



Hearing Transcript

Project:	Outer Dowsing Offshore Wind Project
Hearing:	Issue Specific Hearing 5 (ISH5) Part 2
Date:	12 February 2025

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TRANSCRIPT_OUTERDOWSING_ISH5_SESSION2_12022025

Wed, Feb 12, 2025 2:10PM • 1:49:21

00:05

Okay, the time is now. 1136

00:12

it's

00:16

time to resume. If everybody who's due to speak be at the table, please do Okay, so moving

00:26

on with the agenda to Item 3.5

00:29

land use, geology, ground conditions.

00:34

And firstly, dealing with agricultural land classification and soil surveys

00:45

natural language response to our further written questions. That's I, u, 1.2, document reference, rep 4143,

00:54

maintained its position

00:57

that a ALC survey should be then taken prior to consent, and language county council appear to support this view.

01:06

Natural England also called for breakdown of ALC survey and soil data for the cable route and areas of permanent infrastructure and habitat, habitat enhancement, enhancement, sorry, as well as for disturbed and undisturbed land. The

01:23

examining authority notes that chapter 25 of the yes which relates to land use, that's docket reference as 1050

01:31

provides a breakdown of ALC grades for each cable corridor segments based upon the predictive mapping

01:39

section 25 point 7.2

01:44

of chapter 25 goes on to identify the total loss of agricultural land from the onshore substation and link boxes being four, 14.68

01:54

hectares.

01:56

This increases their overall loss of 26.38 hectares of agricultural land when drainage access requirements and on site landscaping is taken into account, it will

02:09

be helpful if the applicants could provide a breakdown of the predicted ALC grade for the permanent infrastructure and habitat enhancements, as well as For disturbed and unstable land, as set out by Natural England,

02:25

I presume the majority of that is centered around the in terms of the permanent Infrastructure Center on the onshore substation, aside from that, from the link boxes that may be more dispersed across the the Order limits,

02:40

is that a breakdown that the African provide by deadline for a please Harry

02:46

was built but on behalf of the applicant. So, yes, we can provide that by deadline for a thank you that would be helpful.

02:56

Any further comments on that point before I move on, I

03:09

so Stephanie holding to county council that we were having. Mr. Franklin is here to assist us with all things soil, but he was having some connection issues, but I've just been informed that he's back online

now, so it should be okay, but there was sort of running commentary as to whether Mr. Franklin was online or not online. Sorry. Okay, thank you. There are, there are further questions that he may be able to help out with. So thank you for that clarification.

03:34

TH Clements, response to further written questions. Lu, 1.2 that's docket reference. Rep 4150,

03:41

calls for soil assessments to be undertaken on all of their lands by a combination of visual assessments and laboratory analysis.

03:50

Paragraphs 24 and 25 of the outline soil management plan, latest iteration of it, rep 4070,

03:59

commits to this level of assessment on grade one land at the request of the landowner. Can

04:06

the applicant just clarify why this level of assessment only applies to grade one land and why it's only at the request of the landowner?

04:14

Thank you, sir. Harry wood Philpott, on behalf the applicant for these matters, I'm going to turn to Mr. Vaughn Hall who is the geology, ground conditions and land use lead, and a technical director at SLR consulting

04:35

Siobhan Hall on behalf of the applicant, the wording we've included in the revised soil management plan, does not restrict that request to grade one land that is across all of the land.

04:52

And could you repeat your second part question, please? It was the caveat that it would be at the request of the landowner as well. Yeah.

05:00

Yes, so this. So the reason for that is this, this type of testing is not required as part of the math ALC standard guidance. So we are going above and beyond the guidance to

05:19

to provide additional assurance to landowners that the soil would be restored to the previous development quality. So it may not be required for all areas of land. So it is at the request of the landowner, for those who are interested in that additional testing, and

05:40

if there was a request that would be that will be taken forward, yes, it would.

05:45

And did TH Clements have any comments on this at this stage, please,

05:53

Mark Westman and Smith for TH Clements as to that particular point. Obviously, that is a response to a request we've made, and we're grateful that that has been taken on board. We do have other matters we would like to comment on the soil management plan, and I'm just putting my hand up to say if it's the appropriate time, tell us. If it's not, we'll come back to it. There is a broader item around the soil management plan, so there'll be a chance

06:31

there to no further points on this particular matter at this stage. No, we're content with that point. Thank you. Okay, thank you.

06:42

In relation, to the consideration of the ALC survey of alternative export cable corridor routes and applicants response to our favorite questions, Lu, 1.1

06:56

suggest that there should be a revised figure.

07:00

1.1 4q 1m l, u, 1.2

07:05

which maps the routes considered. However, the map appears to be missing from the further written questions response. So there's been an updated table that's been provided my reading

07:16

of the response. The question is that there should be an ad updated plan alongside that as well, but it doesn't appear to be have been submitted alongside the further written questions response. So it's just a request. If there is a plan missing, can it be provided at deadline for a please? Yes. Andy Gregory from the applicant, apologies for that. We'll make sure it's submitted at deadline for a thank you. So we'll note that as a as an action point.

07:40

Moving on to the working width of the cable corridor.

07:46

THC, climates, response, furthering questions. Lu, 1.3

07:50

stock at reference rep 4150,

07:53

comments on the applicant's clarification notes on land. Take soil calculations and storage buttons. That's document. Reference rep, 3056,

08:04

and It questions the justification of the width for the COVID corridor in areas where trenchless techniques will be used.

08:12

First of all to the applicants, I think it's been perhaps suggested to TH Clements that

08:21

would not be a haul road provided in areas where translation techniques are applied. Is that? Is that correct? I

08:54

in order to access along the ECC

08:58

so the absence of the whole road in trenchless areas will be the exception rather than the norm that David got on behalf of the applicant. Yes, that's correct.

09:08

Thank you. The

09:12

TH Clements have any

09:14

response to that?

09:18

Mark Westman Smith for TH Clements,

09:22

no, I'm grateful for that clarification, because that is one of three points we raised in our response to your second written questions. Le, 1.3

09:36

so that does address in substance that concern. The other two concerns remain queries that we have put before the examination.

09:49

Thank you.

09:51

And related to that point, really, again, a question for the for the applicant.

09:58

I understand that the applicants.

10:00

From the previous comments that the 80 meter working with allows for micro siting of the 60 meter permanent cable corridor within the order limits, and that's necessary to to microsite and avoid constraints, etc, as the detail design is is firmed up. Is that a correct summary of your position?

10:20

David Rutz, on behalf of the applicant, yes, that's correct.

10:24

Thank you. And Mr. West smaller Smith, on that particular point, is there anything you'd like to elaborate on please? On that point, the

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applicants provided

10:38

a plate that shows a typical 60 meter easement width, and it is constructed of 10 meters above

10:48

each series of cables, and five meters in between the cables. And then there's a 2.5 meter buffer zone on the outside of each outside cable so it's driven by the location of the cables and the 10 meter easement directly above the cables. When one takes that and looks at the description of the 80 meter corridor and how that will be used, you can see there that the haul road is placed essentially down the center, then the two two cables either side, and then soil buns. And the point of that is to demonstrate by the applicant, the need for the entire cable corridor. And when one takes that into account, and the fact that the 60 meter permanent easement is sprung from the location of the cables, there isn't, in reality, a need or ability to microsite in any material way, because the position of the cables is dictated by the width and the need for soil buns in the construction. So we don't think reference to micro siting of the 60 meter permanent easement is convincing in this instant when one looks at the justification for the 80 meters and what is required to build these

12:23

or install these cables.

12:27

Thank you. Does the applicant have a response to that? Please?

12:32

Yes. David Wright, on behalf of the applicant, I think there's been some confusion on the two plates that are in PD, 1071,

12:41

specifically relevant rep 06 7.12

12:45

there are two plates in that. Rep one is the 80 meter corridor, which assumes a open cut

12:53

scenario. So open cutting with saw buttons. And the second scenario, the second plate down, is for the 60 meter working easement, and that is on a worst case for a completely different installation technology. That is for horizontal, directional door trenchless techniques. And that is where the 60 meters has come from. There is no correlation between the cables in the 60 meter circuit plate and the one on the 80 meters, where you refer to saw ones and to a haul road. So on the second plate the 60 meters, it shows that between the two outer edges of where our cables go is 60 meters from edge to edge, and what we were asking for is flexibility, an 80 meter corridor to position that 60 meter corridor within for Engineering difficulties. Thank

13:39

you for that clarification. Does that

13:42

address teach Clement's point, Mr. Westmont Smith, or would that be some things like to take away and review? We can certainly discuss that outside. At the moment, I remain unconvinced that it does address

13:57

the point, but

14:00

I hear what has been said, and we can certainly have a discussion outside and see if we can come to agreement on that. Thank you. Make an action point for deadline, for a please, for those conversations that we had and a response put back, just to set out your respective positions with that clarification in mind. Thank you. Applause.

