

Hearing Transcript

Project:	Fenwick Solar Farm
Hearing:	Recording of Issue Specific Hearing 2 (ISH2)
Date:	17 June 2025

Please note: This document is intended to assist Interested Parties.

It is not a verbatim text of what was said at the above hearing. The content was produced using artificial intelligence voice to text software. It may, therefore, include errors and should be assumed to be unedited.

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

Simon Says

Transcript Export

<https://www.simonsaysai.com>

My New Project

Created on: 2025-06-17 15:18:48

Project Length: 01:27:44

Account Holder: Ryan Ross

File Name: FSF_ISH2_JUN17_PT1-Pins.mp4

File Length: 01:27:44

FULL TRANSCRIPT (with timecode)

00:16:00:13 - 00:16:31:06

To ask if you can hear me, but I think. I think this sounds all right. Um, can I just check that the live stream and the recording is now started? Thank you. It's 2:00. I'd like to start by welcoming you all to this. The second issue specific hearing into the Phoenix Solar farm project. Just like issue specific hearing one this year. And we'll focus on the draft development consent order. My name is Rory Cridland. I'm the lead member of the panel of examining inspectors, appointed by the Secretary of State to examine the application and report back with a recommendation.

00:16:32:19 - 00:16:36:05

And good afternoon. My name is Samantha Murphy, and I'm the other panel member.

00:16:37:15 - 00:17:08:17

As ever, before we go any further, I have some general housekeeping matters. Those of you who've attended one of our hearings previously will be aware that a digital recording is being made, and so it would be helpful if you could clearly identify yourselves before you speak. The recording will be retained and published on the National Infrastructure National Infrastructure website. For a period of five years following the Secretary of State's decision on the application. And so can I ask you all to please try and avoid referring to anything that you wish to be kept private and confidential. You participate in today's hearing.

00:17:08:19 - 00:17:35:02

It's important that you understand that you will be recorded and that recording will be published on the internet. We're not expecting a fire drill. If the alarm does go off, there are fire exits. Um, just to my right and towards the rear of the room. And the meeting point is outside near the pavilion. Can I ask you all to switch off any mobile phones or turn them on to silent? And those of you joining us on Microsoft Teams? I'd be grateful if you could try to minimize any background noise.

00:17:36:20 - 00:17:47:02

Here in the afternoon is a blended event, which means some of you are taking part by attending in the room and others are online. However you're attending, we do aim to make sure that we hear from all of you.

00:17:49:05 - 00:18:26:13

Just a couple of other things. For those of you joining us on Microsoft Teams, the chat function has been disabled, so please don't try to use that to get our attention. But you can use the raise hand function if you do wish to get our attention at any point through the agenda. And my colleague and I will be keeping an eye on the screens in front, just in case we need to bring anyone in in that way. If you're watching on the live stream, then please be aware that it will be stopped during any breaks or adjournments, and you will need to refresh your browser page to view the restarted meeting, and you'll also find it useful to have a copy of the agenda available that we published last week for ease of reference.

00:18:26:17 - 00:18:37:04

You can access this either by using the project page of the National Infrastructure website or there are QR codes around the room that you'll be able to scan and will take you directly to it.

00:18:39:01 - 00:18:55:13

Now I'm going to go on to introductions and parties to introduce themselves. Can I ask you all to remember to unmute your microphone? And if you're joining us on Microsoft Teams, you feel comfortable to do, please switch on your camera. There is a roving microphone available in the room as well for anyone who needs it.

00:18:57:11 - 00:19:00:08

So firstly, can I ask who the lead speaker for the applicant is?

00:19:01:21 - 00:19:08:19

Good afternoon, Taylor Power. I'm an associate at Pinsent Masons and I'm the lead speaker for the applicant this afternoon.

00:19:09:18 - 00:19:14:08

Thank you, Mr. Power. And do we have anyone present from the City of Doncaster Council?

00:19:17:17 - 00:19:21:12

Oh, on on screen. Is that Mr. Thomas?

00:19:22:01 - 00:19:27:12

Good afternoon sir. Yes. Emma Thomas from Pritchard Solicitors, on behalf of the City of Doncaster Council.

00:19:32:02 - 00:19:34:16

And you'll be the lead speaker, Mr. Thomas, is that correct?

00:19:35:00 - 00:19:35:23

That's correct, sir.

00:19:36:06 - 00:19:40:00

Thank you. Are there any other local authorities present?

00:19:43:03 - 00:19:44:21

Any statutory consultees?

00:19:47:08 - 00:19:54:03

Anyone else present either in the room or on Microsoft Teams who wishes to speak or may wish to speak and hasn't already introduced themselves.

00:19:57:14 - 00:20:34:09

Okay, let's move on then to item number two. The purpose of the hearing and how it will be conducted. Um, purpose of the issue specific hearing is to examine the draft development consent order and related matters, and to invite parties to make oral representations about it. You'll see from the agenda that we published last week that we do have a number of specific matters that my colleague and I would like to explore under item three. And then there'll be an opportunity for others to raise any issues under items four and five. Can I again ask each time you speak, please can you give your name and the organization that you're representing so that it's picked up for the formal record?

00:20:38:12 - 00:20:41:24

Um, are there any questions on the format or purpose of the hearing?

00:20:45:01 - 00:21:22:00

Okay. Well, in that case, let's go straight on to agenda item three. Uh, Miss Powell, we have a number of questions. We've given you some notice on these, so I'm hoping that maybe we can get through them quite quickly. Um, especially the first one on interpretation. Now we see that the the applicant has made a number of updates to this article following the first issue specific hearing and in response to our first written questions. And so thank you for that. I just want to pick up on 1 or 2 of the points that we've asked on. Uh, firstly, we see in your response to our written questions, the applicant is seeking to retain the Town and Country Planning Act definition of commence, rather than the Planning Act 2008 definition.

00:21:22:13 - 00:22:02:21

You've set out the reasons for wanting to do so in your response. Um, and you mentioned there that East Yorkshire, West Burton, Cottam and Gate Burton all retain the Town and Country Planning Act definition. But on reviewing them, it seems to me that the majority have made development consent, including some of those do actually use the Planning Act definition rather than the Town and Country Planning Act one. I think in particular, the reason I wanted to raise this is that the Secretary of State has quite recently inserted or changed the definition for commence in the East Yorkshire Order from the Town and Country Planning Act to the Planning Act 2008.

00:22:03:04 - 00:22:15:20

I'm not sure if you're aware of that, but I think it would be helpful to us to understand if you are still considering retaining that definition, why you think the Secretary of State should take a different approach for this particular project.

00:22:17:00 - 00:22:54:01

Taylor power for the applicant, and where you can go back and look at those cross-references and apologies if there were any errors in that response. Um, It may have been that this had been picked up before the order was formally made, and that's why we missed it. But the, um. Yeah, essentially, as was set out in the response, the reason so that the definition of commence is sits within the order itself, but it's the reference within commence to the term material operation that I think is set within the context of the Town and Country Planning Act, rather than the Planning Act.

00:22:54:10 - 00:23:28:24

Um, and the reason why it had been tied to the Town and Country Planning Act definition for material operation is because that includes a clear list of activities that the relevant planning authority can look to, and is familiar with dealing with, from their usual application of Town and Country Planning Act planning permissions. Um, when assessing whether something is a material operation or not, versus section 155 of the Planning Act 2008 defines material operation as any operation except an operation of a prescribed description.

