



Planning Inspectorate
Arolygiaeth Gynllunio

Event Transcript

Project:	Frodsham Solar Farm
Event:	Issue Specific Hearing 1
Date:	2 December 2025

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

It is not a verbatim text of what was said at the above event. 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 event.

FULL TRANSCRIPT (with timecode)

00:00:07:28 - 00:00:40:00

Good afternoon. It is now 1:00 am time for this issue. Specific hearing to begin. Can I check with Mr. Cook that the live streaming and recording of this event has commenced, and that I can be heard clearly. Thank you, Mr. Cook. Can I ask that everyone sets all devices and phones to silent, please? For those of you in the room, I understand that there are no fire alarms test planned for this afternoon.

00:00:40:05 - 00:01:16:15

Should an alarm sound, then please leave using the nearest fire exits and congregate in the car park. I would like to welcome you all to this issue specific hearing in relation to the application made by Adam Schaller Limited, who we will refer to the applicant for an order granting development consent for Fruition Solar. My name is Jason Rollins. I am an examining inspector, and I have been appointed by the Secretary of State to lead to be the lead member of the panel.

00:01:16:17 - 00:01:31:12

To examine this application, I am now going to ask my fellow panel member to introduce himself. Thank you, Mr. Rollins. My name is Stuart Cowperthwaite. I'm also an examining inspector and I'm a member of the panel.

00:01:33:12 - 00:02:07:07

Together, we constitute the examining authority for this application, and we will be reporting to the Secretary of State's with a recommendation as to whether the development consent order should be made. The case manager for this project is Mr. Robert Cook, and he is being supported here today by Cameron Alford. Mr. Tim Hall is providing support remotely. Please contact a member of the case team if you need help at today's event or with the technology.

00:02:08:06 - 00:02:43:25

The hearing today will follow the detailed agenda published on the National Infrastructure Planning website on Monday, the 24th of November. It would be helpful if you have a copy of this in front of you. Looking at the agenda, we intend to go up to agenda five other planning topics and item five a major replacement during operational phase, and we will aim to adjourn today's proceedings before 5 p.m..

00:02:44:13 - 00:03:00:07

Just to be clear that we will go to five A today as a maximum. We may stop before then, but that's the furthest will go. So if anybody is here for five. Be onwards. Please be assured that we're not going to cover those today.

00:03:01:28 - 00:03:35:02

Thank you for clarifying. If it is necessary for us to prioritize matters and defer other matters to further written questions, we will do so. Likewise, if you cannot answer the questions being asked or require time to get the information requested, then can you please indicate that you need to respond in

writing? This is a blended event comprising an in-person meeting as well as being held on Microsoft Teams platform.

00:03:35:04 - 00:04:12:23

It is being both live streamed and recorded. For those people observing or participating through teams, could I ask that you stay muted in order to minimize background noise? If you do wish to speak, please use the hands up function in teams. Please be patient as we may not get to you immediately for anybody watching on the live stream. Can I also advise that when we adjourn proceedings for breaks, you will need to refresh your browser page to watch the resumed hearing.

00:04:14:02 - 00:04:50:03

The recording of today's hearing will be made available on frozen solid section of the National Infrastructure Planning website, as soon as practicable after the hearing has finished. With this in mind, please ensure that you speak clearly, state your name and who we are representing each time before you speak. The digital recording and notes are the only official record of today's proceedings. A link to the Planning Inspector Privacy Notice was provided in the rule six letter.

00:04:50:15 - 00:05:22:10

We assume that everybody here today has familiarized themselves with this document, which establishes how the personal data of our customer is handled in accordance with the principles set out in data protection laws. As this event is recorded and published, it is important that you do not add information to the public record that you wish to keep private or that is confidential.

00:05:22:21 - 00:05:39:05

Your address. For example, please speak to Mr. Cooke, the case manager. If you have any questions about this, I'll now deal with a few preliminary matters for those attending in person. Is there anyone here from the press?

00:05:41:02 - 00:05:56:08

No. Okay. I've not been made aware that any individual or group wishes to use social media report, film or record. Today's hearing and want to check if this is still the case.

00:06:01:09 - 00:06:40:28

I have been provided by the case team with a list of those who have expressed the wish to be heard today. I am going to now ask those of you who are participating in today's meeting to introduce yourselves in the interest of expediency. Could I ask that if any party or organization has more than two people participating this afternoon, that only the main representative introduces themselves at this stage, and then at the relevant parts of the agenda for the representatives can be introduced at the appropriate time.

00:06:41:24 - 00:06:51:28

When I state the organization's name, could you introduce yourself stating your name and who you represent a first start with the applicant.

00:06:53:28 - 00:07:10:25

Thank you sir. I am Mr. Matt Fox, senior associate at Pinsent Masons, acting on behalf of the applicant. Um, and to my right we have Mr. Andrew Russell, director at Access Limited. Um, and I think today I'll only be speaking. Thank you.

00:07:13:04 - 00:07:23:04

I'll now move to the organizations that have expressed a wish to speak. And can I first start with the host local authority, Cheshire West and Chester Council.

00:07:24:01 - 00:07:35:00

Michelle Sparke, partner at Clark Willmott um, representing Cheshire West and Chester Council. I have got more than two people speaking, so I'll introduce them as and when they need to speak. Thank you very much, sir.

00:07:35:05 - 00:07:35:23

Thank you.

00:07:40:07 - 00:07:48:23

Um, from the statutory parties. Um, can I please start with the Environment Agency. If you've joined us.

00:07:52:09 - 00:08:33:23

Thank you, Sir Morgan from the Environment Agency here on the call, we do have some technical specialists who I can introduce. However, I don't think their input will be needed, as are the agenda items you asked for. Involvement aren't going to be spoken about today, but I have asked them to remain on the call just in case something does come up. Before then, I'll introduce them as follows. We have Philip Sale, who's our flood modeling specialist. We have Lucy Halton, who's our surface water quality specialist, Susie Batson, who's a groundwater and contaminated land specialist, and Jeremy Pyle, who is our geomorphology specialist.

00:08:34:02 - 00:08:35:20

That's all for me. Thank you.

00:08:37:00 - 00:08:43:08

Thank you. Can I check which agenda item that you may wish to speak on.

00:08:46:19 - 00:09:04:11

Uh, in terms of the agenda, items that you've put for us to speak on are so far, I can see five c and five D. Uh, there may be potential for us to speak on agenda item.

00:09:07:11 - 00:09:27:19

Three D, for example. But again, it would really depend on the nature of those discussions. And it might be something that I can, uh, step in and answer instead of our technical specialists, or we can get back to you with a written response.

00:09:28:15 - 00:09:29:03

Okay.

00:09:29:06 - 00:09:31:01

Thank you very much, Mr. Harrigan.

00:09:34:09 - 00:09:38:11

Um, next, can I check if we've got National Highways?

00:09:40:13 - 00:10:22:22

Good morning. Uh, says yes, you do. I'm Nick Grant, counsel, appearing on behalf of National Highways. I've got with me Mr. Adam Johnson, who's the spatial spatial planner for Cheshire, Merseyside and Greater Manchester, and Ryan Choo, structures engineering team manager. I'm expecting to do most of the speaking today on our behalf, but they're here if they need to be tagged in. If you've got questions that go beyond my limited understanding and expertise, um, in terms of the agenda items, uh, which I was assuming you were going to ask me next, um, we won't I won't repeat everything that's in our relevant rep, not least because of the pressures of time.

00:10:22:24 - 00:10:44:00

So we're limiting ourselves. Um, please. Two items for B, which is article 13 of the draft eco for I specifically schedule 27, which is the National Highways protective provisions. And we may have some comments on five K tomorrow on cumulative assessment.

00:10:45:22 - 00:10:47:16

Thank you very much. That's clear.

00:10:50:12 - 00:10:57:22

Next can I ask if we've got Mr. Edwards online from SP Energy Network?

00:11:02:25 - 00:11:03:12

No.

00:11:05:27 - 00:11:10:03

Um have we got anybody from National Gas Transmission?

00:11:12:16 - 00:11:13:21

No. Okay.

00:11:15:15 - 00:11:22:07

I'll move on to interested parties now and in the Vin. Can I please start with you, please?

00:11:23:19 - 00:12:02:18

Uh, good afternoon, sir. Samantha Grange from, um, Sutherland. Um, appearing on behalf of Innova Vinyls and Innova Enterprises Limited, and having read the detailed agenda that was published on the inspectorate website. I suspect that for the purposes of purposes of today, we are primarily just going to be hearing a. Listening and an observational capacity. If there are any points that, um, I think bear on our relevant representation and the points raised there, then obviously I will raise my hand and comment, but I think it's more than likely, um, the session will be for information purposes only.

00:12:02:20 - 00:12:09:25

And if we wish to comment over and above anything which the applicant has to say, we are likely to do that on the open floor hearing on Thursday.

00:12:11:14 - 00:12:13:19

Thank you very much, Miss Grange.

00:12:14:21 - 00:12:15:13

Thank you.

00:12:17:06 - 00:12:20:11

And then Cheshire Wildlife Trust.