14:28

Mr. Small and Smith, did Thompson have any further points to raise on the cable corridor width at this point before I move on with the agenda? No, thank you.

14:38

Okay, so briefly then just touching on

14:42

cumulative effects

14:45

and acknowledging the applicant's position that further information will be submitted

14:50

as a huge deadline. Can we applicant please just confirm the status of the nailer farm protein facility application? Which.

15:00

She's proposed in the facility of the onshore substation.

15:07

David Wright, on behalf of the applicant, our understanding is that it was submitted for to the local planning authorities for approval and was then knocked back and sent to Lincolnshire county council planning.

15:20

And we understand that they they've submitted planning and they've been told that there is a delay on their their application. But we've got no further detail to add, I'm afraid.

15:29

Legacy Council, you've got any further information please? Certainly McBride, Legacy county council, I think the the particular project that has been referenced, the application has been submitted, but without an environmental statement or the

15:46

environmental statement that have been submitted isn't what we've considered to be acceptable. So there is

15:55

a potential delay on the determination of the application, but we've agreed with the applicant and extension until January 2026,

16:03

before the application will be determined. So that helps. That's that's helpful clarification, please.

16:15

Yes, I'm just making sure that the the status of that was clear and that would be recognized in the in the forthcoming update, so the cumulative effects assessment, but it sounds like there's probably not too much to update, but I'll leave that on the applicant's hands.

16:29

Okay, so moving on then to the broad discussion around the suitability of the outline soil management plan I submitted deadline for by the applicant.

16:41

The applicants covering letter to Deadline four indicates there's no incorporated comments from TH Clements

16:49

into the outline soil management plan. And TH Clements themselves have also provided a marked copy of the outline soil management plan with their comments and track changes. I think, based upon the deadline three version of the of the draft.

17:05

However, it appears that not all of the changes suggested by TH Clements have been included in the soil management plan. For example, it request that paragraph 17 be updated to increase the source survey depth to 1.5 meters from 1.2 meters, the latest draft still refers to 1.2 meters, albeit with a commitment to excavate lower when the lower subsoil horizon is not found.

17:28

There are other examples that I've spotted where requests from THC climates have not been incorporated into the soil management plan or the outlying code of construction practice. Either it's not always clear why those changes are not been incorporated by the applicant, and the reasoning and rationale behind what's been changed and what hasn't is the

17:53

applicant able to provide a brief explanation as to why some of those changes have not been incorporated. This may be a must. It can be dealt with more comprehensively, writing at deadline for a brief summary now would be would be useful. Thank you. Thank you, sir. Harry wood, Phil but on behalf of the applicant, I'm going to ask Mr. Bourne Hall to provide you with an overview, recognizing that we don't want an item by item description, but an overview of the key differences.

18:23

Siobhan Hall on behalf of the applicant,

18:26

where we have not accepted some of those changes is where the th claimants are asking for a level of detail that we do not feel is suitable for a outline management plan,

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and some of these go outside of guidance.

18:46

For example, the request, as you mentioned, to survey below 1.2 meters. Survey guidance sets out 1.2 meters as a standard, because that is the typical rooting depth of most vegetables and cereals

19:07

to survey at lower depths than that. The equipment that is used is not, is not able to survey at lower depths and that. So if we were to do that as part of the survey, we would have to use other methods which may cause more disturbance to the ground, which is why we've committed instead to providing an assessment of that during the excavation.

19:32

Okay, thank you. Miss Westmoreland Smith, you have any response to those points?

19:39

Yes, as you've identified, not all of the comments that we made have been accepted. So there are remaining issues, and what I'm going to do is ask Mr. Wright, please to address the headline points of concern that remain following the submission of the latest outline.

20:00

Soil management plan.

20:03

Bill it right? TH Clements,

20:06

yes, I think the key

20:11

items missing, really, to summarize it not go on into great detail, you possibly started to see yesterday when you did your site survey, actually, and you were looking in the deep soil profile pit, and you would see the presence of three distinct soil horizons in that pit.

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And those horizons, basically we outlined in in rep 2079,

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our response to x, ex Q ones, we outlined in detail the presence, the likely presence, of three horizons, at least in the soil, and how important it is to keep those separate. And the appendix to that response actually gave you a detailed soil analysis of each of those three distinct layers. And

21:06

if we look at those briefly, there are three distinct layers, and

21:12

the top layer and the middle layer that you would have seen when you did your when you did your site visit, are essentially what we would describe as topsoil, very much representative of a topsoil situation. They are distinctly different, but there are abundant roots from crops that TH Clements would grow in both of those horizons, in both of those layers and then the bottom layer, the subsoil horizon, as we would call it, clearly more sterile, and you would have seen the pile of soil that was excavated from the sub soil depth didn't have any weeds in it at all. That was that's absolutely clear, showing that there's a lot less nutrient in those layers. So basically, we're very concerned that the presence of those three layers is acknowledged, and it also is then maintained through any soil analysis, stripping,

22:11

storage, reinstatement, that those three layers are kept separate because the outline soil management plan does say that reinstatement methods will be designed to achieve soil profiles as closest to the original pre construction as possible. And those are those three layers.

22:31

The problem that we envisage, and the problem I'd like to flag, is the fact that the outsoil outlines the soil management plan basically doesn't refer to three distinct layers. When it looks at surveying, at soil handling, at soil storage, stripping, soil storage and reinstatement, it generally refers to the topsoil and the subsoil. So therefore only two layers. And just to give you one example, quickly, on soil storage.

23:05

Section 1.24, of rep 4070,

23:10

paragraph, 76, the strip, the strip, topsoil and excavated subsoil will be stored separately, is what is stated. So we've actually got a situation here where our three distinct different layers are now going to be treated as topsoil and subsoil. So we've lost that middle distinct layer, and because that's so central to how the crop roots grow and how they extract nutrients, and therefore to the establishment through to marketable yield of the crop. If they are not restated in that mode, we haven't actually achieved the aims of the soil management plan to maintain the same profile before and after.

23:54

Thank you for that.

23:56

Just to clarify that the depth of the pit that we observed yesterday,

24:01

what was that? Please?

24:03

I wasn't with you yesterday, but I think it was, broadly speaking, about 1.4 1.5 meters to the base of it.

24:11

Thank you. Could

24:14

the applicant please comment on, I don't know, it myself, the suggested changes from THC Clements around the recognition of additional horizons within the soil that aren't currently all identified within the soil management plan. Is there a reason why they cannot be identified? However, Philpot on behalf of the applicant, so just before I ask Ms Hall to respond to that, I've had an indication that there may be a benefit in this, in our having an opportunity to sit down with those who act on behalf of TH Clements, just to run through what has been done, and seeing whether there's anything more to reflect changes that have been made but perhaps haven't been picked up. I'll ask them all to deal with it.

25:00

But as a generality, it seems to me that this may be something we can fruitfully explore and hopefully resolve outside the process, but I'll give Miss Hall a chance to just deal with a particular point. Thank you. Just before you do, Miss Hall, can I just make a point of clarification? Mr. Wright, I've no doubt it was a slip of the tongue, but the examining authority does not carry out surveys. It was a site inspection. I just want to make sure that there is no confusion anywhere in the room as to that matter.

25:30

Okay, thank you.

25:34

Siobhan Hall, on behalf of the applicant, there are already multiple references in the soil management plan to top soil, upper subsoil and lower subsoil, where we have taken that on board from TH Clements. The reason we may not include any more specifics on that is because the soil surveys will inform how many horizons are specifically within the soils across the entire route and project area.

26:02

And therefore the final soil management plan will include specifically what horizons there are, there may be more for example. So we are, what we will do is we will go through the outline document again. And if there are any areas where we have reference subsoil, but not upper subsoil and lower subsoil, we will amend those. Thank you. Just remind me, does the outline soil management plan make that commitment to recognize additional soil horizons where they identified following surveys? Sean Paul, on behalf of the applicant? Yes, it does. Thank you. Okay,

26:36

so just on that, of course, just as a final point and the explanation which Miss Hall has given is consistent with the indications I was getting as to why this matter actually may be something that's capable of being resolved by discussion. But of course, this is an outline plan, and as requirement 31 makes clear, for each stage, a soil management plan for that stage has to be submitted and approved, so the actual management plan for each stage will have to reflect the conditions on the ground. So as long as the principle is embraced within the outline plan, then the detail plan can pick up whatever the soil happens to be in that particular area. Noted. Thank you.