00:23:29:04 - 00:24:07:17

Which is a very general term, would essentially require some sort of agreement as to what a non-material operation is. Um, and therefore could lead to confusion by the relevant planning authority when applying in, considering whether an operation is material or not for the purposes of commence. So the position had been based on previous orders, and take the point that it may not have been. All previous orders, um, that were listed was to use that that list that is already set out in the Town and Country Planning Act, essentially to make it easier for City of Doncaster Council to apply.

00:24:07:22 - 00:24:33:01

But saying that we can go back and have a look at the recent decisions by the Secretary of State and very happy to utilise the Planning Act definition, if that's the preference that's coming out of those recent decisions. But, um, it And might just require some liaison between the applicant and City of Doncaster Council to make sure we have a definition that's still workable for their purposes.

00:24:34:02 - 00:24:49:12

Thank you. I think the two points, and if it helps at all, I conducted a review of the solar discos and it's just as I can see, Cottam and Gate Burton I think that have the Town and Country Planning Act definition and all the others go with the plan.

00:24:49:14 - 00:24:50:04

With the Planning.

00:24:50:06 - 00:25:13:14

Act. And I suppose the other point I'd make is that if Parliament had intended for the Town and Country Planning Act definition to apply, it would have tied it to that in the Planning Act. And so by creating its own definition, I think that's what the intention was. And presumably that's why the

Secretary of State has taken the view they have in East Yorkshire. So does anyone. Mr. Thomas, would you like to come in on this? Do you have a view from the council's perspective?

00:25:15:07 - 00:25:31:13

Emma Thomas, solicitors. So I think we would ordinarily expect the cross Crawford's reference to be to the Planning Act. But as Miss Taylor said. Um, sorry, miss, um, Miss Powell said be very happy to discuss that with her after the hearing.

00:25:33:02 - 00:25:47:02

All I can say is, if your, um, your intention is to ask the Secretary of State to take a different approach to the one that is taken previously in these types of orders, then we'd need some clear justification for it so that we can put that before him.

00:25:47:19 - 00:25:48:10

Absolutely.

00:25:48:12 - 00:25:49:09

Yeah. Thank you.

00:25:51:10 - 00:26:19:07

It's about staying with the interpretation. Article two um, and the East Yorkshire decision as well. Again, I suspect that what's happened is that the decision has come out in between, and there's been a bit of a crossover. So, um, but I'm going to go with it anyway with my point, which is the Secretary of State has made another a number of other alterations, um, to the interpretation article. For example, the definition of requirements was changed. Um, and there were a few other points around um.

00:26:21:01 - 00:26:40:02

Additional subparagraph being entered in or had been inserted for certainty and clarification purposes. What I'd like is for someone to have a quick look at those, and for them either be to be brought into this particular order so that there's alignment or some reasoning provided as to why you think those amendments aren't necessary for this particular project.

00:26:40:22 - 00:27:13:14

Yes. Taylor Powell for the applicant. Um, you've we're we're currently given East Yorkshire Solar Farm. That is another project for boom power. And boom has been in the process of reviewing that decision. And we were intending any way of bringing across any learnings from that decision and the changes made by the Secretary of State into the Phoenix solar order, um, in due course. Anyway, so I'll just confirm in terms of where the status of that work is at, but we could provide that at the next deadline.

00:27:13:19 - 00:27:23:00

Um, as part of updates to the development consent order at that stage and where we're not making amendments. Explain as to why not, if that would suit.

00:27:23:02 - 00:27:28:06

That's very helpful. Thank you. Um, it's not just the interpretation article. I think that would apply across a number of different.

00:27:28:08 - 00:27:37:16

Yes. Yeah. Yeah. I mean, in respect of the entire order, Bill will undertake that order and, and indicate particularly on substantive changes where we're adopting them or not.

00:27:38:17 - 00:27:44:20

Thank you, Miss Powell. Does anyone else wish to raise anything in relation to the interpretation article? Article two.

00:27:48:11 - 00:28:03:22

No. Okay. Thank you. In that case, we can move on to the next point on the agenda, which is article 61F. Again, we touched on this in issue specific hearing one. And we did also touch on it briefly this morning in the compulsory acquisition hearing. Um, and I'm familiar with the.

00:28:06:03 - 00:28:26:20

Responses you made at deadline one and the issue specific hearing. Um, and I think in summary, you explained that the discussions with the Environment Agency were ongoing, but that the applicant's position is once the technical matters are resolved. You would hope that the Environment Agency would agree to the application of the flood Risk Activity permits. Is that right?

00:28:27:05 - 00:28:31:01

It's so tailored for the applicant. Yes. That's correct. So

00:28:32:16 - 00:29:04:19

from the applicant's perspective, the so the applicant has agreed with the Environment Agency protected provisions, which currently sit at the back of the Development Consent water order and has been discussing with the Environment Agency. Other technical matters, including matters that relate to flood risk, um, from the applicant's understanding of the protective provisions that sit at the back of the development consent order. Those overlap and essentially replace the usual consent process that is provided underneath flood risk activity permits.

00:29:04:23 - 00:29:41:18

And so from the applicant's perspective, once the technical matters can be addressed, it would make sense that then those protective provisions replace the the consenting requirements, because otherwise you would have two duplicate processes for the same works that require consent in the same manner from the same person. Um, so it's with that understanding and with previous examples from other solar CEOs and various other CEOs that once those technical matters and the protective provisions are agreed, then that application can typically be agreed.

00:29:41:20 - 00:29:55:07

But noting that the Environment Agency still has, of course, um withheld its formal agreement to that dis application at this stage. And so that's their position for now. But we're continuing discussions and hope to have that resolved.

00:29:55:17 - 00:30:02:20

And if it's not resolved with the applicant's position on article 61 FB, would it be removed or would you seek its retention?

00:30:03:04 - 00:30:18:14

Well, yes. So the the applicant isn't able underneath the Planning Act terms to retain that dis application without the EA's consent. So if the EA ultimately doesn't, consent will remove the, um, the dis application from the order. Thank you. Yeah.

00:30:19:00 - 00:30:20:18

Clarifies that point. Thank you very much.

00:30:22:14 - 00:30:25:24

Anyone else want to comment on article six in general?

00:30:29:08 - 00:31:01:18

No. Okay. Thank you. Article 14 means of access. Again, thank you for your response to our first written questions on on this article. Um, I have to say, I think my wording could have been a bit better because I think the words street authority may have created a bit of confusion, which is why I want to pick up it. Pick it up, pick it up again. Sure. What we're really trying to understand in our questioning on this article is in relation to Access Point six, which is the new temporary access on, uh, Trump, Trump, Fleet Lane. Um, how that access will be put back.

00:31:02:08 - 00:31:24:07

And so my understanding is that the hedge will be removed, the access is created, any works to the street itself will be carried out under article nine. And article nine then deals with the reinstatement of the street and those works. But where is the part that deals with the reinstatement of the access itself and the hedgerow? That's that's lost as part of that process?

00:31:25:18 - 00:32:08:00

Taylor power for the applicant. So my that that's helpful context in terms of understanding. It's the hedgerow and the access within the order limits that the concern is in relation to. Um this jumps forward slightly to I think some of the matters discussed on hedgerows tomorrow are issue specific three. Um, but my understanding from that work is that essentially within the framework landscape and ecological management plan, there are commitments. And within that management plan which relate to the restoration of hedgerows, where any hedgerows are removed where required for construction, so they would be reinstated and restored at that stage.

00:32:08:09 - 00:32:18:19

Um, and that set out alongside the Hedgerow Report, I think it's called, and I need to find the correct application reference for that. I'll just pull it up for you now so that, um.

