



## Hearing Transcript

<b>Project:</b>	East Park Energy
<b>Hearing:</b>	Issue Specific Hearing 1 (ISH1) - Part 2
<b>Date:</b>	18 March 2026

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# AUDIO\_EASTPARK\_ISH1\_SESSION2\_18032

## 6

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00:04

Time is now 1135 and this meeting is restarting. Please. Could a member of the case team confirm that it can be heard clearly and that the live streaming and recording has started? Thank you. So moving on to Item four, which is the examining authority's questions on the draft development consent order set out in the agenda. The primary purpose of this agenda item will be for me to raise my own initial questions, the interested parties are very welcome to participate, but I'm not expecting you to frame any further detailed positions until the submission of the local impact reports and Other written representations have been made following this meeting. Do

01:05

I acknowledge that some of my questions may require further consideration by the the applicant team, and because of that, I'm happy for those responses to be made in writing along with confirmation of the verbal responses by deadline on so if that is the case, just please say we'll follow up in in writing. So moving on to my first comment question relates to the preamble to the draft order? Could it be? Could the draft order be amended to refer to Section 83 one of the Planning Act, 2008 as I am the single appointed person, the examining authority, I

02:03

Betty simondra for the applicant, yes, no problem. Okay, thank you.

02:15

So in terms of Article Two, flexibility, the extent of any flexibility provided by the draft development concern order should be fully explained, such as the scope of maintenance of works and ancillary works, limits of deviation and any proposed ability Through tailpieces of discharging authorities to authorize subsequent amendments the preferred approach to limiting this flexibility is to limit the works or amendments to those that would not give rise to any materially new, materially different environmental effects, to those identified in the environment statement, as you quite rightly referred to earlier, also further as detailed pieces section 17 of advice, note 15 gives further guidance. The drafting, which gives rise to an element of flexibility or alternatives, should provide clearly for unseen circumstances and divine the scope of what has been authorized with sufficient provision. For example, the Secretary of State had to amend Article Six benefit of order of the national grid richbrook connection project in 2017 at the session stage to remove ambiguity that was later correct by the National Grid retrograde connection project correction order 20. In addition, in relation to the flexibility to carry out advanced works, any carve out from the definition of commencement should be fully justified, and it should be demonstrated that such works are de minimis and do not have environmental impacts, which need to be controlled by a requirement. Carefully, we could take this away and re examine what's been submitted so far with the comments I've made there, I

04:23

Leticia Mandra for the Hi, sorry, we have rehearsed a response to talk through the level of flexibility how that's provided for in the offer definition of maintained definition of commence. Is there any value on setting that out right now, or is it expected? We're doing this in writing?

04:47

Yes, please.

04:49

Okay, fine. So the draft TCO does incorporate flexibility in the following ways, and tries to cover any and. Certainties at a later stage. So the first way is under Article Seven of the order that says the applicant must carry out the authorized development within the limits of deviation. These limits of deviation are defined as the limits for the scheduled works within the work plans. The exception to this is where the applicant can demonstrate to the Secretary of State, in consultation with the local planning authority, that a deviation in excess of the limits of deviation will not give rise to any materially new or materially different environmental effects to those reporting the environmental statement. This should be read together with requirement three of schedule two, part one of schedule two. These requirements provide that no phase of the authorized group development make amends until the details contained within the requirement relating to each phase of the authorized development have been submitted to and approved in writing by the local planning authority. Details relate to layout, scale, proposed finished ground levels, fencing, external appearance, vehicular access and parking. The details must be in accordance with the design parameters and principle statement, unless it can be demonstrated to the satisfaction of the local planning authority that the subject matter of the approval would not give rise to any new or materially different environmental effect in comparison to those reporting the environmental statement, the design and principles, the design parameters and principle statement is a certified document has been submitted by the applicant, so it allows the applicant to finesse the detail at a later stage. Within these parameters, there's nothing authorizing the applicant to go any further unless there's consent, and unless there's no materially new or materially different environmental effects. This also tallies with the definition of maintain in Article Two, which sets out that the applicant will be able to Article Two and article four, actually the applicant is able to include repair, inspect, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of the authorized development, but it does not authorize the applicant to reconstruct or replace the whole of the authorized development. Again, these cannot be rise to any materially new or materially different environmental effects to those reported in the ES that is the absolute limit. The explanatory memorandum, paragraph 925, F explains that a definition of maintain is included to make it clear what activities are authorized under Article four during the operation of the authorized development. The definition has been drafted to directly reflect the nature and context of the authorized development, which will need to be properly maintained, managed and protected throughout its operational life. The drafting reflects this operational period and maintenance and it's required to enable the applicant to catch up with technological and practice advanced advancement and improvements during the life of the scheme. These provisions are all very well precedented. The the exact precedents are set out in the explanatory memorandum. Now commence. Commence is when the most of the requirements are triggered the in relation to the definition of commands. This include any material operation other than site preparation works. These are carved out and also defined the definition of site preparation works include environmental surveys, geotechnical surveys, intrusive archeological surveys and other investigations requiring advance of construction, erection of construction, of plant and equipment above ground, site preparation for temporary facilities, diversion and laying out preparators, Temporary means of enclosure and Site Security, temporary displays of site notice and advertisement, preliminary site access, work site clearance, including vegetation removal and demolition. These This is the best practice and has been adopted in many other DCOs, and it aims the applicant to ensure that any potential adverse environmental receptors are properly considered before any significant works commence. It is important to know, though, that certain management plans will need to have been submitted to relevant planning authorities and approve. Before certain site preparation work, and for that reason, some requirements have a different definition of commence. One example is requirement five in relation to the construction environmental environmental management plan, where the term commence is