00:12:21:17 - 00:12:46:29

Hello. I'm Melissa from the Cheshire Wildlife Trust. Um, I'm. I will primarily be caring and observing as well. Um, but we'll raise any points that concern us. Um, are the main agenda items we're concerned with are number three, the securing security mitigation. Five the non-breeding bird mitigation area and what this would be tomorrow. Five K the cumulative impacts with the high net pipelines.

00:12:47:21 - 00:12:48:06

Okay.

00:12:48:08 - 00:12:58:03

Thank you very much. Can I now check within the room if there's anybody else who wishes to speak today on any particular agenda item.

00:13:01:10 - 00:13:09:15

No. And then virtually, if there's anybody who wishes to speak on a particular agenda item.

00:13:11:17 - 00:13:13:20

I'm not seeing any hands.

00:13:15:21 - 00:13:16:29

Nope. Okay.

00:13:17:22 - 00:13:18:12

Um,

00:13:20:08 - 00:13:50:21

this obviously doesn't preclude anybody from speaking later. If you do wish to respond to comments made by other parties. So this concludes this item of the agenda. And now now move on to item two, which is purpose of this specific hearing. So the hearing today will be a structured discussion led by the examining authority. We are familiar with what you have already submitted to us.

00:13:50:23 - 00:14:22:24

You do not have to repeat at length anything that you have already put to us in writing. Submissions carry equal weight regardless of the format they are put to us. I will put a slight caveat on that in the context of the additional submissions that were submitted to the procedural deadline. Be. So that comes with that caveat. If you refer to any documents, it would be helpful if you can give us the correct examination library reference.

00:14:22:26 - 00:14:54:22

Please try to avoid using acronyms as people might be watching who are not familiar with those terms as you are. If we feel we are straying into territory. Not on the agenda. Then we will interject as we have a lot to cover. You can of course, make written submissions during the course of the examination at the appropriate deadlines. Does anyone have anything to raise on what I have just outlined?

00:14:58:10 - 00:14:58:28

Nope.

00:14:59:03 - 00:15:06:05

Nothing virtually either. So I will now hand it over to my colleague to introduce item three.

00:15:07:10 - 00:15:15:11

Thank you, Mr. Rollins. Could a colleague share the agenda on the screen, please? At item three.

00:15:25:18 - 00:15:30:15

Hopefully it will come through on the monitors in the room. Could we zoom in a little bit, please?

00:15:38:16 - 00:15:43:08

Thank you. Could we zoom in a bit on the. The text is hard to read at the moment.

00:15:48:16 - 00:15:49:24

A bit more perhaps.

00:15:58:21 - 00:15:59:12

Okay.

00:16:01:11 - 00:16:05:26

Thank you. That's perfect. Thank you very much. And just scroll down a little, if you could.

00:16:11:05 - 00:16:43:17

Thank you. Right. Um. Thank you. And if we could try and keep pace with as, uh, scroll down as I go through, if possible. I'm sure people have got their own versions as well. If you can't see the screen. So obviously I'm going to refer to the detailed agenda. Um, there is a lot of detail in the detailed agenda on the number of a number of the questions that we're going to ask today and tomorrow. Um, hopefully those have been helpful to allow people to prepare, um, for the discussions today.

00:16:43:24 - 00:17:14:02

Um, it may be, um, depending on the progress that we make, that, um, we'll ask for one or more of the items to be taken in writing afterwards. Rather depends on how much progress we can make. Um, but, um, there should be time to go through all of the items in the agenda yesterday and today. Um, so we're going to alternate a little bit on a number of these items. Um, I'm going to cover, um, three a and three B.

00:17:14:21 - 00:17:23:19

Um, so starting with three a um securing the mitigation relied on in the assessment. Um.

00:17:25:23 - 00:18:49:12

The, um, we're very mindful of the complexity, and it's not unusual for this development. On the complexity of the number of documents, the detail that's covered in the main application documents, the main chapters of the environmental statement and the appendices of the environmental statement. There's a lot of information in there to be digested. Um, were um, alongside that, um, were mindful of the, um, after we finished our examination, um, should the, uh, proposed development be consented? We're mindful of the burden on the discharging authority and on other bodies who will be involved in discharging the DCO, should it be made? Um, and on that basis, um, our inclination is for the DCO and the management and mitigation plans, albeit in draft at the moment, to include the mitigation that is relied on by the assessment and that is included in either the main chapter or the appendices of the environmental statement.

00:18:50:00 - 00:19:22:10

Um, uh, obviously, um, it's in everyone's interest to ensure that, um, things, um, are not missed at the time that the final plans are put together. Um, so, um, on that basis, and I'll invite the council just to comment on that in a moment. Um, on those principles as a discharging authority. Um, but, um, to continue with the written question, the question is written down.

00:19:22:16 - 00:19:58:25

Um, so we could spend a lot of time in the examination, um, identifying matters in the environmental statement that are perhaps not secured in the same way within the management and mitigation plans. Um, there's no we're not questioning the diligence of the applicant in any way that it would be good for the examination to focus on other things, rather than that piece of mitigation isn't secured in a mitigation or management plan. So I think it's in everyone's interest, if I might suggest, to make sure those plans are reflective of what's in the.

00:19:58:27 - 00:20:46:27

Yes. So there's a general invitation here, um, to the applicant to carry out an audit at this stage. Obviously things develop, and I'm sure there were some last minute pieces of work that were carried out just before submission, um, etcetera, etcetera. So I'm not going to go through all of. Um, uh, Roman numeral one in detail, but the principle is to invite the applicant to do an audit at this very early stage, if it hasn't already, um, to go through the chapters of ease, to go through the appendices and to make sure that the outline management plans in particular, um, reflect what's in the DCO, reflect what's in the environmental statement.

00:20:47:17 - 00:20:59:20

So just before I invite the applicant to reply, does the council have any comment on the matters I have? I reflected the council's what I believe the council position would be fairly.

00:21:01:17 - 00:21:07:06

Michelle Sparke on behalf of Cheshire West and Chester, introducing Paul Friston, Principal Planning Officer.

00:21:09:17 - 00:21:20:21

So it's a really minor point. Um, just that the, uh, non-breeding bird mitigation strategy is, is down as an appendix to the, uh, outlined, um,

00:21:22:18 - 00:21:35:21

Um, I'm going to say lamp is. Um, it's it's it would be. I think it'd be useful to have that as an independent document, uh, moving forward.

00:21:35:23 - 00:21:36:10

Okay.

00:21:36:24 - 00:21:45:00

Okay. That's a very specific point, but thank you for that. Um, okay, let's, um, let me invite you to comment. Thanks, Mr. Principal.

00:21:45:02 - 00:22:22:16

Yes, thank you, Mr. Kaplan. Um, and I think I would just start off by saying that we fully agree with those principles. And I think that has informed the preparation of our application. You know, we went through the assessment process, identified the mitigation measures. Um, I should say it was my personal job was to think and think as you do and think about what the kind of concerns that you would have that you've just expressed. So we went through that process in the production of the application with the EIA coordination team, the legal team, the planning team and component commitments register, which is something that the Planning Inspectorate is keen to kind of achieve and codify that kind of principle.

00:22:22:25 - 00:22:56:19

Um, so we did, um, go through that process. Um, but given the nature of your question, we have gone through it again as the kind of with the documents now submitted to make sure that we are happy that, um, we definitely caught absolutely everything. Um, and it is the case that in a small number of cases which I've just run through, um, everything is in the mitigation measures for the chapters and the appendices is secured through the DCO or the management plans. Um, we have identified a short number, which I'll just quickly run through.

00:22:56:23 - 00:23:28:17

Um, which I want to run through them. We will be updating the relevant management plans to reflect them. Um, so in the Terrestrial Ecology chapter, there's a bullet point for a requirement for a ten meter exclusion zone around buildings and structures in relation to bats. Um, and if that can't be achieved, additional survey being required. So We. That needs to be added in to um the Kemp um in also in

terrestrial ecology, there's a reference to um non-native fish being humanely dispatched, which we will do.

00:23:28:19 - 00:24:05:03

So which will add to the camp as well. Um, the ornithology chapter um had um has in the mitigation sections reference to kind of specific planting commitments and proposals and restrictions in relation to the non-breeding bird mitigation area, which we will make sure I, uh, fully encapsulated in the lamp. Um, in chapter ten, Ground Condition, there's reference to a gas monitoring program. If permanent ground bearing structures are adopted for the, um, bear's battery energy storage system and the Frodsham the the onsite substations that we will build.

00:24:05:27 - 00:24:07:28

Um, so those are things in the.

00:24:08:00 - 00:24:11:03

So apologies. Could you just go through the ground conditions on the.

00:24:11:11 - 00:24:45:12

Yeah that's paragraph 10.9, one of the ground conditions chapter, which requires a gas monitoring program. If permanent grant bearing enclosed structures are adopted for the battery and the onsite substation. So those were the link four bullet points that we noticed that we missed in the management plans and will be added in. Um, I should reference that the um statutory nuisance statement at 126 has a typo in it that refers to the production of an Emergency Pollution Incident protocol.