00:32:23:01 - 00:32:57:02

So that's, um, appendix eight five of the environment state Environmental Statement. It's called the Hedgerow Report. And that's application number 150, which sets out the kind of detailed assessment of the hedgerows and how they would be restored, um, removed and restored. If so. And then in terms

of the the main document that controls that within the context of the DCO, the framework limp cross refers to that hedgerow report and also sets out various obligations and respective hedgerows, including their restoration.

00:32:57:04 - 00:33:37:19

But I would point you to, um, Mr. Gates, who will be speaking on this and further detail tomorrow. When it comes to the actual environment, ecological works when it comes to that restoration. Um, because he'll be able to answer questions on that far better than myself. Um, and then similarly, when it comes to the access or the the roading within the site, um, my understanding is it would be within the that the camp. So the construction environmental management plan would provide for the removal of any internal access tracks that are only used for construction and the restoration of that land to its previous use.

00:33:38:06 - 00:34:08:03

Um, and similarly, um, I would also point to you to within the DCO, um, and ultimately that this depends on the the final layout of the cable corridor near that access. But provided the land was taken under article 29, which is the sorry, I'll just make sure I've got that, um, reference correct. Um, before I continue speaking.

00:34:10:03 - 00:34:11:02

That just.

00:34:15:18 - 00:35:00:00

Yes. So article 29 provides for the approach, which I think we've responded in previous, um, written questions about, which is essentially within the cable route corridor. The applicant has sought permanent rights over the cable route corridor, but also has the ability to, um, take temporary possession of land within the cable route corridor for the purposes of constructing the authorized development. And that essentially how that is intended to work is once final, detailed design has been set out for the cable route corridors in terms of the final route within that corridor of the cable itself, which will be a smaller easement area than the entire working width.

00:35:00:02 - 00:35:22:08

I think it's stay six six meters is the permanent rights in 30 to 40m is the working width of the construction area within that corridor, plus any other temporary uses like access tracks that would take you out to roads and, you know, planting and that sort of temporary use. The, um.

00:35:24:14 - 00:35:44:11

The powers under the applicant would use the powers under article 29 to take that temporary position, construct, construct any access tracks, construct the cable route itself. And then once that construction is done, the app can underneath. Um, and I'll just pull up the exact,

00:35:46:00 - 00:36:22:15

um, sub paragraph of article 29. Um, add it. Sub paragraph five of article 29 provides that once temporary position is complete, the applicant needs to remove all works and restore the land to the reasonable satisfaction of the owners of the land, um, and remove essentially any works that had been done within that land and restore it to its previous condition. Underneath that article, which I think

would cover the kind of if there was a bit of access track that had been left coming off that Trump route, Fleet Lane.

00:36:22:18 - 00:36:52:15

So I think between the sorry, that was quite a long winded answer, but between the operation of the two, which is the framework link when it comes to the hedgerow works, and then the use of the temporary position articles and the controls underneath the Kemp when it comes to the access tracks and the construction works for the the root of the cabling itself, the applicant would be required to restore the land essentially to the condition it wasn't before or if not better. So when it comes to the hedgerows.

00:36:53:17 - 00:36:57:17

I think there were quite a few ifs in that. Yeah, I don't want to pick up and I could probably walk back.

00:36:57:19 - 00:36:58:21

Yeah, yeah. No, please.

00:36:59:04 - 00:37:24:00

Um, in terms of article 29, you could use article 29, but you could also use the other compulsory acquisition articles to acquire permanent rights, and they wouldn't require replacement in the way that you've described, would they? So it's only if you use that particular article that the replacement provisions come in. If you don't use that and use the other powers in the order, then there is no obligation in those compulsory acquisition powered articles that would require reinstatement.

00:37:24:22 - 00:37:48:04

My but Taylor power for the applicant and I need to and this will be something that I think will benefit from a more cohesive response in writing at the end of this, but my understanding is that the permanent rates tie to the the cabling itself, so we wouldn't be able to gain permanent rights over land for construction works such as temporary construction accesses.

00:37:48:19 - 00:38:12:13

Oh, yes. No, I understand, I thought sorry, that that's not. I suppose that's not my point. It's the. Whereas the mechanism. If you don't use article 29 for the removal of those works. So I understand that you wouldn't have the right to leave them there, but there is no obligation, Some positive obligation on the applicant to go in and take them out. Under the development consent order in the way that you've described. For article 29, if you don't use article 29.

00:38:12:15 - 00:38:17:08

Yeah. So if if the construction was on an area of permanent rights, do you mean or.

00:38:18:07 - 00:38:29:09

Yes. So if you utilized um, I'm going to say article 20, which is for acquisition rights, but it might be article 20. It might be one of the other 20. I can't. Yeah. And have a look if you like.

00:38:41:18 - 00:38:46:19

Oh, so it's 22 the compulsory acquisition of rights. So if those, if that access is is.

00:38:50:01 - 00:38:58:15

Constructed under articles 14 and nine that the powers for acquisition are 22.

00:39:00:07 - 00:39:03:05

The obligation that you describe in terms of 29

00:39:04:18 - 00:39:08:20

doesn't apply the restoration obligation, as I understand it.

00:39:11:02 - 00:39:21:16

A tailor for the applicant. I, I, I think the point I was trying to make earlier is that the rights that are set out within the development consent order for which

00:39:23:07 - 00:39:44:09

we could apply permanent rights, where it relates to those particular plots, relates to cabling. Yes. And so if the works if the if the area of that plot was only required for construction works, then we wouldn't be properly applying permanent rights in respect of taking that land, if that makes sense.

00:39:44:11 - 00:40:21:02

Yes, I do understand. I suppose what I'm trying to understand is where is the reinstatement requirement obligation? So if it's not in, if you don't use article 29, then it's not coming from the development consent order itself. It's coming from one of the control mechanisms, the sample, the length. And now I'm going to come on to the seventh and the length and the length which I have here. The wording in that I think it's paragraph seven, 210 talks about hedgerow works within the grid connection route. And it says grid connection cable routing will be designed to minimize the loss and avoid significant effects on existing landscape features.

00:40:21:04 - 00:40:35:23

And where hedgerow removal is anticipated, they will be replanted upon completion of construction where practicable. And it's that, where practicable, practicable that creates a bit of uncertainty in terms of the reinstatement of that particular hedgerow.

00:40:37:01 - 00:41:17:02

And tailor path for the applicant. Um, yes. No, I understand that that creates some uncertainty, and we can look at that wording within the framework if that would assist. Um, my understanding is that that wording is to account for, say, if there were permanent assets, that did mean that the hedgerows could have couldn't be reinstated in that particular area. Um, say if a permanent access way within the um cable route corridor remained um, but saying rather than being intended to be used as kind of a get out of jail free card by the by the undertaker to not replace those hedgerows.

00:41:17:04 - 00:41:25:01

So, um, we could strengthen that wording in the framework limp, if that would be of comfort, just to make sure that it's not being used in that way.

00:41:25:04 - 00:41:32:15

That's great. Thank you. Um, if you can just take a look at that and then let us know what deadline three. Okay. Great. Useful. Thank you.

00:41:36:02 - 00:41:39:23

Does anyone else wish to come in on article 14? Mr. Thomas?

00:41:41:21 - 00:42:12:16

Um, thank you very much. Um, so just on that point, um, I'm sure we'll come to this later, but the intention is for works under articles nine and 14 and other of those powers under part three to be subject to the agreement that can be entered into under article 15. Now I am a copy of the draft or the Council's draft standard template. Section 278 agreement has been shared with the applicants.