widened to ensure that it that covers any site preparation, comprising site clearings, including vegetation removal, demolition and existing buildings and structure that's all for us.

10:30

Thank you. Moving on to Article Three, development consent, granted by the order. The intent of this article is avoiding consistency with other relevant statutory provisions applying in the facility, but not withstanding the President's as much information as possible should be provided about any enactments, together with clarification about how far from the order limits the provisions might based some further detail around that that could you could provide,

11:08

I take this is Article Three two. Yeah, yeah. Article Three Two provides that any enactment applying to land within the within or adjacent to the order limits has the effect of the provisions within the DCO, which is, as you just said, the disapplication of certain legislation. The one is intended to clarify that the DCO will take precedent over any local legislation that we are requiring to this apply within the order limits. This is, this is based on section 1205, a of the Planning Act 2008 which provides that an order granting development consent, court order granting development consent may apply, modify or exclude statutory provisions would relate to any matter for which provisions may be made in the order the applicant included this list of legislation in schedule three, taking effect through article eight, and this application is intending to ensure that there are no local acts that may hinder construction and operation of the development. The meaning of the term adjacent in the context of Article Three, two would need to be charged on a case by case basis, and in practice, would be to the extent necessary for the construction and operation of the authorized development. This approach is taken also in other articles within the order. For example, it's noted that it term is used in article 20, authority to survey and investigate the land of the draft order and in a number of other granted DCOs in relation to Article 19, which is protection to buildings and yeah, it's basically on a case by case basis. And other legislations from which this was taken use the term near or adjacent in that way without defining it geographically, because it would not necessarily tackle the issue. Okay?

13:10

Thank you. Moving on to Article Six, planning permission. This permits certain development authorized by a planning permission granted under the Town Country Planning Act that is within the order limits to be carried out and pursuant to the terms of the planning permission without breaching the order. As a little bit of an aside that it is not that there is an existing planning permission in place for the solar farm located south of Manor end farm. What's the position of that particular planning consent

13:54

as a big part of the reuse as Part of the proposed development,

14:02

I sleep one minute. Do

14:25

Julian Boswell for the applicant. There's no intention for that permission to be used, but we'll come back to you in writing, because guess we weren't expecting that question. So we just like to check the position. Okay, we are Article Six, isn't there with that permission in mind? It's just there as a general sort of protection that's been accepted on other DCOs going forward. But we're very happy to clarify the position in writing on that permission. But as the headline, no, we're only developing pursuant to the DCO assuming it's granted. Okay.

14:59

Thank you. Two notwithstanding that it's noted that the Secretary of State in the stone street solar DCO, he considered, he thought it created some it was unnecessary, and created some ambiguity. And there's a consequence that was removed from the draft development consent order. So again, I just ask you to reconsider the retention of this article.

15:34

Leticia mandar, on behalf of the applicant. Can I clarify something the way Article Six is drafted is following the coming into force of this order, it would not necessarily apply to existing consent within the order limits.

15:52

Okay, right. Thank you. Understand now, moving on to Article Nine defensive proceedings in respect of statutory nuisance, I do note that both es chapter 10 on noise and vibration and the outline construction and environmental management plan don't foresee any significant construction related effects from vibration. And I also know that the explanatory memorandum is silent on vibration as a potential nuisance source, but in the event of any unforeseen circumstances arising on site, could the applicant consider whether the explanatory memorandum and the development consent order need to be more explicit in respect of vibration?