00:24:45:21 - 00:25:21:04

Um, when it should be referred to what's already secured in the er, camp and sorry, in the construction Environmental Management Plan, which is an environmental incident management and pollution prevention plan. Um, and similarly in the camp there is a typo where, um when talking about otters, it refers to water bottles. So we'll be correcting that. Um, but yes, I should say, um, obviously we will put that on in writing and we've acted in the, in the management documents, but we, we have done that process. And I think, given the number of documents, um, regrettable that it was only those 3 or 4 things that we, um, had not fully thought through.

00:25:21:06 - 00:25:24:04

And we've put in that one we will now put into the management plans.

00:25:24:29 - 00:25:37:27

Thank you. And there's absolutely no criticism intended of the work that's been done. I understand the complexity of it. Do you mind? So the colleague next to you, you're the technical lead if you like, for um.

00:25:37:29 - 00:25:48:03

Yeah, that's that's correct. I'm the director that was responsible for the compilation of the environmental impact assessment and the other planning documents that were submitted with the application.

00:25:48:05 - 00:25:59:05

Thank you. Do you mind me just asking you that you're satisfied with the audit that you've carried out? And, yes, I'm not doubting your colleague, but obviously your closer to the technical issues. Yeah.

00:25:59:07 - 00:26:30:07

Sorry, sorry. Um, Andrew Russell for the applicant, but. Yes. Um, absolutely. Uh, comfortable with the conclusions that we reached in terms of that audit? Yeah. Um, and I think, um, it's probably worth adding that the we recognize it's the applicant, the the consultation process and the examination process, um, in itself helps to identify any, um, translation issues or make sure that the measures in those can those control documents are robust.

00:26:30:14 - 00:26:37:15

Um, and we've already made some amendments to some of those control documents as a result of comments raised in the relevant representations.

00:26:37:17 - 00:26:38:03

Okay.

00:26:38:09 - 00:26:39:24

Yeah. Thank you. Um,

00:26:41:21 - 00:26:50:21

those changes that you've, um, highlighted. Um, the small number of those we made now or those be made in a future submission.

00:26:51:15 - 00:27:01:21

The applicant that we made, um, at deadline one, um, alongside after this hearing, I'm imagining we'll be needing to make updates for those in the DCO in any event, so we'll pick those up as well.

00:27:01:23 - 00:27:23:02

Thank you. And would those, um, uh, the updates to the, uh, es to the management plans, as I'm not sure whether we went through this, um, this morning, but if we could have track changes of those updates as well, because it's very hard otherwise to see the difference that have been made. Is that so track, change and clean copies of everything.

00:27:23:04 - 00:27:26:05

Absolutely. That would be very helpful.

00:27:26:15 - 00:27:57:13

Um, I'm going to I'll go to the council again later under the parties, if should they wish to comment? Um, so um, three A2 again, obviously in the normal way. Um, requirements. As for conditions, planning conditions? Um, well, no. Um, let me be specific to the requirements here. So, um, I'm assuming that those three, you've applied the principles in those three bullet points under two.

00:27:57:15 - 00:28:28:12

So, um, the plan set out at least the same detail of the mitigations set out in the ES, um, that, It. Um. They're sufficient. They're sufficiently clear. They're sufficiently defined. Um, so that they have the effect that's relied on in the ES, um, and that it's occasionally missed that relevant survey requirements, monitoring and maintenance are all addressed, as well as that of those being addressed as part of the audit.

00:28:28:14 - 00:28:38:20

Um, yes, they have. And in our management plans, the right hand column, um, specific identifies some of the monitoring requirements. So we feel that they're adequately reflected.

00:28:38:22 - 00:29:16:13

Thank you. Um, so item three is, um, uh, I'm sure very familiar. So, um, these are the tests that we have to apply and be satisfied with, um, for any secured mitigation or other related measures. So the mitigation is relevant to planning necessary to make the proposed amendment acceptable in planning terms directly related to the proposed development. Fairly and reasonably related in scale and kind to the proposed development, and reasonable in all other respects, of those tests being referred to as well.

00:29:16:19 - 00:29:25:26

Mr. Watson, about that. Yes, we believe they are all met specifically because they they all fall out of having done the environmental statement EIA process for our development.

00:29:25:28 - 00:29:55:15

Okay. Thank you. That's helpful. It may well be we have to still come back to some of those things. I'm sure there will be cases where mitigations developed during the examination. And obviously, um, you know, those principles that we've just talked about will continue to be applied to anything new that, um, applies that that comes to light. Um, thank you for those statements. That's very helpful. Is there anything related to those issues that the council would like to raise?

00:29:56:12 - 00:30:00:02

Michele Spark for Cheshire West and Chester Council? No, sir. Not at the moment.

00:30:00:04 - 00:30:21:23

Thank you. Anything any of the parties in the room would like to raise Around those issues. Some of this is very dry and very procedural, but it's vital that we go through these things. So please bear with us. Nothing. No further comments in the room. Um, anything? Um, online? Um, please put your hand up if you wish to contribute on this.

00:30:26:03 - 00:30:36:00

Okay. Thank you. That completes, um, item three a so if we could move to item three B um.

00:30:40:17 - 00:31:20:02

The environmental statement at various points refers to, um, uh, management plans and strategies, some of which. Well, all of which would be finalised, um, uh, later, should the proposed development be consented. Um, outline documents are often very helpful. Um, where? Uh, um, there is perhaps something novel, um, where there are some, um, issues very specific to the project, and there's a

concern, um, that, um, parties may just wish to understand a little bit more, um, what the applicant's intentions are.

00:31:20:22 - 00:31:56:21

Um, and potentially parties would have some very useful comments to make to get those, um, mitigation measures secured. Uh, they may well also be things that were anxious to understand as well, um, beyond what's been set out in the, the, the Kemp, sorry, the construction environmental management plan or some of those more general plans. Um, some of those things may arise during the examination, um, where we want to see or we request more detail on the mitigation.

00:31:57:03 - 00:32:20:17

Um, but at the moment, um, there are a number of, um, of management plans and strategies that are mentioned that we haven't seen draft copies of. Um, um, the way that that's written currently is that we're requesting those. Um, it would be useful to have the applicant's view as to whether they intend to submit any of those at this time.

00:32:22:14 - 00:32:26:13

And the applicant. And we'll bring in Mister Russell to answer this.

00:32:28:15 - 00:33:08:05

Andrew Russell, on behalf of the applicant. Um, so really, to answer your final question there, um, at this stage, we don't consider there's a need to produce any of these. Um, with the odd exception of some plans I'll run for in a minute, which actually already appear in the application, but we don't consider the majority of these need to be provided in, in outline. Um, and we think that the existing, um, what I'd call the parent management plans, which we've submitted, um, Contain sufficient information and sufficiently developed, um, that these subsidiary and site outline management plans aren't needed.

00:33:08:16 - 00:33:43:17

Um, and I think this is a well-established practice in DCO applications, in solar applications in particular, um, to be able to rely on those overarching documents, which, um, hopefully the interested parties recognize as being quite comprehensive at this stage in terms of the outline, construction, environmental management plan, etc.. Um, and so, um, you know, we, we, we suggest that in particular, a number of these plans are appropriate to leave those just being identified within those management plans for, for a number of reasons.

00:33:44:00 - 00:34:14:08

Um, in many instances, you need to get the detail of the construction in order to turn these documents into useful working documents, because that's what in general, that's what they are. So you need to understand your final construction methodology. You may also have to undertake some additional investigation and assessment. So for example, on the on the ground conditions and different contractors may well have different approaches and protocols which would be particularly relevant for some of these plans.

00:34:15:14 - 00:34:53:01

Um, so within the for example, within the um outline construction environmental management plan. Um, on the understanding that we, we know it is important for the interested parties, for the council, for some of the statutory consultees and yourself as the examining authority to understand what we're trying to deliver in principle from these plans. So that's set out in paragraph 1.3.3 of the Outline Construction Environmental Management Plan. And then there are a series of tables later on in that document, um, which supplements some specific requirements of some of these documents.

00:34:54:14 - 00:35:17:18

Um, and I think, as you mentioned a moment ago, about in terms of there being some examples where you might need some very specific detail. Um, particularly if it's an unusual or maybe a bespoke control mechanism that's needed. Um, we don't feel that in the instance of any of these, the detail that is already within the, um, control documents needs to be supplemented.

00:35:19:29 - 00:35:20:19

Um.

00:35:23:29 - 00:35:55:16

Echoing maybe what I said a moment ago as well, in terms of the ability for this process to enable some of the details within those outline plans to be supplemented. I think a good example is from the Environment Agency's relevant representation. They requested a little bit more information in terms of the unexpected contamination protocol. Um, and we've integrated that into the version that we submitted a procedural deadline. Be. Um, and we certainly think that now contains sufficient information for that particular consul.

