it would seem to be remiss when

you're reporting to the Secretary of State not to identify how that would be dealt with in the event that either.

01:59:13:17 - 02:00:30:02

For example, if you recommend that the compulsory acquisition should not be permitted, um, how that would be dealt with in terms of the consequential decision on whether development consent should be granted and vice versa, whether you if you recommend compulsory acquisition, should be allowed if the Secretary of State disagrees with you. And this this seems to be just the sort of point that in an examination and for the purposes of your reporting, that you can readily provide recommendations on if land to the monster is excluded because you found that Doctor Edgar's analysis is is correct that the concerns put forward by the applicant are misplaced, that they don't need that land to deliver the operational extent that they've identified, that they don't need the substation or the heat transfer station or whatever the components of the case might be, then you're going to be left in a situation where you're making a effectively an inchoate recommendation to the Secretary of State, which will require the Secretary of State to then revert to the parties and say, well, how do I deal with this? And all I'm suggesting is that you have before you the material to allow you to make a recommendation and say, if Lance Lamont's case is accepted, development nonetheless be granted.

02:00:30:04 - 02:00:33:08

Well, I understand that the applicant have made their point clear. I mean,

02:00:35:00 - 02:01:06:29

I will take those into consideration, into consideration as I will all evidences for the examination. I'm not sure that there's much help to me in considering the DCO to follow this argument, because I think, again, your argument is really going back to. I know you're talking about the whole structure of of any potential DCO that goes in a recommendation, but I think it's just going back to, to to your argument, which I think you fully explained yesterday. No, I don't want to discuss this any more. Mr.. Mr. attorney, I think it's time for a break. And, uh, I think we've covered that particular particular item.

02:01:09:21 - 02:01:40:12

Uh, well, I've on on online. It's it's 1130. We've been going for a couple of hours. I'm going to have a break. So I'm not sure that, um. Mr.. I don't know if that's Mr.. Williams or Mr.. Mr.. Wilson. Um, uh, I'll, I'll try and remember to, uh, to ask you after we have a have a break. It's it's 1131. Uh, I suggest we have, uh, 20 minutes, so that'll or just under 20 minutes. So we'll resume at 1150. Thank you.