16:52

Let this again, on behalf of the applicant, we can consider that the way Article Nine is drafted is by reference to our study news and statement and the nuisance is identified on that statement, but we can consider noise and vibration though.

17:09

Okay, thank you. In addition, on the same article, just ask, are the controls on noise elsewhere in the draft development consent order sufficient to justify the defense being provided by this article, statutory nuisance claims relating the noise

17:32

again, Leticia Mandra on behalf of the applicant. The reason for being of this article is to tackle two potential different attacks, and it's not just the list of the nuisance so section 158, of the Planning Act 2008 is effective as a defense where proceedings are brought to the magistrate court. Now what this article seeks to do is to tackle the scenario where nuisance is used, where the local authority should have been taken initiative to tackle these issues. So we still believe this article is necessary and relevant.

18:20

Does it need to be more explicit in terms of everything, or that was in terms of vibration, we will take that away. Okay, thanks. Thank you. Moving on to Article, 12 power streets. So I do know this is a wide power authorizing operation of any street within the order limits. So what I would ask is it should be clear why this power is necessary, and considering consideration given to whether you should identify the actual streets that you you wish to secure that power over

19:00

again, Leticia Mandra, we have the applicant these. This article is split into various sub paragraph, and they all do different things. So the first part of article 12 grants a specific power in respect of everything that is detailed in schedule five, and that's clear on the face of the order. Now I understand the question is referring to 12, two, which enables the undertaker to carry out any other street works that may be

identified by the undertaker or anywhere relevant highways authority as being required to facilitate the delivery of the project, for example, through the project of a green detail Construction Management Plan or the commission traffic management plan. So these, these article gives a general power to carry these street works, but, but it's in some way linked and restricted to anything that is. Required to implement the scheme. The reason the streets are not identified is because at a later stage, there might be additional traffic impacts or construction traffics or operational traffic impacts that need to be resolved, and it will be easier to rely on this subsection than having to re amend a granted order. The most important point to highlight is that this power is control through the following mechanisms. It applies only, as I just said, for the purpose of constructing, operating, maintaining or decommissioning the authorized development. The power is subject to control on paragraph three of this article, which provides that the undertaker must restore any street that has been temporarily altered pursuant to paragraph two to the reasonable satisfaction of the street authority. And finally, this power is subject to control, which provides that may not these powers may not be exercised without the consent of the street authority. It's based on recently granted solar orders such as bioskill solar, Auckland farm solar, long field solar, and it's structured in the same way, just provides that extra limb of flexibility for uncertainty, and that links back to the initial comment of the section, which is, what are we doing to provide flexibility to cover any uncertain scenarios?

21:36

Okay, thank you. Moving on to article 15, temporary stopping up and restriction of use of streets, notwithstanding the precedence, further justification should be provided as to why the power is appropriate and proportionate, having regard to the impacts on pedestrians and others of authorizing temporary, temporary working sites in these streets. Just a comment to take away.

22:12

Article 18, discharge of water. I know what the commentary in the explanatory memorandum,

22:22

but other mid development consent orders have removed article 18, sub paragraph nine. So could you consider the removal of this for concert system see with previous made development consent orders or further justify why it is necessary.

22:49

Mayor James on behalf the applicant, we can certainly look at that, but article 18 is necessary for discharging into water courses, but we can look at that specific provision and see if we need to make any any changes.

23:06

Okay, thank you. Moving on to article 30 sub paragraph for temporary use of land for carrying out the authorized development. So I would suggest looking at the Secretary of State's decision and the May development consent order on stone street solar, where it was amended. Or I suggest amend men this article to read that the undertaker may not, without the agreement of the owners of the land, remain in possession under this article after the end of the period of one year, begin with the date of completion of the part of the authorized development which temporary possession of the land was taken, unless the undertaker has by the end of that period, served a Notice of Entry under Section 11, powers of entry of the 1965 Act, or made a declaration under section four, execution of declaration of the 1981 act in relation to that Land,

24:20

Leticia mend we have the applicant? Is this not already between four and five sub paragraphs, four and five contained? There? Is it something going beyond what we have in our order? Because it's been drafted slightly differently from stone Street.

24:48

If you could take a look at the stone street decision and the made development consent order and then come back with the. A response or revision.