00:35:55:18 - 00:35:56:03

T

00:35:58:03 - 00:36:32:27

um, we are taking a position that if the examining authority thought it was useful, we could provide a an appendix to the Outline Construction Environmental Management Plan, where we provide a little more description for each of those plans, which in essence, we'll be repeating some of the information that's already in the document. But we can draw it together into a single appendix. Um, and we have actually started to undertake that, um, to enable the, the discussion today to be more informed if needed than sir.

00:36:32:29 - 00:37:17:08

So if there are any of those particular documents that you wanted just to, um, run through at this stage, um, we can just provide a little bit more detail on why we believe that actually that information is already contained within those, those control documents. So I suppose to to summarize, perhaps before we get to any of those, um, you know, in essence, it's our position that the control documents as submitted at the moment do contain sufficient information to give confidence that ultimately, the residual effects within our environmental statement will be achieved through the, um, the progress of those plans when they get, uh, developed at the detail stage.

00:37:17:20 - 00:37:18:12

Thank you.

00:37:18:26 - 00:37:20:27

Thank you. Just bear with us a moment.

00:37:39:08 - 00:38:01:06

Grateful for the applicant's, um, thoughts on those issues. I think the final comment that was made about us being, uh, it being clear that the residual effects are achievable or um, yes, I will say are achievable. That's key. We need to have confidence that that would happen. Um,

00:38:02:25 - 00:38:41:18

so that might lead us to make requests further down the line. I think, um, we don't want to create work for the sake of it. There's no interest in doing that at all. Um, and a lot of the detail or the reasons that the applicant has set out, uh, will follow as construction information and reports of survey information become available. So that's very much understood. Um, um, I anticipate there will be a number of areas where we seek more clarification, and some of those will come out in the later, um, items of the agenda for this hearing and in the written questions.

00:38:41:20 - 00:39:14:04

I feel sure of that. Um, I imagine that the applicant has got a good idea of where the sensitive points might be, and including from its discussions with other bodies, with the Council and the Environment Agency and others. So, um, um, the idea of, um, either enhancing the main body of the camp, the construction environmental management plan, um, or other plans to enhancing the bullet points within the main body.

00:39:14:07 - 00:39:53:01

Helpful. Um, um, the idea of a, um, overview of the relevant documents in the appendices and a little adding a little bit more meat. That sounds very helpful. I imagine that those would cover most of the concerns that we might have. Um, and I'm not precluding as far as suggesting outline management plans in other areas. Um, I think I take some confidence from what has been said and that, um, it's probably not right for us to suggest, um, outline plans of all of those that have been mentioned.

00:39:53:11 - 00:40:27:14

Um, that that doesn't appear reasonable to me. We might reflect on that and take a different view, of course. But, um, I think I think it's a starting point. Um, there seems to be a way forward, but I think I think I would encourage, um, you know, as early as possible, um, if there are areas that, um, you know, the applicant's view is changing from discussions with other parties of there are concerns in these areas. We do need to be a bit more explicit. We do need to go a little bit further than the earlier that's done, the better.

00:40:27:24 - 00:40:32:18

Um, it's a very obvious statement, but it's worth making I think so.

00:40:32:20 - 00:41:04:09

Um, Andrew Russell for the applicant. Um, absolutely. Take that on board. And in fact, that's the, um, the approach we've taken. Uh, checking your comments earlier about us, uh, responding with information that you've not been able to digest yet. Um, that was very much the purpose of actually

taking some advanced steps in providing an updated set of management plans to try and make sure that it was clear we were responding to some of the comments that we received from the Council and the Environment Agency and Natural England. So, um, yeah, take that on board.

00:41:04:21 - 00:41:17:10

Okay. Thank you. Anything else from the applicant on this? No. Thank you. Can I turn to the I'll take comments on this. And if there's anything that's standing out at the moment in terms of outline plans. So the council first please.

00:41:17:21 - 00:41:21:27

Michelle Sparke on behalf of Cheshire West and Chester Council. We don't have any comments, sir.

00:41:22:04 - 00:41:37:22

Thank you. Um, can I turn next to the Environment Agency, please? Um, are there any outline plans or particular areas, um, that the Environment Agency feels should be clearer in terms of mitigation at the moment?

00:41:43:13 - 00:41:44:03

Good afternoon.

00:41:44:05 - 00:42:04:03

Morgan Hagman from the Environment Agency. Currently we we feel that the outline plan approach is suitable and in keeping with what we see with other nationally significant infrastructure projects, and therefore we have no comments in regards to this matter.

00:42:05:07 - 00:42:23:25

Thank you. Um, let me go around other parties. In that case. Anyone else? Anyone in the room got any comments on this point at the moment? Uh, no. Does anybody online have any comments apart from the Environment Agency? Sorry. Have comments on this at the moment?

00:42:26:26 - 00:42:59:18

No. Okay. So, um, so I think there's an action here for the applicant just to reflect on what's currently secured in relation to those, um, outline management plans and strategy, whether more needs to be added to, I think, what you referred to as the parent management plans, and whether there is a case for adding to the body in the parent or and the appendices to provide an overview of the content of those plans.

00:43:00:24 - 00:43:31:22

So Mr. Fox had that, because I think just just to be clear on the action, and I will summarize them at the end, but I think our position is we feel that we have already done that and responded to the comments in terms of updating the bullet points in the outline parent documents. But I think what we were proposing to do is an appendix within, particularly the camp to set out just for everybody's clarity, this is the list of plans, and this is what they will include taken from the tables that would have been in the rest of the document. But just so they're all in one place for everyone to be clear of what was in each plan.

00:43:31:24 - 00:43:35:05

Okay. So thank you. We'll take that as the action. Please.

00:43:36:00 - 00:43:36:15

Can I.

00:43:36:17 - 00:43:37:02

Just.

00:43:37:04 - 00:43:52:11

Briefly follow up on that. was another action in that. Where there are some changes like the ten meter offsets and so forth. Would it be supplying updated track versions of those particular documents at, say, deadline one?

00:43:53:03 - 00:43:54:10

Yes. Yes.

00:43:54:18 - 00:43:57:03

Okay. Thank you.

00:44:00:24 - 00:44:04:17

Okay. Thank you. So that includes item three B, um,

00:44:06:11 - 00:44:07:22

over to Mr. Rollins.

00:44:08:15 - 00:44:09:00

So.

00:44:41:29 - 00:44:42:19

Okay.

00:44:42:21 - 00:45:19:03

Um, so item four, which is the draft development consent order. So I would like to start off with that. There are a lot of helpful references to similar development consent orders in the explanatory memorandum. Who is appreciated? However, there are some instances where the explanatory memorandum does not always provide your own justification as to why the provision is needed.

00:45:19:20 - 00:45:37:12

Could you please bear this in mind when you review and update the next iteration of the development Consent Order and Explanatory memorandum, and I'll try and highlight some examples as we work through my questions.

00:45:40:21 - 00:46:16:24

I'd also like to highlight a predominantly in this session. The questions will explore consistency of approach within eight orders, whether there is adequate clarity and precision and that they are justified and needed. There are many the draft development Consent order related matters that do not form part of this discussion and has not been raised today, but they will follow in the examining authority's first written questions.

00:46:18:16 - 00:46:34:09

There are also some related development consent order questions that align better within specific topics, and I'll get to the steering as and when necessary in those topics. Later on in the agenda.

00:46:35:26 - 00:47:22:24

Although the latest version of the draft. Development consent order was only submitted last week. I'm happy for parties to refer to this version, which is the examination library reference PD 2-005. If it helps parties with their responses. So I'd like to start with agenda item four A, which is part one preliminary and with interpretation and interpretation of order limits, which means the limits are shown on the map on the works plans within which the authorized developments may be carried out.

00:47:23:21 - 00:47:55:02

I am going to make reference to some particular paragraphs of documents. It's probably not necessary for you to have those documents up, but if so, I'll try and prompt you as well. So, um, first paragraph I want to refer to as paragraph 4.2.6 of appendix ten one stage one Geo Environmental assessment, part one of two.

00:47:55:06 - 00:48:30:23

And that's app oh 96. And what that paragraph states is this. There are several features within the boundary of the site which are not going to be subject to development or disturbance. So what I would like to ask the applicant is that if this is the case, can you please clarify why, for example, you've included Frodsham Marsh farm within the outer limits.

00:48:34:21 - 00:49:06:00

Mr. Fox, and path of the applicant. That document is too large to be opening on my computer. But so I think from memory that that document is referring to the. Primarily to the fact that the, um, the you know, we've got a large amount of landscaping areas, for example, the skylight mitigation area, the non reading bird mitigation area, the areas that are um, green on the work plans where we won't be undertaking development, that would affect ground conditions. So I think that is primarily what that paragraph would be. Um talking about.

00:49:06:08 - 00:49:33:01

Um the Marsh farm buildings are in the application because, um, they form part of the area that we've optioned from the landowner. It allowed us to use it. Um, and it seems prudent to use existing buildings for things like storing equipment, um, and, um, things to repair the, the development. So that's why the farm buildings are in there. But that specific paragraph, I think is it's focused more on the fact that there are obviously large areas where we're not putting built infrastructure.