00:42:13:06 - 00:42:26:07

I'm not sure, but it might be the case that there's a restoration provision in that and that's currently being checked, but I just wanted to flag that up. So that might be a mechanism for addressing the point you just raised to. Thank you.

00:42:26:22 - 00:42:35:21

Thank you, Mr. Thomas. Again, I think Miss Powell will potentially look at that and discuss it with you outside the hearing and then revert to us at deadline three. Is that.

00:42:36:16 - 00:42:39:24

Okay? Taylor Powell for the applicant. Yes that that's correct.

00:42:44:06 - 00:42:49:15

But that 278 agreement isn't part of our examination is it. So it's not something that we'd get to see anyway.

00:42:50:08 - 00:43:03:06

Taylor the applicant? No, I think that would remain a private agreement between the council and the applicant, but we could confirm matters like whether it includes restoration provisions. You know, as in high level terms, if that would assist.

00:43:04:01 - 00:43:04:16

Thank you.

00:43:07:18 - 00:43:38:16

Next item on the agenda is article 21 time limit for exercise of authority. Another one we touched on in the first issue specific during the pattern here. But we will move on in a moment. Um, and I can see you updated the wording after our initial discussion to make it clearer. First thing for me to say is that I hadn't appreciated at the time that the original wording did actually reflect the wording that has been inserted in articles 24 and 27. And so I'm going to ask what I'm going to say, that I don't think that amendment is actually necessary after all.

00:43:38:18 - 00:44:09:07

And it would be better for there to be, um, consistency across across all of them. Having said that, I think all of the three of these articles do create some uncertainty and, um, both for those subject to CA and temporary possession in terms of how long those powers can be exercised for. And so if those clauses are to be retained, miss Power and passed up to the Secretary of State's consideration, I think we'd like to see a bit more in the explanatory memorandum to reflect the applicant's reasoning on it.

00:44:09:09 - 00:44:11:10

So it's clear what the justification is.

00:44:13:14 - 00:44:53:15

For the applicant? Yes, we can we can provide more wording in the explanatory memorandum. Um, I suppose to provide an initial response now is, as you mentioned, that the shorter one year, um, wording aligns with the updates to the Compulsory Purchase Vesting Declarations Act and the Compulsory Purchase Act. Um, and so from the applicant's perspective, while it does create some uncertainty in respect of, you know, the the timeframes for legal challenge and how they pause the periods in which the powers will apply when it comes to compulsory purchase.

00:44:54:04 - 00:45:26:05

Um, because it is reflecting what will then be the status quo in those other two acts. For parties that are working with land agents that might be used to working with those acts familiar with working with those acts. It's better, from the applicant's perspective, that the DCO aligns with the usual approach that will sit within those acts, and therefore there is an inconsistency in terms of time frames between the ways in which the powers are either utilised under the DCL or underneath those acts.

00:45:26:07 - 00:46:02:20

So, um, from the from the um applicant's perspective, while there is some uncertainty that sits there, that uncertainty exists already in the compulsory purchase system because of those amendments that have come in. Um, and ultimately, it's beneficial in the context of the fact that the a legal challenge would interrupt the reasonable period in which, um, in which an applicant would be looking to use compulsory purchase out powers. And we wouldn't want an applicant to be rushing into the use of compulsory purchase powers because that period was being shortened by a legal challenge.

00:46:03:02 - 00:46:20:23

So it's while it extends over a longer period of time, it also means that the use of those powers is done with certainty that all legal challenges have been resolved. Um, and the applicant has been given time to kind of pick up and restart the project again after the interruption of such a challenge.

00:46:22:04 - 00:46:45:24

To bring you back to the East Yorkshire decision now. Um, and I'm not sure if you're, you're aware, but the Secretary of State took a different approach in East Yorkshire and has actually aligned all of those provisions to the five year time limit. So they've removed the compulsory acquisition extensions that you've referred to under the Western Declarations amendment and has, um, actually aligned them to the five year time limit across all three articles.

00:46:47:05 - 00:47:28:14

Uh, Taylor Tailored for the applicant, I. I do need to go back and personally look at that um, order as against what the Secretary of State did. My understanding is that the order that was put forward by the applicant during the East Yorkshire period hadn't necessarily picked up those changes when it came to aligning with the, um, with the other two acts as they'd been amended by the levelling up regime. So it might have been that the Secretary of State had taken the position that the applicant had put forward of five years and then aligned those other acts with them, rather than it being the other way around, which would be the change in this case.

00:47:28:16 - 00:47:58:19

So we're we're trying to align with those acts. So, um, I think that's essentially a point of drafting, learning that we made since the East Yorkshire examination. And that's why it wasn't put forward by the applicant during that hearing. Um, so like I said, I need to go back and look and detail it at any context in that decision, but I don't necessarily think that it reflects the same position being put forward and then rejected by the Secretary of State.

00:47:58:23 - 00:48:14:24

No, and I think you're right on that. I think you're correct on that point, which is the why we're asking for that additional information and justification in the expansion memorandum and in your responses, so that we can pass that reasoning up to the Secretary of State, and they can take a view on this particular case.

00:48:15:11 - 00:48:17:18

Perfect. Yes, that can be done. Thank you.

00:48:17:20 - 00:48:36:12

Thank you. Now, notwithstanding those general points, the other question I've got on article 21 is if you could explain to us how, assuming those articles are to be retained in substantially their current form, parties affected by, for example, article 21 three would be notified that a challenge has been made or withdrawn.

00:48:38:04 - 00:48:48:19

Tailored for the applicant. So there isn't a formal mechanism such that parties impacted by article 21 would be notified. So, um,

00:48:50:07 - 00:49:21:24

in respect of who claims. Uh, uh, for legal challenges that are put on the interested party that's defined within the civil procedure rules is different from that within the Planning Act. And so it's not that all interested parties is an all landowners affected get served with claims that relate to a DCO um and that context, they might not be formally notified by a claimant saying that um, the applicant has been working with landowners throughout the process on a voluntary basis.

00:49:22:12 - 00:49:56:14

Um would continue to provide updates in respect of legal challenge to landowners within the order limits, um, particularly noting that the landowner, the applicant, already has um agreements in place with all of the landowners within the solar PV site. So in respect of any application of these sorts of powers, we're really only talking about landowners within the grid connection corridor. If those

agreements didn't changed or fell apart in the very unlikely scenario that would happen within the order limits itself within the solar PV site itself.

00:49:56:16 - 00:50:20:07

So I think with that context, um, the, the kind of usual approach would just be for the applicant to continue to, to make those sorts of notifications to landowners, um, rather than there being a formal process. Um, because I don't understand there having been similar formal notification requirements in previous AES relating to legal challenges.

00:50:22:12 - 00:50:39:07

Now, I think my point is, if there's a way that we could try and remove that uncertainty by providing notifications so that they're they're not so that they're aware of the process that's going on. But I do appreciate that that might not be.

00:50:41:11 - 00:50:49:08

That easy to draft into this particular requirement, but perhaps you could have a look and see if there is a way of removing some of the uncertainty around that within the DCO itself.

00:50:50:06 - 00:50:57:04

Yes. Taylor Powell for the applicant. Um, yes, we can we can look at that drafting and see if there was some way we can improve certainty.

00:50:57:11 - 00:51:06:24

And if not, just provide some further commentary on why that's not possible and the approach that the applicant would take in terms of notification around that issue, if it was, if it was relevant.