25:08

Article 32 and 33 this refers to statutory Undertaker as an apparatus, so where a representation is made by a statutory Undertaker or some other person that engages section 127, section one of the Planning Act 2008 and has not been withdrawn, the Secretary of State will be unable to authorize compulsory acquisition powers relating to that statutory Undertaker land, unless satisfied of specified matters, matters set out in Section 127, if the representation is not withdrawn by the end of the examination, the examining authority will need to reach a conclusion whether or not to recommend that The relevant statutory test has been met in accordance with section 127, the Secretary of State will be unable to authorize removal or repositioning of apparatus or extinguishment of a right for it, unless satisfied that the extinguishment or removal is necessary for the purpose of carrying out that development which the order relates in accordance with section one three of the Act banging act 2008 so essentially Looking for further justification to show that extinguishment or removal is necessary.

26:47

May or James on behalf of the applicant. So the draft DCO, as Ms Mandra mentioned earlier, does include protective provisions in schedule 13 of the draft DCO, and this includes protected provisions in favor of electricity, gas, water, sewerage and telecommunications, undertakers, which are included in parts one and two of schedule 13. There are also some bespoke protective provisions, including for the benefit of the drainage authorities in part three, the Environment Agency in part four, and national gas transmission in Part Five. These reflect the applicant's preferred drafting at this stage, but discussions are continuing with the relevant undertakers to agree these protected provisions, and the drafting will be updated accordingly. In addition, the applicant is also in discussions with other statutory undertakers, such as angular water and national grid electricity transmission regarding bespoke protective provisions to be included in the draft DCO. And the applicant's position is that these protective provisions are adequate and proportionate to protect the statutory undertakers, given the nature of the interactions and the extent to which land rights or apparatus of the statutory undertakers will be affected by the project, the inclusion of these protected provisions, which include works approvals mechanisms, will ensure that there will be no serious detriment to the undertaking of any of the statutory undertakers affected by the scheme, as you will be aware, sir, it's clear from previous considerations of section 127, and section 1138, and other DCO decisions that What constitutes the serious detriment is a high bar, and an adverse impact or detriment will not necessarily mean that serious detriment exists.

28:51

Thank you. Yeah, welcome you. You mentioned further discussions in relation to protect the provisions. Just encourage that to happen and close it off as quickly as possible during the examination. Moving on to article 37 the removal of human remains. So again, referring back to stone Street, Secretary of State considered the applicant's justification for including this provision on the basis that the undertaker had not been able to conclusively rule out the presence of human remains within the order limits, given the history of the area, Secretary of State has removed similar articles from several other orders where there's no clear justification for its use. Secretaries of state's position is that this provision is only intended to deal with known and identifiable human remains, such as those within a burial ground. Can

be publicized under the terms of the article, provision for any arc where. Human remains should be dealt with within the written scheme of investigation. Secretary of State will, for obvious reasons, want modern human remains that are not contained in public records or otherwise readily identifiable to be dealt with by the proper authorities rather than being simply removed and reburied, so that again, as I say, the article was removed from the mid development consent order for storm Street. And I'd ask you to look at whether this needs to be removed from the draft development consent order, because, in my mind, the key word is known, and I don't think we have that in this particular project, but you might put me right about that.

30:49

Let this man on behalf the applicant. We will take this away. We can explore whether the burial Act actually draws that distinction between archeological bodies and modern bodies, we can find that distinction, but we can explore that and consider whether it's appropriate to remove the article.

31:12

Thank you. So moving on to requirements now, requirements five, nine and 18, I would suggest amending part one of requirement five, which relates to the construction Environment Management Plan and requirement Nine, the operational environment Environmental Management Plan and requirement 18 for the decommissioning so that we've got we had the approval, should also be in consultation with the relevant statutory nature conservation body.

32:01

Thank you. Again, requirements five and 18, the states that final traffic management plan for each stage of construction for five and decommissioning for 18, will be submitted to the local planning authority and consultation with the relevant Highway Authority. This has already been picked up earlier, but that should be amended in consultation with the relevant Highway Authority, or authorities to reflect national highway status as the highway authority for the strategic road network. Noted thank you on requirement seven soil management plan, if you could add Natural England as a consultee engage with when discharging the requirement.

33:04

And in relation to biodiversity net gain, could we consider requirement in line with natural England's advice and their written representation, or in addition to the landscape Environmental Management Plan, which secures the stated biodiversity net gain, that's something that could be looked at.