00:49:33:16 - 00:49:34:01

Okay.

00:49:34:03 - 00:49:35:06

And Mr. Russell, we'll.

00:49:35:08 - 00:49:36:02

Put it up. Yep.

00:49:36:04 - 00:50:05:20

Um, um, Mr. Russell, for the applicant. Um, just to add to the point on Marsh farm, um, and it's mentioned within the non-breeding bird mitigation strategy about the potential need for and grazing on the non-breeding bird mitigation strategy. And so there is potential to continue to use the um, outbuildings at Marsh farm and for that purpose. So, uh, that's part of the reason why they've remained within the order limits, albeit there's no development required.

00:50:06:08 - 00:50:07:00

Okay.

00:50:07:02 - 00:50:47:27

So, um, the book of reference makes reference to works pertaining to that area for Openreach cables and a number of pipelines, which is slightly different to what you've just elaborated on in that particular point. So I'd ask for you to maybe to check the consistency of why you might need that parcel of land. And then it's the intention to undertake any protective works to buildings such as that Frodsham Marsh farm.

00:50:48:19 - 00:50:54:18

That's one path that began just to be your first point. Can I just check which plots you mean within the book reference?

00:50:54:20 - 00:50:55:18

Uh, would it.

00:50:55:20 - 00:50:58:10

Be a plot? Three, eight.

00:51:09:04 - 00:51:27:17

Thank you sir. So the applicant said that within the book of reference, the the plot description in the fourth column is simply describing what what is there. And you would have seen, for example, that we've made some amendments in other places, but that's not, um, that's what it's describing and it's there. And that's about.

00:51:27:19 - 00:51:28:04

The.

00:51:29:16 - 00:52:12:28

The land powers as opposed to the works powers. Um, without descending too much into CA points. But for all of the areas where we have an option, we have CA powers as a kind of essentially backup

to that situation where, for whatever reason, the options are breached. Um, which is also that's why the martial buildings are described in that plot description. Um, in answer to your second point, um, in terms of protective works. Um, I think at this point in time probably unlikely to be necessary, but I think, as is usual with that article, um, it may be necessary, depending on the exact construction methodology of the sort of areas around it, around those buildings.

00:52:16:26 - 00:52:54:06

This isn't a CA compulsory acquisition hearing. Um, we will be having one during the examination. I feel sure, although I'm not committing to that at this moment, but it's likely, um, it's important that the book of reference correctly sets out the reasons that the applicant is seeking powers over those plots, um, and that those, um, uh, obviously there's it's something we need to look into more from a, um, land rights perspective.

00:52:54:11 - 00:53:24:22

But, um, we do need to consider the applicant's case for the powers requested and, and therefore just encourage you to make, if you need to review what, even if it's temporary activities, even if it's used for storage or whatever it might be, um, to make sure that the book of reference at least has the headline issues that the headline reasons for those plots being required.

00:53:26:07 - 00:53:57:12

Thank you sir. Mr. Foxman, the applicant said the reasons are set out in the app one, two, one. So the Land and rights negotiations tracker, and which is the common practice, I would suggest that on examinations, it's not the book of reference which gives the reasons for your need for the scheme. It's the, the, you know, the the trackers that you have for your power trackers, which in this instance is the on the March negotiations tracker to that, um, the plot 38 refers to work 60 and bringing it to what Mr.

00:53:57:14 - 00:54:33:21

Russell was saying. It's all related to the creation of the non-breeding bird mitigation area. Um, so that's clearly why it's in there. Um, I think there is a broader point. So which I don't want to, um, bet on too much, but obviously there is the a number of powers in the DCO which are, Um, generic, I should say. Detective works the authority to survey and investigate land which are not plot specific, um, but have inbuilt control mechanisms within them, including notification procedures, etc..

00:54:34:06 - 00:54:49:03

Um, but obviously to the extent that, um, we need that power, that's in the context that we have the option agreement and we have to have the option agreement, which controls what we can do. And if we ultimately had to use CA powers and obviously we would have full control of that land anyway.

00:54:51:07 - 00:55:18:12

Thank you for the clarification. It isn't the book of reference. I agree with that. Um, but the statement of reasons, um, should include, um, sufficient detail for us to understand the reasons that the powers are requested. So, um, apologies for the confusion earlier, but we do need to be clear. The reasons that the rights are requested and to have those scattered amongst several different documents wouldn't be helpful.

00:55:18:25 - 00:55:27:27

And the spokesman for the applicant said the statement of reasons specifically points to that document. The tracker document that reference is the only document which sets out our reasons for why we want each plot.

00:55:27:29 - 00:55:30:11

Okay, so it wouldn't go beyond those two documents.

00:55:30:13 - 00:55:31:07

Yes, sir. Okay.

00:55:31:09 - 00:55:34:17

In fact, it's really only in that tracker, one statement of reasons. Just refer that to it.

00:55:34:19 - 00:55:35:23

Thank you for clarifying.

00:55:35:25 - 00:55:36:10

Thank you sir.

00:55:44:17 - 00:56:16:12

I think I'll stick with this just for a little while longer. So, um, I'll, I'll briefly jump to article 18, which is the protective works to buildings required for this building. Yeah. So, um, under 18 B um, there's a statement about after the completion of that part of the authorized development in the vicinity of the building at any time up to the end of period of five years, beginning with the date of final commissioning.

00:56:16:14 - 00:56:29:09

So I was just trying to understand for this particular example of a fresh plan. Um, why would you need, after the completion for up to five years.

00:56:30:28 - 00:56:31:14

And.

00:56:32:06 - 00:57:08:21

The applicant say, well, I think it's hard to imagine specific circumstances. I think, for example, if it's used for grazing, it may be that as part of the ongoing use for that, the buildings may not be in good state of repair, and they will need fixing in order to allow that, um, the mount to carry on. But so I would emphasize that this, this article needs to be seen in the context of the powers that we've otherwise sought over those plots. If we have, um, if we needed to utilize our compulsory acquisition powers in, in the worst case, then we wouldn't be using this article.

00:57:09:22 - 00:57:45:20

Um, and if, um, we had, uh, if we hope not, we use the option that we have. That option has various controls over, you know, as any option for a property agreement would have to provide, um, alterations and license to alter, etc.. So those DTA powers, if we were to use that would be a breach of that option and they could do us a breach of well, at that point at least. Um, so I would suggest, sir,

that focusing on this article for these specific buildings is, is going down an avenue that we wouldn't really be using this power for those buildings.

00:57:45:22 - 00:57:46:13

Okay.

00:57:46:15 - 00:58:16:23

What I'll do is I'll step back a little bit more then from that specific building. And if I was trying to understand then that you would, uh, if you were looking to exercise a right to enter a building, um, but you would need to give 14 days notice, and that's 18 five, except in the case of emergency. So can you explain to me how do you define emergency?

00:58:22:06 - 00:58:27:07

So it's not for this particular building. It could be any building where you're seeking the power.

00:58:28:15 - 00:58:34:07

And Mr. Watson, the applicant. We can take that away and look to create a definition, looking at some precedents.

00:58:34:09 - 00:58:35:16

Yeah, that would be great.

00:58:35:18 - 00:58:36:10

Thank you.

00:58:36:12 - 00:58:45:15

And I think to to justify why it would be required, not just a clarification but a justification of why those powers are required.

00:58:45:22 - 00:58:46:10

Please.

00:58:47:29 - 00:58:48:16

Yes. Of course.

00:58:56:21 - 00:59:25:22

Mr. Russell, for the applicant, um, just may help. For context, I think, um, an example could be the, uh, the Frodsham Wind Farm substation building, which sits within the order limits. Um, Or even, um, it would constitute a building. One of the turbines were there to be an issue. A fire, for example, which I think could quite easily fit in the definition of an emergency. Um, it may therefore be appropriate to, um, access those buildings.

00:59:26:04 - 00:59:26:19

Okay.

00:59:26:21 - 00:59:37:12

So it's good to surface that type of issue, because I can imagine that other parties might have some comments on those. Um, and they would relate to protective provisions and the like.

00:59:37:28 - 00:59:49:05

Yeah. Mr. Watson, we have that applicant. Yes, sir. I mean, absolutely any use of that power would be controlled through program winds, um, protective provisions. Um, but it's the fact that you have the power in the first place.

00:59:52:03 - 01:00:05:21

Thank you. Before I move on to the next element I want to raise. Can I just check if anybody has got any comments to make regarding access to buildings and what we've we've heard.

01:00:07:03 - 01:00:07:18

Nope.

01:00:07:20 - 01:00:17:00

Okay. Um, and I now move on to permitted, uh, preliminary works interpretation. And I'd like to start with.

01:00:17:13 - 01:00:18:15

Say, the.

01:00:18:29 - 01:00:35:19

Intrusive archaeological surveys. So that's included. Is it a and. Yeah. So and the applicant just give me a very brief summary of what these works entail for intrusive archaeological surveys.

01:00:39:11 - 01:00:48:19

And Mr. Russell may be able to add to this, but, um, Mr. Watson asked that because the intrusive archaeological surveys would be done. Um.

