



Planning Inspectorate  
Arolygiaeth Gynllunio

## Event Transcript

<b>Project:</b>	Frodsham Solar Farm
<b>Event:</b>	Issue Specific Hearing 1 - Part 2
<b>Date:</b>	2 December 2025

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FULL TRANSCRIPT (with timecode)

00:00:07:22 - 00:00:17:27

Right, and the time is 1445. And we'll resume this issue specific hearing.

00:00:20:00 - 00:00:39:00

So I'm going to ask firstly if the applicant can put up the construction, phasing and resource schedule, which is up 051. Can this be put up on the screen please?

00:00:43:28 - 00:00:46:17

AP zero 51.

00:00:50:03 - 00:00:53:22

And it's a table showing the construction phasing.

00:01:19:23 - 00:01:22:23

Yeah, if you can possibly zoom in a little bit.

00:01:29:24 - 00:01:49:23

Okay. Thank you. So, um, the question I have follows on from the discussion that we've had about permitted preliminary works. Um, what I'm trying to understand from that schedule, if it includes that activity, the permitted preliminary works.

00:02:01:18 - 00:02:06:00

Mr. Russell for the applicant. Carefully considering my answer,

00:02:07:24 - 00:02:09:27

it does to the extent that.

00:02:13:18 - 00:02:14:03

The

00:02:15:24 - 00:03:09:05

permitted preliminary works may be undertaken in some of those areas. So, for example, the area west um, in advance of say for example, your construction work in the development area east, because the requirements are capable of being discharged on a phased basis. Um, the answer becomes slightly more complex. Um, when it comes to the fact that within our procedural B submissions, um, one of the points that we've agreed with Natural England, um, and the Council is that the non-breeding bird mitigation area is created in advance of any works across the solar or solar array development area.

00:03:09:21 - 00:03:31:26

So that that diagram will look slightly different, and therefore there would be months in advance of that. There would be effectively blank in advance of any of those, um, development components within which permitted preliminary works could be undertaken.

00:03:35:18 - 00:04:08:18

The next, perhaps logical question that you may be going to is in terms of the, um, the construction related traffic associated with any permitted preliminary works. Um, and whilst it isn't, um, demonstrated on their permitted preliminary works, I think by, by, by virtue of their nature. Will will have relatively low traffic levels and and the transport perspective.

00:04:08:26 - 00:04:22:20

We're very much focused on those peak traffic periods. Um, and I don't think there's any, um, any danger or any opportunity for permissive primary works getting anywhere near to those sorts of levels.

00:04:25:21 - 00:04:26:07

Okay.

00:04:29:16 - 00:04:36:13

Is it likely, then, that you'll be providing us with an updated version of this program.

00:04:38:09 - 00:04:41:28

Mr. Russell, for the applicant? Yes, I think that'd be appropriate for us to do so.

00:04:43:14 - 00:04:52:03

And I think it would help our understanding to see when the permitted preliminary works may occur as part of that. Okay.

00:04:57:09 - 00:05:35:09

From this program as well. Um, is there a need for certain habitats to be functional before you can undertake works? So again, the non-breeding mitigation area. Um, you show that you complete the works on same month eight. Does that mean by month nine it's fully functional or do you need to give time for it to become that before you can then go, for example, go on to the solar array development area west.

00:05:35:11 - 00:05:47:00

So would there be a lag between the NBA and the first one on that row, a solar array development area west for those features to become functional?

00:05:47:28 - 00:06:18:18

Mr. Russell, for the applicant. Um, that's one of the issues that we've explored with Natural England and was also raised by the council. And we've got an agreed definition of the point at which the non-breeding bird mitigation area becomes functional. Um, I can have a look in a moment and see if I can draw you to the reference. But it's within the non-breeding bird mitigation strategy and within our relevant reps, um, document. I think it may also be in our draft statement of Common ground with Natural England.

00:06:18:20 - 00:07:04:06

And in effect, it's agreed that the mitigation area will become functional. Um, at the point that all physical works have ceased on that area and that the, um, the, the area has been engineered in the way that is agreed within a non-breeding bird mitigation strategy. And by that I mean, um, I'm sure we'll get into the detail of this in, in later hearings. But where we have we have lowered the ground levels, which is a principal part of the creation of that and sufficient that we allow the the soils that then remain to become wet and therefore the future wet grass and habitats to be established.

00:07:04:09 - 00:07:47:21

We've put in place measures for additional for the drainage, manage drainage to be able to occur from the um from the canal at what we're calling the canal ponds, just to the north of that cell three area. So in effect, it becomes functional almost immediately that you take all of your plant and machinery off there. Um, and I'm sure our ecology and ornithology expert will talk to this a little in a little bit more detail. But in essence, those birds that would use that area are more interested in the fact that it's, um, free of disturbance, doesn't have tall vegetation on it, and we'll have some sort of, um, invertebrate food resource.