00:51:08:16 - 00:51:12:07

Thank you. Does anyone else like to comment on article 21?

00:51:16:21 - 00:51:28:16

No. Um, next on the agenda is. Oh, yes. No. I'm sorry. I'm sorry, Mr. Thomas. When I looked down, you your hand wasn't up or I didn't see it anyway. So please do go ahead.

00:51:29:07 - 00:52:16:02

Uh, apologies. Emma Thomas for City of Doncaster Council. So you'd have heard that issue specific hearing one the council's position in respect of article 21 three be um the position is essentially the same in that the council thinks that that provision should be removed, ie the shorter than one year point. Um, the reasons are the same as set out previously, but we just make the general point in respect of the extension provision and that it is, as you know, very, um, very rare to have such a provision in development consent orders and that far more controversial development consent orders, which attracted far more attention, for instance, in the context of a number of relevant reps, etc.,

00:52:16:06 - 00:52:46:16

have not included such a provision. So if you just were to look at, say, the Sizewell C DCO, where you had over 1200 relevant reps standard five years, that's article 41. If you were to look at Stonehenge, over 2300 relevant reps, five years and other solar recently made solar projects as well,

such as the Mallard Pass, which had over 1200 relevant reps again. It's the standard five years, so it is an exceptional provision.

00:52:46:22 - 00:53:13:01

And so we would suggest that if justification should be provided for, there should be exceptional justification to justify its inclusion in accordance with paragraph 1.2 of advice. Note 15 on the drafting of DCS says that a thorough justification should be provided explaining why the inclusion of the power is appropriate in the specific case. We perhaps suggest that the specific case isn't made here.

00:53:19:09 - 00:53:31:11

Thank you, Mr. Thomas. Um, so you already aware that we are asking for that justification and we'll see what comes in? So thank you for telling us the council's position on that. Mr. Powell, would you like to come back on any of those points?

00:53:31:19 - 00:54:07:17

Uh, Taylor Powell for the applicant? Um, yes, of course we're providing that for the justification. Probably the only point I would note with those examples given is, um, the um, where this extension language has come from is the Levelling Up um Amendment Act that came into bill was passed in 2023. And I think these relevant provisions came into force last year. So I imagine that that wording wasn't pulled through into some of those echoes because they predated those amendments or, um, were already in progression by the time that those amendments came through.

00:54:07:19 - 00:54:26:23

So I think maybe, maybe that explains some of the difference, but do acknowledge that it's relatively novel because it's aligning with the amendments that are also new in the context of DCOM. So, um, but I say that not knowing the exact dates that those DCOM went through, um, so I might be wrong as to whether they'd be.

00:54:27:05 - 00:54:57:17

Yeah, 2023 act. Um, and I just refer back to the East Yorkshire decision, where the Secretary of State does refer to the Levelling Up and Regeneration Act, and says that it provides the applicable period for the time limit for giving notice to treat and for vesting. Declarations will be that specified in the order, which in this case is five years from the day that the order is made. And that's the reasons that they made them align. And if I understand correctly, your point there is that that order it was specified to be five years.

00:54:57:19 - 00:55:07:17

But in this case it's five years subject to challenge period. So five years plus the challenge period or if shorter six years if there's a challenge.

00:55:09:03 - 00:55:11:10

For the applicant. Yes, that's that's correct.

00:55:12:17 - 00:55:13:08

Thank you.

00:55:18:01 - 00:55:46:05

Moving on then to schedule one. Work number five. Now we did I said this morning in the compulsory acquisition hearing that I didn't want to get into too much detail of it on it then, um, because I wanted to discuss it to this this afternoon. So thank you for the response that you provided a deadline to, um, explaining the applicant's position in relation to the line drop. I just want to understand that I want to make sure I understand the applicant's position clearly.

00:55:49:09 - 00:55:54:17

Is it the case that the applicant is committing to only pursuing one of those two options?

00:55:57:00 - 00:55:59:11

For the applicant? And yes, that's correct. Just one.

00:56:00:00 - 00:56:04:23

And that's the basis of what was assessed in the yes, the environmental statement.

00:56:06:06 - 00:56:42:11

For the applicant. And yes, that's correct. So there is and I think this was outlined in chapter three, um, but considered the two grid connection options being the grid connection corridor or the line drop. And then in line with standard EIA methodology, the assessment was based on a worst case scenario on a chapter by chapter basis. So for some chapters if They found that it was the worst case scenario scenario, that the line drop had more effects for that particular chapter, then that would have been assessed as the worst case.

00:56:42:13 - 00:57:12:20

Whereas for other chapters, the grid connection corridor was the worst case. Saying that I'm not sure if any of the chapters found the line dropped to be the worst case from an environmental effects perspective, but that was the approach that the authors were asked to take. Um, and so yeah, because while the line drop is generally less intrusive, um, I do also just have notes here that, um, it would still require some below ground cabling, um, within the site to connect the on site substation to a new cable ceiling end.

00:57:12:22 - 00:57:50:06

And then that would connect up to the lines within the site. And so that, for example, has the potential to impact heritage assets within the solar PV site. So from impacts within the solar PV site basis, it would be worse, but perhaps more when it comes to heritage assets. But from an overall perspective, it might be better in the sense that it's a longer route for below ground infrastructure. To use the grid connection corridor. So that's a slight nuance in terms of only one that both were assessed, but only one would be pursued, um, in the final design.

00:57:50:08 - 00:57:50:23

Yeah.

00:57:51:05 - 00:57:57:21

But in, in in none of those aspect chapters were both of those things being

00:57:59:21 - 00:58:04:09

built out assessed essentially were they it was one or the other, whichever one it was.

00:58:04:14 - 00:58:19:20

Yes. Taylor. Taylor for the applicant. Yes. That's correct. And I think I think in perhaps in one of the written questions, you picked up an error in a chapter of management plan, which made it read as if both were assessed, but can confirm that only one was assessed to proceed.

00:58:20:16 - 00:58:51:00

Yes I understand, thank you. And so again point we touched on briefly this morning. But the decision on which option to pursue will depend on a number of factors, but one of those is the option here in agreement. The option here in works already carried out by National Grid as to which one is the most viable. And then obviously there will also be considerations for the applicant in terms of sort of financial viability, for example, or other factors that you want to take into account before choosing that particular or which particular option to pursue.

00:58:52:02 - 00:59:23:08

What I'm unclear on is how the DCO secures this position, so that only one of those two options is pursued, because my reading of it is that, at least in theory, maybe not so much in practice, but in theory, both of them could be pursued under the terms of the draft development consent order work number four and five B, I think it is. And there's no there's nothing in there that says, well, if you choose work number four, you can't do work number five. Or if you choose work number five, B, you can't do work number four.

00:59:25:02 - 00:59:58:03

And Taylor Taylor power for the applicant. Um, I will. I'm just having a look again. That's definitely not the intention. And the drafting, the DCO. Um, and I'd say probably the applicant's position is that in the context of the other more general terms within the DCO about constructing the work in accordance with the effects assessed in the EES and um, within the approaches set out within the management plans? We would say that the assumption throughout all of those documents is that only one would be built out.

00:59:58:16 - 01:00:18:15

Um, and I would also just say from a practical perspective, the likelihood that the applicant would ever build out both of them is very low, because it's obviously costly to do that. And so it would it would not be in the applicant's interest to, to build out both. Um, was there something you would also like to add in respect of?