27:25

A related question

27:27

the both the outline soil management plan, outline cutting construction practice, containing commitments to consult with the Latin interest group prior to the submission of the documents to the Revenant local planning authority for approval

27:43

a question for the applicant will feedback obtained from the land interest group during that I think it's a term working day consultation period, be reported to local funding authorities when those documents are submitted so they're aware of the comments received on The extent to which they've been taken on board. I

28:05

So i

28:07

My understanding is there's no commitment, specific commitment, to provide that information. But of course, any discharging authority, if it thinks it needs further information, can ask for it. So if it is clear that the discharging authority considers that that information is relevant to its decision and wishes to have it, it can insist on it,

28:32

though, in a sense, if the applicant makes submissions and doesn't provide it, there is a means by which that is rectified if it's thought to be necessary. So one doesn't need to spell out, in each case what must be provided, because as long as the discharging mechanism allows for further information to be requested, then the system is as self policing in that sense.

28:57

Mr. Westmont Smith, Mark Westman Smith, TH Clements,

29:05

except that the local authority can ask for the information that it requires to discharge a requirement. But stepping back all TH Clements seeks is an opportunity for inputting into the soil management plan when it's finalized. The current proposition is to consult prior to submission through the land interest group,

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and we have requested that any submissions be made by the land interest group would be shared with the local planning authority.

29:51

We say that's appropriate, because it's a an action that's undertaken prior to submission. And.

30:00

Put it crudely, the applicant could simply go through the process, not make any changes, and not advertise to the local authority the fact that it had made no changes. So in order to ensure that any

30:17

consultation responses from the land interest group are fully before the local planning authority and not to impose on it the requirement to go out and search for them. We don't see the harm in them simply being packaged up with the management plan that is proposed by the applicant and submitted to discharge the requirement. And from our perspective, that is much more preferable than relying on other parties to take further steps.

30:49

A related point is

30:53

I've outlined the fact that TH Clement simply wants the opportunity to be consulted in some form. I understand the reluctance of the applicant to have landowners in general on the face of the order under requirement 31 as it would be in relation to the soil management plan. And we can live with a requirement in the outlying construction plan to consult, but we would like it more specifically to be with TH Clements, the land interest group, had legs earlier in the process, when many landowners had not signed up to agreements with the applicant, matters have moved on, and many landowners have signed up to agreements, and our understanding is that the LIG is less active than it was. So just to ensure that we do have an opportunity to consult, we would have requested that it was we are specifically referred to in the outlying construction management as having that opportunity.

32:04

Thank you. So I was going to come to the status of the London interest group, actually, and just to clarify, clarify that,

32:14

Mr. Philpot, do you have any So, just to raise I suspect that

32:19

there's not a huge amount underlying this that is particularly controversial. It's more about process and what needs to be spelled out and what doesn't, as opposed to what we anticipate will happen in practice, I don't understand there to be any difficulty with the idea of consulting TH Clements in some form, whether that is effective through the the nig, or whether that needs to be direct with them, or whether that would be overkill, as it were, because you're going to do it through the nig. In any event, we can perhaps take away and discuss with them. I don't believe there's any issue that where they're the relevant landowner, they ought to have an input.

33:03

The second point is to pick up Mr. Weston Smith

33:08

submission about

33:11

the putting the burden on the local planning authority, ultimately, when we are framing requirements and when we're framing mechanisms in a DCO for the discharge of requirements. The assumption must be that the relevant discharging authority will do its job properly and will call for and consider such information as is appropriate, and it's not generally considered necessary to spell out what they must be given, because it's anticipated that they will know their job and that they will therefore call for information that's needed if it's not provided. I don't anticipate that the matter really goes much further than that, because if we don't, if we are required to consult the landowners, and we don't provide any information about what came out of that, we shouldn't be surprised if the local planning authority asks for that clarification when we submit so it comes back to my point about whether you need to spell it out, or whether you can just rely On the starting assumption that the local planning authority will exercise its responsibilities lawfully and appropriately, which we say is adequate. Thank you. I take the point, I guess, in the

34:32

interest of transparency, what would prevent the applicant from being proactive in providing that information without it being subject to requests from the local planning authority? Harry, we thought, but on behalf of the applicant. So there's, there's nothing that prevents the applicant putting forward that information as indeed it can put forward such information as it sees fit. That the issue really is whether it is necessary to spell out that that particular piece of information must be provided and.

35:00

Or whether that can be felt to be adequately dealt with by the general principle that the local authority will call for and consider such as information as is relevant to the decision it has to make. I suspect, in practice,

35:19

not much will turn on this because the information is is like to come from one way or another. I don't think I can take it much further today, but it it may be something that we can take away and consider further and respond in writing at deadline for a as to whether this is a matter that we're happy to deal with in drafting, or whether we're leave it as a matter that we don't agree.

35:43

Thank you. Yeah, I think in terms of action points, if we record that as an action point for line, for a along with the outcome of any conversation that's had directly with THC Clements around those changes, and some clarification as to why they can't provide that, or if they are providers,

36:00

they can be ticks off the list, off the list, so to speak. But I think some clarification on those points will be helpful in writing at the line for a just so we've got that moving forward. Thank you. Do

36:11

you have any further broad

36:13

points around the soil management plan before we move on to the next

36:18

gender item? I

36:20

Yes.

36:24

Miss Hall, thank you. Stephanie Hall, for Lincoln to county council. I because I don't have ready access to Mr. Franklin, I just wondered if I could give him an opportunity to say anything that he might want to say. It may be that he doesn't have anything to say, but I just give him the platform, if I may please do Yeah.

36:42

So Sam Franklin for Lincolnshire county council. Well, I've been listening very intently, and I think all of the concerns that I raised previously have been covered up to now that I recognize that there are still further concerns with the soil management plan,

36:57

which I think the applicant has expressed a desire to

37:05

sort with, particularly with TH Clements, so I think we'll retain a monitoring role at this stage.

37:12

Thank you. Thank you.

37:15

So before you move on, may I just invite Mr. Wright to make one further point in relation to the soil management plan, and it relates to adverse weather provisions.

37:28

Thank you. Philip Wright, t h Clements, yes, the section 1.1919,

37:34

adverse weather, paragraph 33

37:39

we requested that a combination of soil operations must not restart until the ground has had at least one full dry day after intense rainfall and an agreed moisture criteria of the soil can be met. The actual current plan gives it an or in that in that case so either one dry day or appropriate soil moisture criteria can be met. And if, if I refer to the

38:11

clarification note on climate change,

38:15

basically that states which is rep 3055,

38:21

it states that field capacity refers to the amount of soil moisture or water content held in the soil after excess water is drained away and the rate of downward movement has decreased, typically occurring two to three days after rain or irrigation. So I would agree with that the

38:40

what this is outlining is the fact that we can get situations where after one dry day, after intense rainfall, depending on the time of the year, the soil moisture criteria certainly won't be met, because we know we're not then at field capacity. We're not then at a balanced level where the soil is capable of taking machinery. So we would still really require that

39:03

the agreed soil moisture criteria can be met is the most important of those two, and indeed, could that be the only one?

39:12

Thank you. Perhaps that's another master that could be discussed in the conversation around the soil management

39:19

plan. We're happy to take that offline and come back to you. Thank you. If you could just add to the action point list for deadline for a as well, just to make sure it's picked up. If there can be some clarification provided by the applicant, please in terms of the current role and status of the land interest group, as far as it is aware, perhaps if Thompson can assist in this point as well, please, just so it's clear to the examining authority what role that currently has and what you may have in the future in terms of consultation on the soil management plan and other documents. And if they are not the most appropriate forum moving forward, then if another one could be put forward, please, that would be helpful.

39:58

Thank you. So again, that's.

40:00

An actual point for deadline for a,

40:06

Okay, moving on then

40:08

to the suitability of the outline organic land protocol are submitted at deadline three as docket reference. Rep, 3024,

40:22

I note that woodlands farm has welcomed progress made with the organic land protocol, but see reassurance that the full soil profile will be considered. So again, I think a similar point has already been expressed in relation to soil management plan, and they understood that the applicants update to the soil management plan deadline four might provide this reassurance. I

40:44

don't think we have woodlands farm here today in attendance,

40:49

so if I could just

40:51

record an action point for woodlands farm to confirm whether or not they are content that the deadline four version of the soil management plan addresses their concerns as outlined in their submission to our further written questions. And that's rep four, dash 151,

41:11

and does the applicant have any points to raise in response to that?