33:33

Please let this on behalf of the applicant, there is something of that kind already in the current outlined length or landscape environmental management plan, we can explore this in more detail and confirm

33:49

Thank you. So now moving on to the explanatory memorandum. Article 42 I think it has erroneous references to article 40 in there. Could these be corrected? And in addition, paragraph nine, point 8.18, of the explanatory explanatory memorandum states, article 40 is as substantially found in article 39 of the buyers, Gill solar order 2025, and article 37 of the long field solar farm order 2023, if it is substantially found, could you amend, please? Could you amend the exponent remember memorandum to set out what the differences are, please and why the differences are necessary. Thank you. In the exponent memorandum. Relating to article 42 paragraph nine, point 8.30, refers to a number of powers where compensation would be payable. It is noted that articles 1519, 2021, 41, and 42 are not cited. Should these be added?

35:21

We'll consider this.

35:23

Thank you. And again in the explanatory memorandum requirements, paragraph 10, point 2.4, so paragraph D, requirement for refers to requirement eight rather than four. I think that might be a type O,

35:50

noted Yes, a type

35:53

and in relation to sub paragraph Q is in relation to requirements 17, the last sentence should refer the sub paragraph two,

36:09

thank you. And finally, explanatory memorandum leading to schedule 10. Paragraph 10, point 10.1, references schedule nine rather than schedule 10, which I think again as another typo. So that's all the questions I have on the draft development consent order at this stage. And now ask if there's anything to add from random room in terms of the articles, payments, or any, I think, else about the draft development consult order i

37:17

Nothing to add at this stage. Thank you, sir

37:23

Pike, had your hand up.

37:25

Thank you, Mr. Sword Andy Pike, resident hail Western and nominated spokesperson for stop East Park energy. It was just a very brief point to to mention the applicant has has mentioned a number of times that they've relied on previous DCO precedence, I would ask the examining authority to look at those previous DCO precedents that they are referring to, specifically the requirements, which are far more detailed in the precedents that they've mentioned than the applicant has proposed and drafted in the DCO we have before us. I would also note that precedent does not constrain this examining authority from requiring more robust safeguards, where justified by the scale, duration and context of this proposed development. Each application must be determined on its own merits, and the examining authority therefore retains full discretion to recommend requirements and financial security provisions that to protect the land and the communities affected by this project. Thank you.

38:35

Okay, thank you. And no that anybody else in the room that would like to make a

38:46

comment at this stage on this particular agenda item, turning to Microsoft Teams, anybody online who would like to make a comment? Okay, in which case I will move on to Item five, next steps. So previously mentioned that the applicant had been asked to keep a list of action points which we can run through in a second. But I'd like to say enough obvious reasons going to go through the myriad of minor points we've discussed. But once the applicants read out the action points, if anyone believes that we've set out something different or missed something, and there'll be an opportunity to say something. If I could hand over to the applicant, please, to run through

39:48

a minute, please. Okay, no problem.

40:01

Hi, Mayor James, on behalf of the applicant, I do have a list of actions here that I can run through. Should I just go through the list? And then, if anyone has got any thoughts, then we just please so the first one is to provide a written response where this has been discussed, including two points raised by Mr. Pike on behalf of stop East Park energy applicant to confirm whether previous solar DCOs have included provisions for decommissioning security. Applicant to provide further information in writing on flexibility afforded by the draft DCO. Applicant to revert in writing in relation to the status of the planning permission close to Manor farm and the Article Six in light of stone Street. Applicant to consider impacts from vibration in relation to Article Nine and to respond in writing. Applicant to respond in writing as to why article 15 is appropriate and proportionate having regard to the impacts of pedestrians in streets and the use of temporary construction compounds. Applicants consider whether article 18 nine should be removed based on other made DCOs. Applicant to consider, in respect of stone Street, green solar, whether the made order requires amendment to be made to the DCO. Article 30 applicants take away the examining authorities queries in relation to Article 37 around whether the article is required. Applicants provide information on how bng is secured in writing in relation to requirement seven, and then applicant to review and update the expanding memorandum based on the comments received.

41:30

Thank you. Anyone else like that?

41:38

I believe you also agreed to consider anything that was a deficient in relation to the Cleeve Hill DCO, but we can supply some more information about that.

41:52

If you do have further evidence emanating from the Cleve Hill project, then yes, please submit it. We'll do the examination that can be added to the library.

42:03

Yeah, the importance of it is that, to my knowledge, that's the only known built N SIP solar project thus far.

42:12

Yes, thank you. So if there are no other comments, then I will move on to item six, which is the close of this meeting. I believe that I have now covered all items on the agenda. Like to thank you all for your assistance during this meeting and your contributions the issue specific hearing two will start at two o'clock this afternoon, Seaton will be available at 130 and the arrangements conference for people attending using Microsoft Teams will start at 130 and I'll close this issue specific hearing. Thank you.