01:00:23:12 - 01:01:11:09

Yes. No. That's true. So, um, The other point that my colleague, Miss Phillips made was that you would have to get approval for the detail, the ultimate detailed design of the scheme from the local authority, and on the basis that only one had been assessed as being taken forward within the year. The local authority wouldn't approve a scenario in which we brought both forward and the final detailed design. Um, so on that basis, only one could be brought forward. But I suppose is the question you're asking would the examining authority prefer to see wording within work number four that makes that

optionality of the line drop versus the the grid connection corridor clearer in an adjacent and in combination with those other controls?

01:01:11:18 - 01:01:41:24

Well, yeah, I suppose the point is and the point your colleague Mr. Phillips made around the, um, reliance on the the consent envelope within the ES. I do understand that point, but that that's very much reliant then on the local authority picking up on those points and, um, seeking to restrict approval at that stage. I think we would prefer to see it in the development consent order, so that it's clear to the Secretary of State that only one of those options will be pursued.

01:01:42:10 - 01:01:45:19

Um, I'm happy for you to go away and give that some further consideration.

01:01:46:08 - 01:01:51:21

Yes. Hello. For the applicant? Yes. We can give some consideration as to how we reflect that in the order.

01:01:55:12 - 01:02:03:17

Would anyone else like to comment on work number five in schedule one and the points that we've raised around that, or indeed anything else on schedule one?

01:02:08:10 - 01:02:14:18

Mr. Thomas? Um, I pause there to wait for your hand to go up, Mr. Thomas, because I thought that there might be a delay.

01:02:14:20 - 01:02:25:14

So it does seem as if I've got a slow hand. Apologies. Um, so, yes, I think the council would prefer if it was made explicit on the face of the order, whether in a requirement or elsewhere.

01:02:27:04 - 01:02:27:20

Thank you.

01:02:33:16 - 01:02:41:00

So next up we just have 1 or 2 general matters just to cover. Um, Mr. Thomas, if I can bring you back in here.

01:02:44:16 - 01:03:22:14

You can see that, um, one of the points on the agenda was for City of Doncaster Council to identify any issues around the drafting of the development consent order, either in terms of the articles or the requirements. Um, the reason I have this down is that we're now around midway through the examination, and although you have mentioned a few points in issue specific hearing, one, and I'm sure today we are still slightly unclear on whether or not you are seeking any substantive amendments to the draft Development Consent order. So while I appreciate the discussions are ongoing outside, outside, um, the examination between yourself and the applicant.

01:03:23:02 - 01:03:37:13

In view of the role that the authority is going to play in helping control the final design. I do wonder whether it's probably the time where if you do have any outstanding concerns, you should raise them with us so that we're able to consider them in good time before the close of the examination.

01:03:39:20 - 01:04:11:09

Yes, sir. Thank you sir. Um, Emily Thomas, on behalf of City of Doncaster Council, since issue specific hearing one, there have been several meetings with the applicant's solicitors to discuss the drafting of the order and they shared this an updated version of the draft order last week, which accommodates most of the changes that the Doncaster Council would like to be made, particularly in and around part three. I think there are three. I think there are three points to flag up today.

01:04:12:10 - 01:04:46:24

Um, and one is, um, a small drafting amendment that we've mentioned previously, and that's to requirement ten, then the archaeology requirement, where we would still like it to be made explicit on the face of the order that the council should consult with its archaeological advisers. It suggests that wording is used. It is used by archaeological advisers rather than referring directly to South Yorkshire Archaeological Service, just in case the service isn't the adviser at some point in the future.

01:04:47:20 - 01:05:19:02

Um, the reason for this, as mentioned before, so is just, um, good administration. It doesn't necessarily follow that the officers who are in the room with you today will be those who will be discharging the requirements down the line, and so they might not necessarily. And so, well, for the purposes of good administration, it would make it much easier for them if they could see exactly what they must do, which is to consult the service. Um, and, um, I don't think this is particularly unusual in the context of the way that other requirements have been drafted.

01:05:19:04 - 01:05:56:01

So if you look at, say, requirement 13, which concerns the construction traffic management plan that requires internal consultation with the relevant highway authority, and similarly, requirements 17, which concerns public rights of way that also requires consultation with relevant highway authorities. And then of course, there are other requirements then requirements five, seven, 11 and 18 which require consultation with external bodies. And we consider that, um, it's the council's archaeological advisers fall within that category of external advisers.

01:05:56:21 - 01:06:02:16

And I'm sorry, Thomas, could you give me those the last set of requirement references for the external bodies again.

01:06:02:18 - 01:06:06:23

Sorry. Yes of course. So it's requirement five, which is to do with battery safety management.

01:06:07:00 - 01:06:09:13

I'm sorry we're not picking you up on the microphone now.

01:06:10:01 - 01:06:17:23

Oh, sorry. Can you hear me? Yes. Sorry. All right. So Thomas. So requirement five, battery safety management.

01:06:19:22 - 01:06:24:08

So you have to we have to consult the South Yorkshire Fire Service and the Environment Agency.

01:06:26:20 - 01:06:34:06

Requirement seven Beng where we consult the relevant statutory nature conservation body,

01:06:36:03 - 01:07:03:09

requirement 11 where we consult the EE. And again requirement 18. Sorry. Comment 11 is the camp and requirement 18 is the decommissioning provision where we consult the EE again. So council's position is this is just another external body. Be very helpful. If it was just set out in the face of the order that we that the body is named and we don't consider, it's particularly onerous and um, I hope it can be agreed.

01:07:04:07 - 01:07:38:14

So I will give Miss Power and an opportunity to respond on that point in a moment. But what does strike me initially, um, in terms of the point that you're making, is that all of those other requirements do To refer to statutory bodies. Whereas what you're asking for is the inclusion of a non-statutory body. And that that I think is. I just make that observation that your archaeological service is almost like an outsourced part of the council, isn't it? Well, as for these statutory bodies that have a specific function and remit within the areas that is, that are covered within those requirements.

01:07:39:03 - 01:08:11:20

Well, two points I think requirements 13 and 17 require consultation within and in another part of the council. So the relevant highway authority. Okay. And then another point of course is if we look at I think it's section 120 yes of Planning Act, which concerns requirements. And it says that the requirement has to do with discharging. But it says that a requirement can be discharged by the Secretary of State or any other body. Well, if any other body can discharge requirement, surely any other body can be a consultee to a requirement as well.

01:08:12:12 - 01:08:46:20

Well, yes. I'm not suggesting that it can't be a consultee under section 120. I'm just picking up on the point that the other articles, that or the other requirements that you mention in terms of consultation are with statutory bodies as part of their statutory function. But what you're requiring is for consultation to be specified with something that's internal. And it's I take your point on the Highways Authority, but a highways authority is a separate constituted authority within the Council, as I understand it. So you have a hybrid authority and you have an education authority, and they all fall under the umbrella of the council.

01:08:46:24 - 01:09:18:05

But in this case, it's a it's an outsourced service and you're asking for consultation requirement, if I understand it, to specifically refer to your advisers within that service, almost like your rights, the rights of way requirements, saying that the rights of way service rather than the Highways authority need to be consulted. That's why, officer, for example, I just make the observation, Mr. Thomas, rather

than giving you. I'm not suggesting that it's a it can't be put in there or that the applicant would resist it.

01:09:18:07 - 01:09:22:09

I'm just making that observation that in my mind, there may be a difference between the two.

01:09:23:06 - 01:09:30:09

Fair enough. So the only point is, is for good administration. That's why the council wanted it and would be grateful if it could be included. Thank you sir.