41:18

However, Thorpe but on behalf of the applicant. So no, it is plainly appropriate to hear what their response is. We've sought to meet their concerns. We hope we have, but obviously we'll wait to hear from them. Thank you.

41:34

Moving on then to the relationship between the outline code of construction practice, the outline soil management plan, the outline organic line protocol and the draft development consent order and note the applicants updated draft development consent order requirement 31

41:52

to include the statutory nature conservation bodies and the Environment Agency as consultees on the sign off of the soil management plan, as well as updated outlying code of construction practice, which removes the ties to the soil management plan.

42:07

Lincoln County Council response to our furthering questions, Lu one, dash one, one suggests that the organic land protocol should be secured via requirement 31

42:18

which relates the soil management plan, rather than requirement 18, which relates to the outlying COVID construction practice, so that all agricultural matters are considered together.

42:30

Does the African have any initial view on that request?

42:36

So I'm going to hurry with full but on half the applicant going to ask Mr. Miss mmoi, who is solicited from Shepard and weberman to respond to this.

42:47

Thank you, sir. Emma Moyer, on behalf of the applicant,

42:50

the question over where each document should sit in the requirements of the DCO is currently dependent on the discussion ongoing between the applicant the LCC and the LPA is over, who is to discharge which requirements that relate to those documents. So for example, if the outcome of that discussion is the LCC request to be the discharging authority of the code of construction practice, the outline, sorry, the organic land protocol and the soil management plan is eventually taken forward, then it would probably make sense for all of those

43:24

parts of the outline plans to sit in the same requirement, probably the code of construction practice requirement. However, if there's any outcome where the LPA is are discharging one of those documents, or LCC is discharging one of those documents and the other bodies to charge discharging the others, then there would be a need to keep the requirements separate. But from the applicant's perspective, we are content to take forward whichever proposal is agreed between LCC and the LPAs. We understand those discussions are ongoing, and once we have the outcome of those discussions, we will be able to align the draft to match what has been agreed, but we do recognize there's a an interrelationship between the documents and that we'd be happy for them to all sit together if that was the most appropriate course of action.

44:12

Thank you. That's that's a helpful clarification. Just just turning to the county council, then,

44:19

if you're able to provide an update on those discussions with the with the local planning authorities please, in terms of who will be taking on responsibility for the sign off of the various plans, it's definitely Hall linking to county council. So I think the position is that we don't have a final confirmation from the districts, but that we are working towards, and we think we were hoping they were going to be here today to provide sort of sign off on what we had assumed was the agreement, which would be that Lincolnshire county council would be the discharging authority for both of those requirements. So that's certainly our aim, and where we'd got to with the districts is we thought we might have reached agreements on that point.

45:00

In but we just would like some final clarity from the district on whether they agree with that position. And as I said, we were hoping they were going to be here today.

45:10

Thank you.

45:12

As an action point, would it be possible to try and seek agreement with local planning authorities by deadline for a or confirm otherwise in writing by then, obviously, there are potential consequential effects in terms of the drafting of the DCO as well that we'll need to keep in mind

45:35

Stephanie holding it to county council. I think it possibly would assist us if that action point was listed, an action point for all of the authorities together, rather than but us to go and seek Yes, try and encourage the districts to positively, rather than us relaying sort of the contents of email exchanges to you. It would potentially be preferable to have them positively confirm themselves to you that they are dependent Absolutely. We'll note that that action is for the respective local planning authorities as well as the county

46:09

council. Just as regards any sticking points with the local authorities. Are you aware whether it's a political issue or was it a procedural one, in regards to standing orders and they might need to be amended.

46:36

Stephanie holding a county councilor, our understanding is that they just want to take a little bit of extra time to make sure that the points that they're particularly the points of substance that they're particularly concerned about, such as, for example, noise, where we would normally be the authority interested in in that would be covered by by a mechanism for them to be consulted as part of a discharge. So they just, I think it's more about tying up loose ends and just being sure we're happy that that would be the case. They just need to take a moment to consider whether that they're happy as well and so. And I don't think it's a process point. It's just to just taking a moment to thoroughly consider what they're being asked.

47:16

Thank you. That's helpful. Unless there any further points on this matter, I will move on

47:23

to saw restoration the

47:26

applicant response to further written questions, Lu, 1.7

47:31

states this. This is not committed to restoring the ALC grade along the onshore cable corridor and the 400 KV cable corridor as the methodology for LC might change and become outdated, and that other parties require a broader commitment to restore the soil profile beyond the ALC grades,

47:53

given the policy requirements, including in MPs em one to minimize impacts on best and most Fauci So agricultural land would a clearer commitment in the outline soil management plan to restore land on the kibble corridor to the same ALC grade better align with with policy

48:14

Harold Thompson on behalf of the applicant. So I'm going to ask Ms Hall to deal with that. And in particular, as I understand, the point of the question is whether

48:26

restoration to the previous ALC grade or what is proposed at the moment in the management plan would better align with the underlying policy objective.

48:39

Correct?

48:47

Andy Gregory on behalf of the applicant, I think that what the point here is that, because we can't guarantee that there won't be any changes to grades in the future, that the commitment is to reason reinstate soils to what they currently are now,

49:07

rather than a broad,

49:11

broad spectrum of what could be defined as an alt grade. So we're going above and beyond what would be expected in terms of testing so that we can give back exactly what is

49:22

taken, so to speak.

49:27

So I understand that David Wright may also want to make a contribution on this.

49:34

David Wright on behalf of the applicant. I mean, that's great that we're going above and beyond, returning the land back to its former ALC grade, I think during discussions with TH Clements, for example,

49:46

one of the ALC grade is stoniness. So for stoniness, for it to be grade one, it has to be between 0% and 5% or 10% what we're committing to is to putting it back to exactly how it is today. So if there is 1% of soil.

50:00

So that's how we put it back the concern from TH Clements. If we return it back to its ALC condition, we could restore it back to having 9% of stone in and it would technically, by the letter of the law, still be grade one land, which is why we've committed further here to saying we're committed to its exact condition when we started construction, which which we believe is over and above putting it back to its ALC original condition.

50:25

Thank you. I appreciate there is a commitment to to perhaps go beyond that at the request of other parties. I guess the point here is that the NPS does benchmark against ALC grades, and at the moment, there isn't a clear commitment to restored land to that same grade,

50:44

albeit, as you say, it may go beyond that, but there's no clear commitment to try and tie it into the LC grade. I know as well that the pre construction ALC surveys will be undertaken, I

50:57

would question what they would actually provide in terms of LC grade information, if that grading is then used to inform the restoration of the land, so the pre existing grade. So it's just

51:10

whether additional reassurance can provided that it will be at least the same grade as identified during the pre construction surveys, plus the additional requirements that have been agreed with the other parties in relation to all sort of effects that you've referred to

51:24

Harry with Phil but on behalf of the applicant. So before I turn to ask Miss Hall about what one would glean from the further surveys that would be undertaken post consent, if I can just explain what I understand the evidence that you've just heard to be

51:43

moving towards.

51:45

The first is that a commitment to restore to the ALC grades might present something of a moving target in that those grades may potentially change, and if those changes were to change so that they are

52:04

they allow for the soil to be restored to something less than its current condition that wouldn't benefit anyone. The second point is that the obligation to return the soil to its pre existing condition

52:23

would a go beyond any link to the grades, and therefore necessarily, in and of itself, satisfy the policy requirement to ensure that there is no worsening of the grade, because unless the grades move, and therefore the target changes, you will always keep it within the same grade If you restore it to what it was. So that's the that, as as I understand it, how the obligation to return into its current condition sits with the agricultural grading, because it can't, if it can't get any worse, it will always be the grade that it currently is on proper analysis. And the the other point, of course, is that if you were to have a requirement on top of that to keep it within the LLC grade, say, as currently defined, that wouldn't add anything beneficial to the landowner, because that is a broader as opposed to the more specific obligation that's already contained. Having said that, I'll now turn to miss Hall just to, first of all, tell me I've got nothing of any of that wrong. But secondly, also, just to explain what the further surveying will add to what we currently know in terms of

53:37

the efficacy of the plan and the proposals. Should

53:42

I want to Siobhan Hall, on behalf of the applicant, I agree with everything that Mr. Philpott has just said. So the ALC, sorry, the ALC surveys

53:54

are a determination for the ALC grade. These surveys assess a multitude of factors affecting agricultural land quality, that then results in the determination of the agricultural grade. So with those surveys, we will be looking at the full soil quality and condition, including stoniness, wetness and a number of other factors. So those are the additional things that we gain from those surveys that inform the soil quality and condition, as well as leading to a conclusion on what the ALC grade is currently.