01:00:53:23 - 01:01:15:13

So trying to find the requirement number five and 18 as part of the archaeological mitigation strategy that would be, um, approved pursuant to requirement 18. Um, following on from the works that have been done as part of the ES as. But as is usual at this stage, there are more investigations to be undertaken. I think it's important to note so that, um.

01:01:17:16 - 01:01:48:12

When reading the definition of permitted preliminary works, you would have noted that in various requirements so that, you know, the concept of and we use the acronym, we don't mind. The is is to say you can do these works without needing to discharge discharge the requirements because they've taken out the definition of commence. What we have then done is gone through each requirement and say, well, hang on, does that work for each of the PA that we've created? So for the purposes of archaeological surveys, we've deliberately said for the purposes of requirement 18, they are not PA.

01:01:48:23 - 01:01:54:06

And so we would have to get the details of those archaeological investigations approved before we could do them.

01:01:55:01 - 01:01:55:17

Okay.

01:01:57:22 - 01:01:58:18

But yeah.

01:01:58:20 - 01:02:00:29

This is still possible. Just to give a.

01:02:01:01 - 01:02:01:16

Notion.

01:02:01:23 - 01:02:02:08

Of.

01:02:02:10 - 01:02:02:25

Yeah.

01:02:02:27 - 01:02:10:24

I take your explanation. If I can just have a quick overview of what they entail. The intrusive archaeological surveys.

01:02:10:26 - 01:02:30:14

Okay. Um, Mr. Russell, for the applicant, um, just to give one particular example. So, um, our outline, um, written scheme of investigation, which we have submitted. I'm sorry, I don't have the reference, uh, in front of me immediately, but it was submitted that, um, to section 51 submission.

01:02:30:21 - 01:02:31:14

Oh, yes.

01:02:31:16 - 01:02:33:08

Dash zero 29, is it?

01:02:33:10 - 01:02:34:02

Thank you very much.

01:02:34:22 - 01:02:54:26

Um, and so at paragraph 2.3.1, um, that's where we discuss the potential need for archaeological trial trenching. Um, and in particular the ridge and furrow features which are found to the east of furlong. Um, so I think that's the type of, um, works that we're talking about in that scenario.

01:02:55:18 - 01:02:56:08

Okay.

01:02:56:10 - 01:03:30:24

So, um, in the context of the permitted preliminary works, Reworks what I'm hearing, and please feel free to interject. Is that the trial? Trenching is fixed to what's stated in the outline, written scheme or investigation, and that relates to particular assets, which is assets to five. Sam. So what I'm trying to gauge from you, this particular interpretation is fixing it to a specific point.

01:03:30:26 - 01:03:38:04

You're not looking to undertake intrusive archaeological surveys anywhere within the order limits.

01:03:40:28 - 01:04:16:18

Well, sorry, Mr. Russell, for the applicant. Um, I think that's hard for us to say right now because we have got a requirement to work with the council in terms of discharging the detail of that written schema investigation, making its outline at this stage. And all of the all of the assessment work that's been undertaken to date indicates primarily due to the fact that the western half of the site has been subject to the deposit of dredging from the Manchester Ship Canal. It's very unlikely that any, um, any buried archaeological remains are present there.

01:04:16:20 - 01:04:40:26

And so, um, the the assessment work to date has shown that actually as described in that investigation, it's likely just to be focused on that, um, element. But, um, we need to wait until we discharge that condition. So we just want to make sure that we've given ourselves the appropriate powers and the ability to do that, um, at the right time.

01:04:41:04 - 01:05:05:05

So if I can just add to that, I think what we can look at doing is in that definition of intrusive archaeological works, we can tie it to, um, the being intrusive works that are approved pursuant to that requirement have to go away and come up with the exact words, but essentially saying intrusive archaeological works that are required pursuant to the strategy approved under requirement 18

01:05:06:25 - 01:05:20:19

that deal with both issues of allowing the flexibility of agreeing what they will be first and then that being what's able to be used. Given that we've already excluded archaeological surveys from requirement 18, in any event, so there's no loss to us.

01:05:20:24 - 01:05:49:17

That would be helpful because, um, because, um, one would have is that if you're undertaking trial trenching in many other areas within the order limits, what effect would that have on your environmental statement conclusions. So if you can look at ways of tying it to some degree to what you've mentioned, that would probably deal with that particular issue.

01:05:50:01 - 01:05:51:18

Thank you sir. Okay.

01:05:51:24 - 01:06:03:24

Now, um, and I just check if anybody else has any matters Matter pertaining to a particular thread of logical intrusive works.

01:06:06:17 - 01:06:07:27

Nope. Okay.

01:06:08:12 - 01:06:39:07

We'll move on then. Um, so the permitted preliminary works also includes, uh, e, which is remedial work in respect of any contamination or other adverse ground conditions. Bearing in mind your response to the Environment Agency's relevant representation. Uh, that was PD 2-0 27.

01:06:40:00 - 01:07:10:14

You mentioned that the menses uh, the mens includes remedial work in respect of any contamination or other adverse ground conditions where this relates to work. Number six. So if this is the case, can the applicant explain why remedial work in respect of any contamination or other adverse ground conditions needs to be included as part of permitted preliminary works?

01:07:16:10 - 01:07:18:19

Let me talk to the applicant. I'm not.

01:07:20:13 - 01:07:51:21

I'm not sure I entirely for a question. Um, what I would say is that in requirement 12, which is the the construction environmental management plan requirement, which included within it that we would need to develop an unexpected contamination protocol. Um, the the essentially again, the, the remedial work in respect of contamination is brought back in to being caught by the camp. So we would have to be, um, having the sort of environmental management plan approved before we could do those works.

01:07:51:24 - 01:08:34:26

I think it's also worth highlighting that requirement. Um, eight requires, you know, the various measures that are in appendix two, three of the environmental statement to be followed as well. So those, you know, you know, for example, that, uh, has controls and making sure that we take account of ponds and watercourses or badger sets, etc.. So there are between appendix two three and the need for the Kemp to be approved before we do them. Um, and the ground conditions requirement, I believe then that gives all the controls because we want and also crucially, that the Environment Agency protected provisions and don't exclude from its preliminary works.

01:08:35:05 - 01:08:57:08

It it seems a bit peculiar, um, in the context of where you need to undertake remedial work, it forms part of commence. However, you seem to also include it as permitted Pulitzer preliminary works. So that's what I'm trying to understand. What do you need in both camps?

01:09:01:23 - 01:09:36:27

And Mr. Russell, for the applicant. Um, sorry if I'm not following all of these. Um, but at a practical level, which is how I'm trying to think, think through this point is, um, in terms of the, uh, ground investigation element and and remedial works. Um, there may be so remedial works. It spans a big

spectrum. Um, and from the information that we've got at the moment, I think we're, um, confident that across majority of the site, medial works would be quite minor.

01:09:36:29 - 01:10:15:25

And also those sensitivities would be quite low. The focus is on the non-breeding bird mitigation area, because that's the area where we've identified the potential need for some specific remediation requirements. Violence, um, which could lead to more significant impacts, not not least because of its proximity to the estuary. So, um, we're attempting through the preliminary works to make sure that we can focus our efforts in moving forward with the, um, starting of the construction works without the need to have discharged all of the requirements across much of the site.

01:10:15:27 - 01:10:28:15

But we focused in on those areas that are most sensitive. So from a practical perspective, that's how we've tried to shape it. If there's a specific instances where you think that might not be appropriate, then clearly we could um, amend that.

01:10:28:28 - 01:10:47:22

And um, very simple terms. Um, the permitted preliminary works could include disturbance of the various groundworks and their, um, that could disturb contaminated land. Question is that is that correct understanding.

01:10:48:05 - 01:10:49:06

Sorry. Could you repeat?

01:10:49:08 - 01:10:55:15

Other permitted preliminary works. That would involve disturbance of the ground.

01:10:58:28 - 01:11:23:18

Mr. Russell, for the applicant. I think actually the example I gave a few minutes ago in terms of the trial trenching is an example of where, in theory, you could disturb ground. Now, in that scenario, on the eastern half of the site, we've concluded that, um, the soils aren't likely to be contaminated because it's just been used for agricultural purposes. So I don't know if that's a good example or a bad example. So.

01:11:23:20 - 01:11:24:05

Okay.

01:11:24:09 - 01:12:00:16

So so just to explore that a little bit more. So one of the things that we would want to understand is um, that obviously the permitted preliminary works are correctly mitigated. And I think the, the overall approach that the applicant is taking to that in the DCA makes a lot of sense. Those. Those works are specifically identified. And where there are mitigation measures that apply. Um, post commencement, commencement and pre commencement, there's a mechanism for dealing with those within the DCO that makes a lot of sense.

01:12:00:20 - 01:12:29:15

I think from our point of view it's been confident that um, uh, that mitigation is properly identified for pre commencement and post commencement. We've been through the archaeological works. Um, and the reasons for that, I think if the, if there are, if there are ground disturbance of the ground, then the nature of unexpected contamination is that it's unexpected. Um, and um, uh,

01:12:31:12 - 01:12:49:29

we would want to have some confidence that the ground works and any disturbance of the ground during permitted preliminary works is properly mitigated. So there's a balance of risk in all of that, of course, but the mechanisms should be in place.