01:09:30:11 - 01:09:32:15

Thank you. And did you say that there were other points? Were those.

01:09:32:17 - 01:10:18:23

So just so that's that's a requirement and there's two points to flag I think, sir. So you'll be, you'll recall from, um, issue specific hearing one, the council's concerns in respect of paragraph five of schedule 15, which concerns the fees payable to the local planning authority for the discharge of requirements. Do you know the Council does not consider the provision as drafted to be appropriate, and would prefer that if it was removed from the order, that instead the council and the applicant agree a planning performance agreement which would provide for the full cost recovery of the council's costs in discharging both consents under the articles which there are several, and also then for discharging the requirements.

01:10:19:13 - 01:10:57:03

Um. The council have shared a draft planning performance agreement with the applicant solicitors and they await comments on that document. It is very much hoped that the PPA could be agreed before the end of the examination. Um, not the point for now, but just to flag up if the agreement is not entered into before the end of the examination, then I expect perhaps a deadline for the council to ask that, um, existing paragraph five of schedule 15 is replaced with a Grampian provision which would provide for um development consent.

01:10:57:08 - 01:11:01:13

Sorry, authorise development not commencing until a PPA has been entered into.

01:11:05:08 - 01:11:09:17

I think we'd probably like some written submissions on that point, Mr. Thomas..

01:11:09:19 - 01:11:11:12

Absolutely, sir. Yes, but I'm just flagging.

01:11:11:14 - 01:11:27:02

That performance agreement is something that happens between yourself and the applicant outside the examination. So, um, yes, if you're looking to to change what's in schedule 15, would probably like to have some wording early on. We may need to have a some further questioning on that point.

01:11:27:15 - 01:12:00:09

Yes. We'll set out a fuller justification in the post hearing submission, but it is an approach that has been suggested by an examining authority in at least one of the DCO which I was involved with, which was, um, the Gatwick Airport, um, DCO, where a similar request was made. Um, midway through the, the examination and um, the way that was dealt with in its recommended changes to the DCO, the XY then suggested that similar provision be included in the order.

01:12:00:11 - 01:12:11:15

But in the meantime, um, a provision had been added to a section 1 or 6 agreement which was being entered into between the parties that provided for a PPA to be entered into. So it's just a roundabout.

01:12:11:18 - 01:12:13:22

Mechanisms. Different mechanism.

01:12:14:18 - 01:12:21:19

But as I said, it's very much hoped that this can be agreed during the examination. But just in case it's not this.

01:12:21:21 - 01:12:26:02

Because you. We're losing your sound. Not sure why.

01:12:29:11 - 01:12:49:04

Yes, sir. Just to reiterate the point that we very much hope that the, um, agreement can be agreed during the examination, but just a flag up. If it isn't, then that's something the council might look for. But taking your point. So we'll set out chapter and verse in respect of this as an addendum to the post hearing submission for issue two.

01:12:49:17 - 01:12:57:08

Thank you, Mr. Thomas. And presumably that'll include any proposed wording that you'd like inserted into schedule 15 as well.

01:12:57:22 - 01:12:58:12

Yes, sir.

01:12:59:01 - 01:12:59:23

Thank you very much.

01:13:00:12 - 01:13:36:24

And so the other point that we had is a very similar point in respect of article 15. In. Which is the highway agreement? Um. The, um. Council's legal team have shared that the internal legal team have shared their template. Section 278 agreement with the applicant, solicitors who are reviewing it and making amendments to it at the moment, as I understand. Again, it's hoped that a template agreement or a framework agreement can be then can be agreed before the end of the examination.

01:13:37:01 - 01:14:07:23

But if not, then again, we probably might be looking for similar wording as I just suggest in respect to the PPA in respect of, um, the highways agreement. And then we'll set out the precedent in full. But a

similar approach was taken at Sizewell C, obviously a different type of project, but in Sizewell C, if you look at the agreement provision there, then that restricts the carrying out of certain highway works until highway agreement has been entered into in respect of those works. So not a wholly novel approach.

01:14:10:03 - 01:14:15:23

Thank you, Mr. Thomas. Is there anything else that Council would like to raise in respect of the drafting today?

01:14:16:13 - 01:14:17:03

No, sir.

01:14:17:24 - 01:14:19:07

Thank you, Miss Powell.

01:14:21:03 - 01:14:55:16

Taylor Powell for the applicant. Thank you very much, Mr. Thomas. Um, just I suppose to respond on a few points relating to that. Um, when it comes to the PPA and the section two, seven eight agreement. Um, yes. The applicant has those documents. Um, as reviewing those, I would say with the section two, seven eight, it requires some um, amendment to align it and the provisions of the order rather than the usual two, seven, eight process, um, where the applicant would be relying on the council's powers so that that's why that's been progress in that way.

01:14:55:18 - 01:15:29:20

But it's very much the applicant's hope that we could enter into at least framework versions of those agreements with the council prior to the end of examination. Nation. Um, I would say in respect of any Grampian provisions, um, we would reserve our position on those until we have at least had that initial discussion with the council, um, as to the agreements themselves and have a better idea of whether there's any risk that we won't be able to agree those by the end of examination. But at least from the applicant's perspective, um, we'll do everything we can to agree those before the end of examination.

01:15:29:22 - 01:16:18:08

So this is neatly tied up. Um, I would just say in respect of the archaeology requirement, um, request, uh, essentially was going to make the similar point in respect of statutory bodies, um, including, I think, the reference the relevant highway authority is to capture. Um, obviously the council is the relevant highway authority, but also any other relevant highway authority, such as national highways, if they were relevant to the particular works. Um, and I would just also note the function of, of schedule 15 where it refers to requirement consult consultees um in respect of those bodies or authorities that are named as being required to be consulted with within the requirements themselves, as is being requested for the archaeological advisor.

01:16:18:22 - 01:16:53:16

Um, just that the function of, of paragraph three within that schedule doesn't necessarily anticipate the sort of advisor type role being reflected within the as a requirement. Um, consultee. So if I just read out that subparagraph, um, it provides that if the provision governing or requiring the application

specifies that consultation with a requirement consultee is required, the relevant planning authority must issue the consultation to the requirement Consultee within ten working days of receipt of the application.

01:16:53:20 - 01:17:39:21

Must notify the undertaker in writing, specifying any further information the relevant planning authority considers necessary or that is requested by the requirement consultee within ten working days of receipt of such requests, and in any event, within 20 working days of receipt of the application. Um, and that does seem to anticipate a sort of relationship where the council is reviewing it internally, sends out the the requirement to the relevant requirement Consultee for comment, and then take that into account in its discharge of requirement, rather than the sort of what I imagine would be more of an adviser type role, where the council is working with a service like an archaeological service to step in for it or work alongside it as it considers and assesses the requirements.

01:17:39:23 - 01:18:26:09

So, um, I suppose with that context, we we don't. While there are other examples within the the requirements of external bodies needing to be, um, consulted with when it comes to the discharge of requirements, we don't say for include um within the framework length requirement, the requirement for the local planning authority to engage with an external landscape advisor or an external ecological advisor, and from a consistency perspective, would just presume that where the local planning authority doesn't have the sufficient, um, internal persons with which to discharge that requirement, that they would of course always engage external consultants if they need to, and that doesn't need to be specified within the requirements.

01:18:26:11 - 01:18:42:23

So I think it's from that perspective that that can still prefers that archaeological advisers aren't specifically mentioned within requirement ten. Um, and it should just remain statutory bodies that are referred to as requirement consultees for the purposes of schedule 15.