54:31

Thank you,

54:33

Mr. Philip, I think you referred to a commitment that the land we've restored and it would not be worse than the current grade or the equivalent to current grade, Was that correct? So

54:44

my what I was seeking to do was to summarize what had been said before as to the intention to restore it to the previous conditions as reflected in the plan, and that therefore, if you have if those previous conditions put you in a particular grade.

55:00

If you're put back in the same position, as long as the grades don't move, you should be back in the same agricultural grade as before. That was my crude understanding of what had been explained. No, that's helpful. I do wonder whether that clarification perhaps could be made in the store management plan, just to make that clear, just to make a clearer link between the commitment to restore land to the same quality is benchmarked in some way. So the current ALC grade of the land when it's identified pre construction, during the surveys, we can, we can take that away and look and see if there's any way in which we can make that connection clearer. Thank you. Okay, thank you. So that'd be another action point

55:38

for deadline for 85 that clarification

55:42

May I just come in on on that? Just very briefly. Mark Weston Smith TH Clements

55:50

on this issue,

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we are at one with the applicant, and a very real concern of ours is for restoration of soil to pre construction condition, and the way the soil management plan is currently drafted, that will be achieved,

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I agree with the submissions made by Mr. Philpott that the consequence of that will be that there will be no deterioration in terms of ALC grade. What we wouldn't want to do is to introduce wording that muddies waters at all in terms of restoration to pre construction condition. So my suggestion would be that at the end of dealing with how soil restoration is to be managed, a simple paragraph saying a consequence of this will be that

56:52

soil will be restored to the same agricultural grade, but not to interfere with the mechanism that is proposed. And thereby it allows you to see that the policy point is met, but it gives us reassurance that there's no muddying of the position we've agreed and are content with.

57:12

So I just leave that suggestion with the applicant, that's that's helpful, Mr. Perry, with Filton, on behalf of the applicant, that that's exactly what we had in mind and something which dealt with the point that you've raised in order to be of assistance for the purpose of reporting and decision making, that that is effectively the policy consequence of what is agreed, as opposed to changing the mechanism.

57:34

Thank you.

57:39

Moving on. Then again,

57:45

another question related to soil profiles, natural England's review, the applicant's clarification note on land, take soil calculations and storage bunds, and that's rep 3056,

57:59

and suggest that the assumed depth of topsoil to be stripped is deeper than the typical depth and may lead to the mixing of soil profiles.

58:08

Can the applicant confirm if the pre construction soil surveys would establish accurate depth of soil profiles and enable suitable soil stripping and separation of those profiles?

58:20

Yes. David Wright, on behalf of the applicant, I think the figure that they're referring to is an indicative cross section, which was used to justify why we needed the areas we did for soil buns. So they are an indicative figure. When we come to the final soil management plan we would have done the ALC surveys, we will know exact soil depths, and that will actually then be done on a field by field, case by case basis. But so we have that soil profile on a field by field that was just purely an indicative depth that was shown on that figure. Thank you. This is the 450 millimeter depth of the top soil. I think that was referred to David on behalf of the applicant. That That's correct, yeah. Is it an indicative figure that was used? And we understand that it will vary throughout, throughout the scheme. Thank you. That's helpful.

59:09

Unless have a further questions on soil restoration, I shall move on to

59:16

cable burial depth.

59:20

Here the applicant's response to further written questions, Lu 1.8 states that agreement has been reached with TH Clements and the majority of other parties in relation to the depth of the onshore cable corridor

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is this, TH Clements position,

59:39

broadly speaking, Mark Westman Smith, TH Clements,

59:44

where we are now, in terms of the examination process, is that paragraph 109 of the outline code of construction plan says that the cable shall be installed 300 millimeters below any current drain.

1:00:00

System where practical. Now we are happy with that, say, for the words where practical, because we don't know precisely what that will mean on the ground in the future, but as we understand it, the applicant is content to remove those words. And if that's the case, that issue is resolved. As far as we're concerned.

1:00:24

David Wright, on behalf of the applicant, I think we can amend that wording in the code of construction practice, paragraph 109, to remove the where practical. And I think the only addition which we would want in there, rather than referring simply to existing drainage schemes, would be to more drainage schemes installed by the applicant. So if we do have to come shallower, we'll put a new scheme over the top, so we can put some proposed wording to TH Clements in the first instance, and then update a deadline the next deadline, deadline for a Yes, that'd be helpful. That that that's fine from that perspective. It leaves us with things to say in relation to drainage, but that's a separate topic.

1:01:07

Yes, we will. We will come on to drainage.

1:01:11

Okay, in

1:01:17

relation to severance,

1:01:22

the applicants covering letter to its deadline for submission, refer to meeting to be held with the applicants and THC limits to investigate any disparities between their respective assessments of severed land now that relevant shape files have been shared and reviewed, noting that this is based on indicative

1:01:43

design at the moment, could the applicant please provide an update on progress with those discussions and if any outcome has been reached? Yes. David Wright, on behalf of the applicant, so you're correct.

Yes, your your your statement there that we've now received the the shape files from TH Clements and their indicative assessment of severed land. And what we've done with that is we've been provided an overlay plan, so we've overlaid our assessment and the TH Clements assessment on the same plan that has now been sent across to TH Clements, and we're just trying to arrange a mutually convenient date to sit down and go through that and compare and contrast.

1:02:21

Okay,

1:02:23

would that be another deadline for a submission in terms of a response and the outcome of that? Would it be possible to arrange those discussions by then, perhaps as part of the wider conversation around the respective management plans? David Wright, on behalf of the applicant, the applicant is, yeah, more than willing to push that, to have that done for foray. Thank you. As is th elements, thank you. We'll, we'll note that as a as an action point, you

1:03:06

a related question

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in terms of the update the outline code of construction practice, that's section 6.14, the code of construction practice that the applicant updated to provide details of the process for dispute resolution, for severance matters.

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This change appears to reflect the amendments suggested by TH Clements in Appendix two of its further in question response, aside from the showing of costs of

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appointing an independent expert,

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does TH Clements have any particular points to raise on that amendment at this stage again, or is that perhaps a point that could be taken away and dealt with in writing by deadline for

1:03:51

Yes, aside from the point you've just raised, we are content, and our primary concern was the insertion of The dispute resolution clause, which has been done so broadly speaking, we're content with the minor point that you've identified. Thank you.

1:04:08

I'd also like to just register a further action point for woodlands farm who aren't in attendance, but it would be useful to have their comments and whether or not they are also satisfied with the process for dispute resolution in relation to severed land, if we can record that as an action point. Please.

1:04:32

Moving on to dust contamination based

1:04:38

on

1:04:39

the respective submissions from the applicant and TH Clements. Deadline for it does not appear, though agreement will be reached on the appropriate method of assessing dust contamination or its conclusions. However, a note from TH Clements response to further any questions that discussions are being held on a possible compromise permission position on the area.

1:05:00

Of land at high risk of being affected by visible dust on the appropriate mitigation lands that might be required off the back of that first of all, can the applicant please

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provide an update on those discussions?

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David Wright, on behalf of the applicant, the

1:05:19

applicant's position is still that our dust assessment is robust, and then the outcomes and conclusions of that report are valid in that the dust can be mitigated. We will have further discussions with TH Clements on risk. And, you know, a risk element in there and an area to be assigned for the risk of dust, even though we believe we can, can mitigate, but I think at the minute, I think we're still some some distance apart in, in what we think that distance should be, in that TH Clements report is in excess of 150 meters either side, and we're At zero, and are willing to offer a small compromise, but we're still some some distance apart there in terms of the perceived risk based on on our respective reports.

1:06:13

Thank you. Mr. Westmore Smith,

1:06:16

Mark westmin Smith, TH Clements, I mean, I think that does fairly summarize the position as between the parties.

1:06:27

As you will have seen, the applicants at the last deadline submitted their response to our dust report, which is rep 4125,

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and we will obviously respond to that in detail at the next deadline.

1:06:45

But sir, it might assist. We've got Mr. Paulson here,

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and there is a summary of the key points between the parties that one can see

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in the applicant's assessment in their conclusions on page 25 of rep 4125,

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and

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there are in our submission clear answers to each of those disputes between the parties. And I wonder if I could just invite Mr. Pawson just to give his headline response to you orally now, which might help you when you come to read his more detailed response, because this is an area that is technical. We're not seeking to go into the technicalities today before you, because I think this is sort of, you know, cold towel over your head in a darkened room stuff. But if he can just give you his headline response that might help you in the future. When you come to think about this, a high level summary would be, would be appreciated? Yes, thank you.