01:12:50:06 - 01:12:50:21

And.

01:12:50:23 - 01:13:32:24

That's that, Mr. Fox. And part of that, because I think, I think the key requirement here is, um, requirement 17, which is the kind of overarching, um, ground conditions investigations and assessment strategy, which excludes lots of the permitted preliminary works. And it basically when we're preparing that requirement, it was asking ourselves that question of all of the things that we've included as we worked, which of those could end up in disturbance to the ground? Um, and they are listed in requirement 17 one. And to the extent therefore, before we do any of those, we have to have got the ground conditions, the investigations and the best assessment strategy, the depth of which it includes remediation, where it includes remediation where required.

01:13:32:26 - 01:13:49:11

So in terms of ground disturbance impacts, basically all the people we think could do that are in that requirement. 17 so if you think there might be a need for more. Um, then obviously we could look at adding to requirements 17 one. I think that's the exercise we went through.

01:13:49:13 - 01:14:06:07

I think I think perhaps, perhaps there's an action for the applicant just to review that review. The potential for disturbing ground, the potential for disturbing contaminated land, and whether you feel that those things are correctly mitigated for the permitted preliminary works, is that a reasonable.

01:14:07:12 - 01:14:49:21

Mistrust for the applicant? I think I think that is reasonable, albeit I'd say the focusing on the focusing on the land impacts of remedial works is to an extent self-fulfilling, because you'll have had to have got to the position where you've got the information before you've determined you needed to do remediation. Um, I think personally I think the important element, which I think we could review is within the column, um, of the appendix, where we're describing the permitted preliminary works, that we've captured all of those impacts, which I think are likely to arise from any remediation works now.

01:14:50:09 - 01:15:32:00

Um, apologies. It just took me a second to kind of run through that, that, that column. But I think, uh, in terms of, uh, the matters that we've identified, I think we have tried to hone in on things like water quality impacts, impacts on ecology. So, for example, the distances of investigation works from badger sets, um, other reasonable avoidance measures that should be in place for ecology. Um, and

returning to the fact that in terms of locations where we think remediation is going to be needed, which is in the, um, non-breeding bird mitigation area, that wholly requires a complete construction environmental management plan.

01:15:32:06 - 01:15:44:24

So as I sit here now, I think that's probably quite a full set of requirements that we need to undertake if we're going to do some remediation work, but we could take that away and review it.

01:15:45:21 - 01:15:46:08

Okay.

01:15:46:17 - 01:16:15:06

Um, just before I go to hand raised in the virtual. So my understanding for just trying to, um, sum it up in a few words, you're looking to do remediation under manse for the non breeding bird mitigation area. And also as part of permitted, uh, preliminary works. Any remediation beyond that particular.

01:16:15:19 - 01:16:49:28

Um, Mr. Watson part of the applicant. So I think the key points there. So I think that that's not the definition of commence doesn't refer to anything. It's just refers to any material operation. And that is more about the definition commence is more about the time limits and how you interpret the various requirements. So what we want to be able to do. The point of the committee was to be able to kind of crack on with those things, whilst you go through the process of the kind of detailed construction methodology for main construction as opposed to happening.

01:16:50:00 - 01:17:22:00

And that's not to say that the remediation or the ground conditions work, that we would do not carry on into the main works construction phase. Um, but as I would say, the definition of commence doesn't necessarily matter for that question. The point is, we want to be able to do them as soon as possible. Have we got enough controls? And that's what we've just got discussed. If we wanted to then carry on and do them past the point where we've got the Kemp approved for the main works, then we would choose to do that.

01:17:22:02 - 01:17:27:20

But I think it's the key point is that we want to be able to do the money as part of the jobs.

01:17:27:29 - 01:17:32:02

So so it's have you got the controls and have you correctly identified the impacts?

01:17:32:04 - 01:17:33:23

Yes. Okay.

01:17:33:25 - 01:17:35:10

And we will we'll do that.

01:17:36:25 - 01:17:37:10

Okay.

01:17:37:13 - 01:17:37:28

Um.

01:17:38:00 - 01:17:38:15

Is it.

01:17:38:25 - 01:17:45:27

Um. I can't quite clearly see, but have you got a raised hand? Would you like to come in?

01:17:47:08 - 01:18:04:20

Morgan Hagman from the Environment Agency here. Just want to dive in and say that we raised this issue with the applicant's project team as part of our relevant representation response. And, uh, I'd say under ID.

01:18:08:25 - 01:18:37:12

And, uh, ID 003, um, following a meeting with the applicant team, we were given a sufficient response stating that the construction environment management plan would be in place and it has special provision within that the requirement for it to cover permitted preliminary works. Therefore, we feel that this issue was Sufficiently covered. And therefore we have resolved that with the project team.

01:18:38:24 - 01:18:39:16

Okay.

01:18:39:18 - 01:18:47:07

Thank you very much for that clarification. Um, do you want a right of reply?

01:18:47:19 - 01:18:48:18

No thank you, sir.

01:18:49:23 - 01:18:53:18

Can I just check if any other party wants to make a comment? Yes.

01:18:55:21 - 01:18:56:28

No. Okay.

01:18:58:01 - 01:19:19:00

I'll briefly then, uh, ask if the applicant can just give me an overview of the reason for including site clearance, including vegetation removal and demolition of existing buildings and structures in permitted preliminary works.

01:19:19:22 - 01:19:50:16

Mr. Fox applicant. Thank you sir. So I think this is building on what I said a couple of minutes ago. This is the it's almost like from a practical point of view, what what would you do first before you

crack on with, you know, your main works construction and those. Those are the types of things that you would be doing first, um, before you put in place the solar panels and the batteries, etc.. Um, obviously we're conscious that of all of the political committee works, that's probably the one that reads the most, um, want of a better word, scarily, from an environmental point of view.

01:19:50:18 - 01:19:59:28

And that's why we did go through the requirements and where necessary for those works and demolition, we've added them back in for the key. Um.

01:20:02:18 - 01:20:08:00

Like the, the, um, structured environmental management plan and the landscape and ecological management plan.

01:20:08:16 - 01:20:09:02

Okay.

01:20:09:10 - 01:20:10:04

Thank you for that.

01:20:10:06 - 01:20:10:21

Quick.

01:20:10:23 - 01:20:41:11

Overview. Um, I'd like to draw your attention to paragraph D on page 17 of the explanatory memorandum. Um, and that's AS-0 15 that notes the works identified in the permitted preliminary works means that they are not expected to give rise to environmental effects requiring mitigation.

01:20:41:21 - 01:21:27:15

However, if you look at chapter seven, which is the terrestrial ecology, and that is up zero 40, it recognizes that there would be temporary moderate adverse effect on frozen Helsby and Insch Marshes local wildlife sites due to the works. Therefore, in order to align with the explanatory memorandum statement, would it be necessary to remove site clearance from permitted preliminary works? Or do you need to change the explanation in the memorandum?

01:21:28:15 - 01:21:34:28

Thank you sir. I think you can guess what I'm going to say. That's clearly incorrect. And we will update that in the M.

01:21:35:00 - 01:21:35:15

Okay.

01:21:35:17 - 01:21:37:04

I wanted to give you the opportunity.

01:21:37:06 - 01:21:37:21

No, no, no.

01:21:37:23 - 01:21:39:05

That's okay.

01:21:43:04 - 01:21:43:19

Um.

01:21:45:04 - 01:22:29:19

Turning to the definition of commencement and the Guidance Planning Act 2008. Contents of a Development Consent Order for National Significance Infrastructure Projects, which was published in April 2024. This states that typical examples of matters which are not acceptable are preliminary works, including major earthworks, clearance of trees and ground clearing activities affecting protected species or archaeological remains unless Appropriate controls are secured in another manner.

01:22:30:10 - 01:22:33:09

Can I just have the applicants response to.

01:22:33:11 - 01:22:34:16

This point.

01:22:34:18 - 01:22:58:06

And Mr. Fox and the applicant, I think I would say that's what I said about ten minutes ago in terms of we went through the exercise. The definition of permits does exclude permitted preliminary works. But then when you read each of the requirements, including the examples given in the guidance, we then bring them back in to be controlled by the relevant management plans. So we we do do that not directly in the definition of commence, but through reading the DCO as a whole.

01:22:58:13 - 01:23:05:26

So you can consider then that the preliminary works have appropriate controls and are secured in another manner.

01:23:05:28 - 01:23:06:15

Yes, that's.

01:23:06:17 - 01:23:13:13

Through appendix 11. Then three and the three, three, three and the where they were brought back into the requirements.

01:23:13:19 - 01:23:16:13

Okay, okay. Uh.

01:23:17:03 - 01:23:51:24

Linda, the applicant is familiar with the document that was quoted. Um, it is um, Uh. Uh, guidance. Um. However, it does helpfully identify areas of preliminary works that would be most likely to cause concern in terms of mitigation. So there's a there's a useful checklist there that Mr. Rollins went

through of major earthworks, clearance of trees and ground clearing activities affecting protected species, archaeological remains.