01:18:43:24 - 01:19:09:14

So much so similar to the distinction I made with, um, when I was discussing it with Mr. Thomas, I suppose my my question to you would be, well, Mr. Thomas makes the point that it's good administration and that it will flag up to future officers of the need to undertake that consultation with those advisers. Um, what's the harm, I suppose, is my question in including it? It doesn't, does it? Does it impact on the applicant in any way?

01:19:10:08 - 01:19:47:04

Uh, the tailor for the applicant? Um, no, I suppose there's there's not necessarily a harm. I suppose it's just more from good administration, from the applicant's perspective of liaising with different bodies and liaising and knowing the various bodies it's engaging with. I suppose it would be the applicant's perspective that internal engagement of external consultants by the local planning authority is good administration. That's done by the planning authority internally, rather than being brought into these formal processes of the order, and being a matter that the applicant has to give regard to in that context.

01:19:47:08 - 01:20:08:15

Well, of course, you know, there's they're always able to consult with any, any party that they wish to consult with. And I suppose just from a consistency perspective, we'd like to keep it the statutory body so that it's clear to the applicant when it's discharging its requirements, who exactly it should be expecting comments from and engaging with so it can do so early.

01:20:09:12 - 01:20:14:20

Mr. Thomas, I wonder if perhaps I wonder if you perhaps come back on screen for a moment on this point.

01:20:17:17 - 01:20:36:01

I just wonder whether, as part of your written submissions, you would be able to identify to us in any examples. In other development consent orders made orders, uh, examples of requirements which include a requirement to consult an adviser as opposed to a statutory consultee.

01:20:38:08 - 01:20:38:23

Yeah.

01:20:41:16 - 01:21:03:05

Emma Thomas. Yes. Of course. We'll we'll have a look. But of course. Um, I'm not sure if there are any, but of course, this is a specific request arising from this order. This is something that is, uh, particular concern to the council, there might not have been concern to other local authorities. Um, but yes, certainly, we'll definitely have a look and we'll come back to you if we can. So thank you.

01:21:03:11 - 01:21:31:08

And presumably, Mr. Thomas, one of the concerns or one of the issues around this is the time limits. So for example, under the terms of if, if the archaeological services are named consultee and under requirement ten, then some of the time limits that Miss Power mentioned will kick in. So you'll get an additional time if there's a delay in response or, um, the deemed some of the deemed consent provisions wouldn't apply in the same way. Is that right?

01:21:32:16 - 01:21:36:19

Yes. I think they'd benefit from article 33. Yes.

01:21:37:00 - 01:21:37:22

Okay. Thank you.

01:21:38:10 - 01:21:40:10

Sorry. Paragraph 33. Yes.

01:21:41:17 - 01:21:42:21

Okay. Thank you very much.

01:21:43:16 - 01:21:44:06

Thank you sir.

01:21:51:00 - 01:21:53:22

Okay. Well, the next point under the general comments.

01:21:56:19 - 01:22:34:10

Unfortunately, the Environment Agency can't be with us today. So I'm going to direct the question to you. Um, we appreciate that they need to target their limited resource. Um, and in this particular case, it seems that discussions between yourselves and the Environment Agency are proceeding quite well. What would be useful for us to understand is whether those discussions include any substantive changes to the development consent order, or the requirements, or the wording of the requirements. Um, notwithstanding the respective positions of the parties, I just want to know, are there discussions ongoing between yourselves around changes to the development consent order? Because if they are similar to what I said to Mr.

01:22:34:12 - 01:22:41:07

Thomas, we're reaching the point in the examination where I think we probably need to be aware of them in case the need to examine them in more detail does arise.

01:22:43:08 - 01:23:20:02

For the applicant? Um, in short, no. So I think was it the last deadline we updated the development consent order to include them as a requirement. Consultee on a few more of the requirements. Um, the other engagement, as I understand it, relates to content within management plans rather than content within the requirements. So there might be some finer minor tweaks and wording, say, to the construction environmental management plan arising from those discussions. But I think other than the application provision, which would result in a change to the DCO.

01:23:20:11 - 01:23:27:22

Um, other than that, I don't understand there to be any other amendments to the DCO that are still under discussion.

01:23:28:03 - 01:23:48:00

Thank you. The reason, the reason we've raised that today is because in the relevant rep provided by the Environment Agency, they did request a significant number of additional requirements. And I just wanted to make sure that that position has moved on and that it's the management plans that you're discussing rather than, um, any new requirements or significant changes to the existing ones.

01:23:48:11 - 01:23:58:10

Yes. Taylor Park for the applicant. Yes. Once we got into discussions with them after that relevant rep, it became clear that those could all be resolved within the management plans rather than within the requirements.

01:23:59:08 - 01:24:00:22

That's really useful. Thank you very much.

01:24:03:13 - 01:24:14:21

Is there anything else that brings us to the end of the items we've got under item number three that we wanted to discuss? Does anyone wish to raise any other matters within the scope of this particular agenda item?

01:24:19:00 - 01:24:19:15

Yep.

01:24:20:08 - 01:24:27:09

Well that completes agenda item three. Thank you all very much. I'm going to hand over to my colleague now, Mrs. Murphy, who will take us to the rest of the agenda.

01:24:29:14 - 01:24:47:23

Thank you. So we're going to move on to agenda item four, which is protected provisions. So, Miss Power, I appreciate we had an update this morning and discussion on statutory undertaker positions. Um, but I just wanted to ask, do you have anything else that you wish to add further to the discussion from this morning.

01:24:49:12 - 01:25:07:15

A toilet paper at the can. Um, no, I don't think there's anything further from this morning. Um, really? It's just the IDB protective provisions, which are the ones outstanding other than side agreements. But, um, and we're hopeful that those will remain in essentially the same drafting as they currently are.

01:25:11:16 - 01:25:25:06

Thank you. Um, I don't believe we have any statutory undertakers present in the room, uh, to speak on this item. Um, but is there anybody else on teams that wish to raise any points with regards to protective provisions?

01:25:28:05 - 01:25:33:15

Nope. That completes item four. Anything?

01:25:38:06 - 01:25:53:04

We'll move on to item number five, which is the opportunity for any interested parties to raise any matters on the development consent order. So is there anybody present today who wishes to comment on any other aspect of the development consent order that has not already been covered?

01:25:56:15 - 01:25:57:05

No.

01:26:00:20 - 01:26:14:24

And so that would be that's item six closed. So we'll move on to item number. Sorry. We'll now move on to item number six. Any other matters. Um so are there any other matters or at this point that anyone else wishes to raise?

01:26:16:21 - 01:26:17:11

No.

01:26:21:03 - 01:26:35:12

I actually have one, if you don't mind. Um, I just wanted to say that we do have. I've just received the Network Rail letter that was referred to this morning, so thank you for sending that through. Apparently it was, um, received in our inbox today, so thank you. Just let me know.

01:26:39:05 - 01:27:17:06

Um, if that's the case, then, um, can we please remind everybody, um, to provide written submissions of anything you've committed to. Alongside a reminder to the applicant and all those who have contributed today to provide a written summary of their response by deadline three, which is the 2nd of July. The transcript and video recording of the hearing will be published on the website as soon as is practicable after the hearing, and all that remains is for me to say thank you very much for your assistance today. The next issue specific hearing is tomorrow morning, where we'll be considering environmental matters, and we look forward to seeing some of you there.

01:27:17:14 - 01:27:24:21

And the time now is 3:11. And this issue specific hearing is now closed. Thank you.