1:07:52

Thank you. Damian Paulson on behalf of Thompson, yes. So with respect to the conclusion, bullet points in rep 4125, page, 20,

1:08:01

taking the first two together, which relates to country that the assertion that the TH Clements assessment contributes UK technical guidance and

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makes use of coal mining emission factors

1:08:15

the applicant suggests that the emissions factors used for the th Clement study in rep 1050 are solely applicable to mining activities, with a specific reference made to the Australian national guidance on emission factors for mining.

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However, in Table four, one of appendix 14 of rep 1050

1:08:36

the factors from the equivalent Australian guidance for future emissions is also referenced in our study, and that covers fugitive dust emission sources such as material handling, green blown dust and wheel generated dust from trucks, which are all activities associated with the construction of this project. The emission factor equations presented in the in both of those guidance documents that are referenced are the same as those presented in the report, so they are across both of those guides documents. So in

1:09:10

other words, activity types that are represented in our study are common across a number of industries, including construction, and are not solely reserved for use in the mining sector. And it's possible we have note that the World Bank references both the Australian and US emissions factors guidance as good international practice. So insinuation areas, it's not, it's not the use of the factors are not restricted to certain countries either.

1:09:37

So by definition, this is a construction, just assessment that we can establish that such that we can default to the iaqm construction desk guidance published last year, on which the applicant assessment is based. Section 5.5 of that guidance makes it clear that dispersion modeling can be applied to construction activities as an assessment approach. And there's more detail in that in rep 4150, and.

1:10:00

Q2, Lu, 1.6 for myself.

1:10:03

So that's the headline for those two. So in my expert opinion, whilst I agree with the type of assessment is rare in the UK, the decision to apply modeling and the use of these specified emissions factors is justified and appropriate within the context of the construction guidance, particularly given the sensitivity of TH Clements as land and their zero tolerance was just in their contractual agreements with their customers. Thank you. Just to follow up from that, are you aware of any examples of the method that you've applied being used elsewhere in the UK, not in my personal experience, and I acknowledge it is rare,

1:10:40

however, as the guidance indicates, a rigorous dust management plan can always guarantee no significant effect, it does open up the option there to use dispersion modeling, particularly where we want to consider site specific characteristics, such as in THC Clements case and these districts sort of standards around Dust deposition that they adhere to in their contracts. So,

1:11:04

as laid out in rep, 3065, by myself, the justification around the guidance and Alex word enables that assessment. So it's rare I admit that I acknowledge that,

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but again, just driven by this pure sensitivity of th, claims of land adjacent to the order limits.

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The assessment approach is appropriate and justified, in my opinion.

1:11:27

Thank you. Does the African have any initial response to that?

1:11:31

So just before I turn to Mr. Ben Turner, can I just clarify, have we reach the end of the overview of the response to our points, because otherwise it might be better to deal with them all together.

1:11:53

That's what I had understood.

1:11:57

Yeah, thank you. That was the longest of the responses I would give, because that's one of the key ones. Bullet point three. Sort of costs two parts, and relates to inappropriate wind erosion modeling, as stated by the applicant, with

1:12:11

respect to the emission factor used, again, it's not exclusive, reserved for use in Australia and or the USA, and accepted, accepted use globally. The factor of using the TH Clements assessment principally relies on three location specific variables on climate and soil data which were available for this study. The excavated material is known to be a high silt content, the soil that is unsusceptible to wind erosion. And that level of susceptibility is accounted for in the emission factor that is applied with variables relating to silt content, rainfall and wind. Again, just referencing that Australian guidance from fugitive dust emissions advocates the use of this emission factor where the site specific data are available, such as in this case, the use of the default factors, which the applicant refers to, should only really be used where these data were not available.

1:13:04

Therefore, the assertion that emissions are known based on a known flawed erosion emissions factor is unfounded, in this case,

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in terms of the statement around 8% of emissions from wind erosion, that shouldn't really come as much of a surprise, just given that the volume of material being removed, the activities associated with that, all that materials is not being removed from site. It's remaining in situ. Therefore, with all that material being disturbed, the majority of the emission, the principal emissions, also will be wind erosion. There's the

1:13:40

second point in that one around the modeling side of things, the air mod the dispersion model that we use as a internationally recognized, approved model once again, and it does include enhanced

treatments of low wind speeds, which I'll go into detail in the written representation, but essentially reduces the the over prediction of potential for over prediction of just deposition during low winds.

1:14:01

So that's that addresses point bullet point three,

1:14:07

Bullet point number four, on model validation, or the absence of model validation, we

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do know that the applicant has accepted and agreed that the model validation would not be possible for study of this nature, and that's in section 2.2, page seven, that 4125, of the applicant review,

1:14:25

again, important to acknowledge a more special, modular, regulatory, approved model accepted for use in the UK. Now the applicant does reference a number of validation studies from the USA with respect to disposition modeling and the indication that we the th Clement study has a four fold overestimation in dust emission impacts.

1:14:49

The validation studies that I referenced principally relate to modeling in the far field, so kilometers away from the source. In contrast, the th Clement study looks at near field, so we're in a.

1:15:00

Few 100 meters of the source,

1:15:04

and indeed one of the applicant or one of the references, one of the studies referenced by the applicant on page eight of their representation,

1:15:13

count test, 2007 states accounting for near source, dust deposition losses is superior to the divide by four approach. So this is what our modeling effectively does we look we're only concerned with deposition in the near

1:15:26

field as such, the assertion that the fourth order overestimation is in place is incorrect within the context of the modeling undertaken.

1:15:36

That's not just as bullet four,

1:15:39

in the interest of time, bullet five, six and seven, relating to a continuous construction, misalignment of this description and conflicting activities.

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My response in PDF pages 28, to 33, of rep 4150, effectively addresses that, because that is unchanged. But suffice to say that we, we haven't represented a continuous construction.

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We have taken an indicative program of 36 months across the three phases of interest, taken each phase independently, treated independently in the assessment across 12 months. And that is an assumption that over 36 months, each phase is a lot of 12 months

1:16:21

and and. So if we were to assume continuous construction on that respect, we would have had to have reported a just deposition result of a continuous talk over a full year. We never, we don't do that. We only report results in short term periods related to daily and monthly just deposition so. So by definition, we are presenting continuous construction on that basis,

1:16:47

and this quickly on the on the relation to the project, misalignment with project description and conflicting activities, because we treat the phases separately, there is no we're trying to Avoid that overlapping and double counting of emissions,

1:17:02

and the information that's fed into our modeling from the project description has been taken directly from the relevant documents, DCR, documents such as app 058, rep 3022, and as 1086,

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Those are frequently referenced in rep 1050,

1:17:20

our study,

1:17:23

it's probably important just to mention our total mass emissions for each phase were represented as an average emission rate over the whole model, to acknowledge the lack of detail on activity, location, intensity and sequencing,

1:17:39

so that effectively looks at those onto bullet point eight, trenchless techniques excluded. Then this is accepted. This is a limitation of the study with TH Clements did request the equivalent sort of shape files you have referenced information for the relevant activities within the order limits on two occasions, one prior to this study being commenced, our study being commenced, and once after the December hearings,

1:18:05

the date wasn't provided on both occasions. So unfortunately, this made it impactful for us to incorporate that into our model. Without that spatial information, the applicant has stated that the trenches areas cover approximately 20% of the study area. So whilst it is accepted that any TH Clements land adjacent to these areas will likely receive a reduced rate of just a position, it's not possible to assign a value to that.

1:18:32

And finally, Bullet point number nine on unrealistic hgB HGV movements,

1:18:39

the eth Clement study has used the average HGV movements from table 27 point 28 of as 1086,

1:18:48

as given. So there's not been any manipulation of that data, and indeed, the data presented in that table does include maximum HGV movements

1:18:58

proportioned by the ECC the export cable cordial segment. Therefore it could have been viewed that th claims could have actually adopted a more precautionary approach in this case and use that maximum flow data, given that we're only concerned with the shorter time periods akin to the assessment criteria, so over days or months, a day or month a period.

1:19:19

So therefore we took the decision to use the average again rather than the maximum. So we do believe the justification the criticism is unjustified in this case,

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and that pretty much covers the bullets.

1:19:35

Thank you for that helpful summary. Mr.

1:19:39

Chris Muller Smith, I think I think, I think before that, you did refer to the potential for some of these points to be addressed where

1:19:48

there was lack of clarification that may now be provided in writing after deadline. For Is that correct? Well, I think what I said is that i.

1:20:00

Deadline for the applicant has submitted their report. Now we did have the advantage of seeing a draft, and have provided responses to the draft in our own deadline for submissions, but the final report

1:20:14

has differences to the draft, and we need to respond, obviously to the final report, because that's what you're going to be looking at.