01:23:52:02 - 01:23:58:27

Um, it is a useful it's certainly one that will resonate with us for the particular project. So, um,

01:24:00:27 - 01:24:14:02

I wonder if there's is the it's the applicant confident that all of those matters have been addressed, or might it be a value just to clarify that each one of the items mentioned in that guidance have been addressed?

01:24:14:15 - 01:24:47:03

Mr.. I'm half the applicant. I mean, we can look to that. I think the appendix two three was put together deliberately to try and be one place where your self is examining authority. You could consider each of the preliminary works and say where are they controlled? And what that does is it refers back to the requirements where they are brought back in to be caught by those. I mean, I don't think, um, any preliminary works would allow for major earthworks. Um, and to the extent that there could be impacts of protected species that is controlled by the measures that are in appendix two three, Mr.

01:24:47:05 - 01:24:57:14

Russell mentioned earlier that, you know, there's references to exclusion zones from power sets, etc.. Um, so I think so, yes. And that was essentially what appendix two three seeks to achieve.

01:24:57:27 - 01:25:32:02

So site clearance is quite a broad term I guess. So there's a little bit of nervousness that I'm feeling about the extent that might take. So um, yeah, there are a large number of hedgerows across the site. There are various habitats across the site. Um, so I'm feeling a little nervousness about what will be permitted in terms of preliminary works for clearing some of those habitats. And I'm just wondering whether there's sufficient clarity about the scope of the preliminary, permitted preliminary works in that respect.

01:25:32:04 - 01:25:33:22

It's a very broad term.

01:25:48:26 - 01:26:12:16

The applicant one thing we could look at doing perhaps, is, um, without getting too much into the throes of statutory drafting and what including and comprising means, um, we could look to, um, change, including to comprising. So therefore limiting. That's what site clearance means. Those things that are already in the brackets.

01:26:14:26 - 01:26:15:16

Um.

01:26:18:27 - 01:26:31:18

I think it's been very clear what the definition of site clearance is in the DCO. It's having sufficient clarity of that because it's it's very broad at the moment. Um, please.

01:26:31:20 - 01:26:32:05

Yeah.

01:26:32:07 - 01:27:06:16

Mr.. Mr.. Russell, for the applicant, I think, um, some of the examples which you gave there in terms of the hedgerows, um, reedbeds, other maybe sensitive habitats. I think one of the key, um, exclusions that sits under the site clearance in appendix 2.3 is the, um, the approval of the Landscape and ecological management plan, um, which is in essence, there to ensure that you are protecting the, uh, the landscape features that would give rise to those sorts of effects that.

01:27:06:18 - 01:27:08:03

You've done in.

01:27:08:05 - 01:27:18:08

So I think I think it's been the DCO needs, needs to be clear within the DCO. Is my inclination at the moment. Um.

01:27:20:08 - 01:27:20:23

I'm sorry.

01:27:20:25 - 01:27:35:04

It's not like I can say. My suggestion. If we changed, including to comprising, then that would be defining slum clearance as meaning vegetation removal, demolition of existing structures, and removal of the plant and machinery.

01:27:37:28 - 01:27:39:02

Um, does.

01:27:39:04 - 01:27:43:04

That help with the definition of site clearance? I'm not sure.

01:27:44:17 - 01:27:45:02

Um.

01:27:45:09 - 01:27:49:10

You seem to have taken away some specific things there rather than added them.

01:27:49:27 - 01:27:50:15

Um, sorry.

01:27:51:14 - 01:27:56:10

For the applicant without. Oh, no, I can say without repeating. I'm going to repeat.

01:27:57:02 - 01:27:58:06

Please repeat if necessary.

01:27:59:11 - 01:28:01:29

It helps. So I think, um,

01:28:03:24 - 01:28:49:23

I suppose we were making that suggestion of removing that word, including to try and remove any ambiguity that someone might then suggest that, well, you know, if you came along later and said, well, I'm doing something now, I, you know, including isn't an exclusive list. So I think we're trying to try and give a little bit more certainty on that now, whether that helps or not. I think then coming to the, uh, landscape and ecological management plan. And when you look within the requirement 992, where it lists out the various things that need to be included, that gives a significant amount of control that's contained within the DCO to ensure that site clearance doesn't give rise to those effects that that.

01:28:49:25 - 01:28:50:10

That.

01:28:50:13 - 01:28:52:29

The the guidance seems to be concerned about.

01:28:53:01 - 01:28:53:20

Okay.

01:28:53:22 - 01:28:54:09

Um.

01:28:56:23 - 01:29:00:02

I think probably we need to step back from it a little bit in the light of day.

01:29:00:04 - 01:29:01:11

And maybe.

01:29:01:13 - 01:29:01:28

You.

01:29:02:00 - 01:29:03:01

Can just take.

01:29:03:03 - 01:29:05:24

Take this matter away and consider it.

01:29:05:26 - 01:29:11:25

It may be that the definition needs to show what's excluded rather than what's included.

01:29:14:21 - 01:29:28:01

There's folks that I've concerned with that because I don't I don't know if you if you limit it. That feels like a stronger control than saying it's not these things, because what I'm struggling to think of is what what we would say.

01:29:28:19 - 01:29:29:10

Um, would.

01:29:29:12 - 01:29:32:25

Probably surface that concern. We've expressed that concerns and probably.

01:29:32:27 - 01:29:33:12

I'll.

01:29:33:29 - 01:29:49:23

If I can just leave you with the thought of what the guidance and just picking up on example typical matters which are not acceptable clearance of trees and ground clearing. So how do you deal with that? By including the site clearance and permitted.

01:29:50:18 - 01:30:21:15

Applicant without offending the authors of that guidance, it has been found acceptable in a multitude of ways. Um, so I think the point is that it's not acceptable if there is no controls. I think, and as Mr. Russell and I've tried to set out, there are controls to Kemp and the length both apply to the carrying out of those works. For example, requirement 92B specifically says we have to identify which hedgerows we're going to remove the trees.

01:30:21:17 - 01:30:22:06

Well, be.

01:30:22:28 - 01:30:23:21

Sure these trees.

01:30:24:02 - 01:30:42:01

And these trees. So it feels like I can see that. Can you emphasize that you've heard our concerns and warnings to reflect on them? But I think I'm just saying back to you that we understand the vegetation clearance in particular is the one that would be most concerning. But there are there are other controls there to control.

01:30:42:03 - 01:30:43:12

They we.

01:30:43:14 - 01:30:43:29

Will.

01:30:44:01 - 01:30:57:16

Probably come to this on other particular articles, and I'll remind you about this particular statement to see if you can satisfy it then. Um, but yeah, I think we've done this enough.

01:30:58:20 - 01:30:59:05

Thank you.

01:30:59:07 - 01:31:09:10

So I'll, I'll move swiftly so I could finish off the comments element, and then I'll suggest we have a short comfort break after that.

01:31:10:29 - 01:32:01:23

So, um, I'd like to explore the applicant's interpretation of commence now. So that means beginning to carry out a material operation as defined in section 56 four of the 1990 act, which explains when development begins. And that compromise then carried out or for the purpose of the authorised development. Now this differs from the majority of development consent orders for Sola, which refer to section 155 of the Planning Act 2008, such as the Seneca Energy Farm Order 2020 for the West Burton Solar Project Order 2025.

01:32:02:01 - 01:32:18:22

The Mallard Pass Solar Farm Order 2024. The Long Field Solar Farm Order 2023 and the Little Crow Solar Pack Order 2022. So can I have the applicants response to this point, please?

01:32:19:02 - 01:32:33:06

Mr. Fox? Applicant. Um, we will change it to section 155. I would say that doesn't actually get you very far because 155 points to the PPA. Um, but I'm confident the president, trying to keep consistency, said we will change that.

01:32:34:08 - 01:32:35:18

Okay. Thank you.

01:32:36:16 - 01:32:37:05

Um.

01:32:40:29 - 01:32:42:23

Sometimes we have to do things.

01:32:43:06 - 01:32:49:06

Oh. No, sir. So I completely understand. I appreciate there's a there's a line of consistency. Needs to be capped. So we'll we'll do that.

01:32:56:11 - 01:32:56:26

Yeah.

01:32:56:28 - 01:33:30:28

So, um, the proposed definition of commencement or permitted preliminary works will be carefully considered by the examining authority, as you've found out so far throughout the course of the examination of the application, with reference to the specific circumstances of the proposed work. Work number eight has also been included as permitted preliminary works. And I will come to this later when we deal with work number eight.

01:33:31:09 - 01:33:48:03

So I think, um, this is, uh, an ideal time to have a short comfort break. So it's 1433. Can we come back up? 1445?

01:33:49:21 - 01:33:50:06

Yeah.

01:33:50:18 - 01:33:56:00

So we'll come back at 1445. We adjourn until that time.

01:33:56:02 - 01:33:56:25

Thank you.