1:20:23

So we intend to do that, I think, though, in terms of where we are between the parties,

1:20:31

Mr. Wright sort of described it accurately at the beginning, when there are substantive differences, and whether or not we resolve those, I think both parties have doubts about that, because they're fairly fundamental differences in the approach to the dispersion modeling. So I think it would be optimistic to say that we're going to resolve all of those. But ultimately this

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feeds into the

1:21:04

an agreement between THC that isn't dependent specifically on Dust dispersion modeling, but an agreement as to how to manage the line going through THC lands

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and the fundamental disagreements on that does not on the dust dispersion modeling does not necessarily inhibit an overarching deal that would effectively push this debate into the margins.

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So we are hopeful we can come to a global agreement

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en route. We doubt we'll come to specific agreement on Dust dispersion modeling.

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Thank you. Does Africa have any comments to yes, if I can harrywood, Philpott Casey on behalf of the applicant, in a moment. So with your leave, I'm going to ask Mr. Ben Turner, who's the air quality lead and Principal Consultant of SLR consulting to provide you with a very high level key, key points type response, recognizing that we've heard this, obviously, for the first time. But before I do, if I may, just to provide some context, I'd like to pick up the point that Mr. Westman and Smith has just made, and seek to provide, hopefully, some context as to the nature of this dispute and where it fits in for the purpose of decision making, because there's a danger that we get lost in the weeds and forget what this ultimately all goes to

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as The TH Clements response to written question, Lu 1.6 deadline, four and Mr. Westmoreland Smith's helpful summary now explain this concerns the area of land that is identified as a high risk of being affected by visible dust and the appropriate amount of mitigation land, taking that as an input. It's not, as I understand, it, a dispute as to whether additional mitigation measures to control and red dust, reduce dust, are needed.

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The applicant, as our deadline for submission explains in some detail, has already committed to the full suite of best practice mitigation measures to control and reduce the amount of dust. That is the key point to which policy in en one, section 5.7 is addressed. So where there are dust problems, need to make sure you've got the mitigation measures in place.

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With those mitigation measures in place, whether one takes the area for which TH Clements argue or the area that the applicant argues, you're talking about a highly localized impact

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and an impact of limited duration. It's a temporary, highly localized impact, even on TH Clements case,

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in the context of a nationally significant project delivering benefits at national scale, which comprises critical national priority infrastructure, engaging the provisions of section 4.2 of the n1

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so whether

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the applicant's analysis of this or the TH Clements analysis of this is correct. First of all, it doesn't lead to a decision that further mitigation measures are going to be required in terms of the suppression and control of dust, because we're already providing everything that we we reasonably could. Secondly, it is, frankly not going to generate a residual impact.

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Which could conceivably outweigh the nationally significant benefits of critical national priority infrastructure when you look at policy.

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Ultimately,

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the reason why this is being fought over in such detail is because, as Mr. Westman Smith has just explained, it provides an input to a commercial negotiation about land being provided elsewhere.

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That's why it matters between the parties.

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But that's not a matter that is ultimately, in my submission, likely to affect the decision as to whether development consent is granted or what mitigation measures ought to be secured. Matters of compensation for financial loss cause not not a matter for the examination. So it's important to understand that context, to understand why it's being fought over, but why, ultimately, you're not being asked to change the way that dust is managed in the tail of construction practice and matters of that sort. With that context in mind, I'm going to ask Mr. Turner to provide a very high level response just to identify the key points that we say matter. Thank you.

1:26:10

Ben Turner, on behalf of the applicants, feel free to refer to me as Mr. Turner for today. So we've heard a fair few points from Mr. Porton, and we'll be responding in full of those at the next deadline, but I'll provide a high level summary. So it's important to note that the applicants and th climates have conducted separate and different assessment techniques for looking at dust and have therefore reached separate conclusions,

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so the applicant assessment provide assurances. Is a qualitative approach using the Institute of air quality management's latest guidance on construction dust, it's the established best practice for assessing construction dust in the UK, and it's used and has been used extensively for the past 10 years. It's the standard for onshore linear infrastructure schemes traversed in farmland. It's been used on Sheringham Shoal and also HS two.

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It comprises a risk based assessment to consider the construction activities alongside the sensitivity of the environmental area. This then informs the risks and in turn, the suite of mitigation to ultimately render the residual effects as not significant.

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We heard earlier from Mr. Pawson regarding considering the site specific nature of the commercial crops, and that's been previously raised by TH Clements

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in re p3 065, and we responded to that in R, E, p4

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108,

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in summary, the icon framework inherently accounts for dust soiling on commercially sensitive horticulture, and our evidence to support that is In re p4 dash, 125,

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the applicant has assigned the maximum level of dust risk and protection afforded under technical guidance, and this is a higher risk than other similar DCOs have applied in it in the local area. For instance, Sheringham Scholl assigned a medium risk,

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which is lower than what the applicant has assigned, and that was agreed by the National Farmers Union. So the applicant is recognizing the sensitivity the area,

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and therefore is recommended and providing the full suite of best practice controls prescribed by the Institute of air quality management in the outline Air Quality Management Plan A, P, P, 270,

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they'll be later refined as the detail design progresses and once a principal contract has been appointed. And that's also complemented with a proactive monitoring and communications framework to provide assurances whereby the outcomes are reported to the local authority to provide accountability.

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So based on that full implementation of these controls, the high degree of confidence that the effects are not significant.

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Looking at the TH Clements assessment, in summary,

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what they have found is there's a high risk of dust across 100 hectares of farmland despite the maximum level of mitigation being applied, which is unusual, and also considering the local impact report, the measures were described by local authorities being robust and compliant.

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In summary, it takes whilst the applicant assessment has used a qualitative approach, TH Clements has used a modeling approach to predict where dust how much dust is released, and where it lands. Effectively, it

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doesn't represent best practice. You know, the study uses dust emission factors from coal and metalliferous mines in the USA and Australia. They're not validated for the UK climate nor are they appropriate to represent construction activities.

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83% of emissions.

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Based on a 1988 emission factor used for coal stockpiles, so the applicant struggling to rationalize how that approach is appropriate in this setting.

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The second and picking up on Mr. Portens point about how the construction just guidance has a paragraph in to

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open up, potentially to conduct a modeling assessment, as Thompson have done, it fails to recognize the point that the applicant is trying to make that because the study relies on mining emission factors from mines in Australia and USA, the iqms separate mining guidance is therefore appropriate

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when you look at that iqm separate guidance, it stays when you use non UK emission factors in a modeling assessment for local impact assessment that has been done

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here. That's inappropriate. So the points that we've heard today will respond in full, but they're failing to recognize the applicant's position on this matter.

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Thank you. So just in terms of the you refer to the assessment applying at a higher level of risk, so in your view, that takes a precautionary approach in terms of the assessment and its outcomes, then turn on behalf of the applicant. Yes, Craig, sir, that is the maximum afforded under technical UK guidance for the assessment of construction dust, and that's been operable for the past 10 years, that there's no other that it's a full suite of mitigation that's been applied here. And I think if I may could, I, if I could just add what we're seeing in the modeling assessment is, is not a true representation of that because of the inherent flaws and the inputs are used to come to that conclusion.

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Thank you. That's a helpful summary. Just

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going back to TH Clements, just

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picking up on a point from Mr. Philpott, is TH Clements seeking additional mitigation for dust?

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No we're not so. Mark Westman Smith TH Clements,

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just responding to Mr. Philpott points, it is correct firstly, that we're not seeking further mitigation measures.

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Secondly, it is correct that it is a local impact. But the third point is that if agreement is not reached between the applicant and TH Clements, then there will be impacts for you to take into account that go beyond simply dust dispersion, but relate to the consequences of that, and we've set out some of those potential consequences in relation to socio economics. In response to your second written question, see, 1.1

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that's on page 49 of rep, 4150,

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and it's absolutely right for Mr. Philpott say that compensation is not a matter for this forum, but the absence of compensation might be would be, and that is a potential consequence of not coming to agreement with the applicant. So if you look at the microcosm of localized dust impacts which Mr. Philpot focused on,

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they may go into your balance and they may have or have not the impact that was suggested, but the impacts go beyond that. They go to the socio economic impacts on this farming business, and you'll have to grapple with those. So

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that's just in response to Mr. Philpott, Mr. Paulson, was there anything you just wanted to very briefly say in response? Thank you. Damian post on behalf of TH Clements, yeah, just just to

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without repeating, my representation. Rep zero.

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Rep 3065,

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in terms of iqm approach adopted totally, totally accept that's the industry standard. I'm a full IQ member myself with 20 years experience, so no issue with that. However,

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it clearly states, as per my presentation, that mitigation is not always effective, despite having a rigorous, just management plan in place. And I take the point that

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for Mr. Philpot that the the impacts might indeed be short term, but over a short term period, in tears, Clements context, that could have a quite significant impact on their on their land, given any level of deposition which is visible, could wipe out significant area of crop in terms of their contracts

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and.

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Just, just to restate again the guidance, iacm, guidance section 5.5 when it refers to modeling, it defers to the European Environment Agency, guidance to obtain the relevant emissions factors to facilitate discussion modeling. That's the word, I believe, is used by association the environment, European Environment Agency defers to us, EPA AP, 42 emissions factors, which

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is again recognized by the World Bank as international best practice, or good practice

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when adopting a bottom up modeling approach, is what we've done. The US. EPA guidance forms the basis for the Australian NPI guidance as well. So by association, these factors are not limited to coal mining sector. They can be used in construction, as per my previous response earlier. So again, that'd be in writing, but yeah, thank you.

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Have a related question,

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page 26 of the applicant's response to th climates dust reports assessment conclusions.

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That's rep 425,

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states that post consent the construction dust assessment will be revised include detailed construction data once the principal contractor is appointed, a will account for evolving best practices. Full consideration will be given to sensitive receptors, including sensitive crops. The outcomes will inform the final suite of controls, which will be issued to the land interest group for consultation,

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just a question to the applicant. Initially, it's not clear to

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me at the moment where the commitment that the dust construction just assessment will be revised post consent is actually, is actually contained,

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either from the outline

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kind of construction practice, the Air Quality Management Plan, or the draft on the consent order. So where

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is the commitment for it to be revised post consent,

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as was suggested in the response.

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So I think we better take that away and come back to you with chapter and verse at deadline for a getting an immediate answer as to where I find it. Thank you that that will be welcome.

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And then TH Clements, if that commitment were to be secured, to what extent would it provide some comfort to your concerns? Again,

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this may be something you want to review in terms of the applicant's response to your report semester deadline for Yes, I think Mark Western Smith, TH Clements, if we could just reflect on that and come back to you at the next deadline that would be helpful. Thank you. We'll note those as a as an action point. You

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okay,

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we're going to aim to break for lunch at

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130 and there are a few matters left on land use

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that we'll try and get through.

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Moving on to agricultural, drainage and irrigation. Then

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I note from the covering letter the

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applicant's deadline for submissions that it has issued indicative conceptual pre and post construction drainage plans to the clearance agents for their review

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on 27 January.

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Are there any further

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points or updates that you may have on drainage that came out of that exchange?

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The remaining concern in relation to drainage relate it springs from a couple of paragraphs in the

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code of construction plan, and their paragraphs 111

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112

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and they refer to where existing drainage systems can't be adequately reinstated, and an alternative, new scheme over part, or the entirety of the field can be installed, and where our concern relies is in the ability for partial reinstatement. And I'll just ask Mr. Wright briefly to explain why that is

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Philip Wright Thompson.

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The where a new scheme or a part new scheme is intended to be installed,

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there will be an existing scheme in place, and it will be won't working. It'll be functioning.

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TH Clements, take a lot of time out to ensure that these schemes are working properly, because we need to get the soils back quickly to a less than flooded state. So

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if a new scheme is installed,

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and an old scheme,

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I'm assuming here, has been severed by the by the actual pathway of the of the corridor. Then

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functioning scheme that was there before it was severed will still serve to provide a flow of water from uphill or up, upgrade of the of the corridor into the area of the corridor.

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Therefore

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we're going to actively encourage water to seep down into the area where the pipes have been severed, which is the exact position of the corridor. And as a result of that, it's going to encourage more water to be present in the area of the corridor, which further exacerbates problems with machinery sinking through wet, waterlogged soils. So from our point of view, it would be very important to ensure that didn't happen now the

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the best way of doing that is to remove the existing scheme where a drainage contractor would install a new scheme in normal agricultural fields. It would be, it would be, as a result of the existing scheme

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failed, and therefore we don't get this seepage issue taking place. In this case, we've got fully functioning drains helping to channel water so an area where they've been severed. So

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the upshot of that is increases the the the amount of water logging risk in the area where the cable corridor is so

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drains that are upstream, or upgrade of the corridor,

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we would assert, should be removed existing existing drains if a new scheme has been put in.

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So so that that's one concern we have that springs from the wording in the outline code of construction plan, but in terms of the drainage plans that the applicant has shared with us, I think it's fair to say we're in ongoing discussions in relation to those rather than have reached a position of settled agreement, and that is continuing outside of the room.

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Okay, again, a

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plea that

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those discussions are are had, and some agreement reached or not by deadline for a if possible. Please. Does the applicant have any initial response on those points, though? Thank you. Yes. David Wright, on behalf of the applicant, I think one of the key differences that we've had on on land drainage to date has been not to bore you, but whether you cross connects. IE, your cables go under and you reinstall your drainage system over the top of the cables. Or whether, as is common practice, you put in a new partial scheme on top of the cable route. I mean, the discussions today with TH Clements that we've had and the commitment now to going 300 mil below drainage systems will allow us to be able to cross connect. So a lot of the issues that are being discussed with that commitment today now to go 300 mil below land drainage will allow us to reinstate land drainage over the top of our cables, and thus it prevents any issues that we've had with having to remove redundant systems, etc. It's just worth noting that there were comments from TH Clements regarding the removal of removal of schemes, the jetting of schemes suggested for the outline code of construction practice. Whilst we appreciate that that is TH Clements is preference. We did not want that in an outline document to be the only option, as other landowners along the route would have differing views and differing opinions on how their land is drained. So the kind of construction practice, and specifically for land drainage, allows us flexibility to use our pre and post construction drainage, which then have a sign off process and an expert determination process

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to deal one on one with landowners about their fields, their knowledge and you know, their beliefs on their systems.

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Okay? Thank you. So

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just to confirm my understanding, redundant drains would not need to be removed, in your opinion, because of the depth of the new drainage that would be put in place, there would be no conflict or issues that was identified by.

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The th climates on that basis, David, on behalf of the applicant, there may still be issues so where we cannot drain across the top of

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the cable route and a post construction drainage scheme is put in place, there may be the need to remove redundant systems, but that will be dealt with on a case by case basis, as part of the COVID

construction practice and the sign off process that this contained within. So if we send ch Clements a plan, and their view is, you need to remove the old system. There's a there's a mechanism in place to consult and agree on on a principle. And if that principle, you know that cannot be met, there is then an expert determination process in there. So if we are still at odds on a specific field or a specific situation, the code of construction practice affords a dispute resolution measure, and

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that mechanism is in the current drafting of the code of construction practice. DAVID Right, on behalf of the applicant, yes, that's been added

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under advisement of th claims. Yes.

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Thank you. Mr. Mullin Smith, Mark Westman Smith, th bemans, yes, I perhaps should have begun by saying the context for what I said to you earlier in relation to

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reinstatement, where existing drainage systems can't be adequately reinstated has narrowed significantly because of the commitment to go 300 under existing drainage. So we are now talking about a much narrower set of parameters, or likelihood of this occurring, and the dispute resolution is goes a long way to where we need it to be. We'll just reflect on whether or not

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we want to suggest some reference to reinstatement in the manner we see fit, but whilst retaining the optionality for the applicant. But that's something we can discuss online. We've made good progress in this area.

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Okay, thanks. I look forward to respective submissions at deadline for a on the outcome of those discussions

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before I move on. Are there any further points anyone wishes to raise on on drainage and irrigation?

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No, okay,

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so the final two items on the agenda then climate change, increased rainfall, soil impacts

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and peat identification and management. First

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of all, in relation to climate change,

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I note that the county council pay content with the applicants, submissions and conclusions, and the Environment Agency defer to the county council.

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Th climates, though are concerned about saturated soil being at high risk of structural collapse and the increased frequency of her rainfall events that will leave less time for land to drain. Are

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there any further points that you wish to raise on that at this stage? Mr. Westman Smith, Mark Westman Smith, TH Clements, no, I think we said what we needed to say in rep for 150 in response to your Lu, one point 12, thank you. That says all we need on that basis. Then I suggest that the applicant simply respond to that point in writing it deadline for a

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and then, similarly, for peat identification management, noting natural in response to further written questions. Lu, 1.5

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regarding recommendations for the peat management plan, again, an invitation for applicants, responding writing at the bind for a to those requests. Please. You

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okay, unless anybody has any further questions in relation to land use, I suggest we break for lunch until 215

1:49:14

Thank you. Thank.