00:07:51:17 - 00:08:14:06

I notice on the program that you've identified the, um, the VMAs or the breeding bird mitigation area. Um, in terms of the Skylark mitigation area, would you be able to update next iteration of this program to clearly feel that element of works as well?

00:08:15:06 - 00:08:45:29

Mr. Russell, for the applicant. Um, yes, we can certainly update this diagram if you wanted to, albeit we are committed again within our response in our relevant representations, that we've confirmed that the Skylark mitigation area will be in place, um, at the outset of the development. Okay. Um, and the, the the reason for that being relatively simple is that, um, it's just taking that field out of agricultural production, allowing it to develop into a grass and habitat.

00:08:46:01 - 00:08:46:17

Okay.

00:08:48:06 - 00:09:30:01

I think there are, Um. There's always a balance about what should go in the DC and what should go in management to mitigation plans. Um, just to bear in mind very briefly, so the management mitigation plans, the outline plans that are provided do provide a good level of security. But obviously, um, the final plans are to be in accordance with or follow the principles set out in, um, if there are key mitigation measures. Um, um, so all mitigation measures are important, but some would merit being included in the DCO rather than in the management and mitigation plan.

00:09:30:03 - 00:10:06:02

And I think that not just in relation to the issues that Mr. Rowland has been through now, but also in relation to, um, the cumulative impacts with the pipeline that runs along the north edge of the site through the non-breeding bird mitigation area, which we will come to tomorrow. Um, the timing of those works is probably, in our minds, is becoming pretty critical. And whether it's got to the point of

being so critical that some very specific things should be required, should be secured in the DCO is one thing that we'll be wrestling with.

00:10:06:18 - 00:10:41:05

Mr. Foxman, the applicant. So in relation to the Skylark mitigation area and non-breeding bird mitigation area requirement 92, I and J specifically says that in our lamp we have to set out what the establishment regime is going to be for both of those areas. We could look to add program as well to the to that wording. Um, and so that that gets you there. And I think what I wanted to highlight really, is that this, this schedule is indicative in, in terms of it, it's not we haven't secured this schedule we've made.

00:10:41:07 - 00:11:11:23

I do take the points there about the commitments that we've made in the, um, Kent. But what I would say is that they are fairly general in terms of saying we won't do X until Y is committed, but the detail comes through the, the length and, and the kind of the very the detail of the establishment of those things. So I would suggest that if we add program to ING requirement 90, then that means that what we are getting approved is the program for those things which will ensure that the principles are met.

00:11:11:25 - 00:11:33:11

Yeah. It's whether it's that's helpful. Thank you. It's whether the pace of the DCO needs to be very explicit about the timing, because, you know, the issues that we've just been through now, the issues in relation to the pipeline along the northern edge of the site, whether some of those things need to be made very explicit in the DCO. That's that's what we'll be wrestling with.

00:11:33:18 - 00:11:34:08

Thank you sir.

00:11:34:16 - 00:11:51:12

And I really I realize there's a that will remove some flexibility possibly. And there's always nervousness at doing that. But um, sometimes things get to, you know, You are so important that they need to be very secure in the detail. I hope that makes sense.

00:11:51:14 - 00:12:24:03

It does so. But just I was just the reason I was kind of starting down that aisle of looking at amending the requirements is because the way the DCO set up at the moment to take these two examples is that work number one is not split into different areas. So we were going to say you can't do work X before you do work Y. Then we might then have to look at how the DCO is set up. And more broadly, um, which could make more complicated. And I on the pipeline, I do have things to say on that, but I'll wait till tomorrow to make those points because I think it's a bit more complicated.

00:12:24:05 - 00:12:24:24

Thank you.

00:12:31:09 - 00:13:03:27

In the context of the program, I'll just give maybe a little bit more substance. And that is, um, I'd like to remind the applicant of paragraph 4.35 of the MPs National Policy Statement. N1 and the second

bullet point, which states the applicant should demonstrate that the timing of construction has been planned to avoid all limits disturbance.

00:13:03:29 - 00:13:11:29

And that is why we are really keen to understand the way you've indicated the programme. Um.

00:13:12:23 - 00:13:43:11

I suppose, Mark, that I think we are extremely cognizant of that policy provision and the sensitivities of the area in which the scheme is being constructed. And and that's why actually there is almost to take the point back towards you in terms of the there's a number of things that are affecting the programme. It's not just X before Y. Um, because the point about the pipeline, for example, there's the question of does it come before, does it come at the same time, does it come afterwards? And if it becomes at the same time.

00:13:43:13 - 00:14:15:24

That's more complicated and could have implications on the rest of the program. And that's why there's a number of kind of commitments and principles that we've set out in the mess mitigation strategy and the camp about how those things are played out. And I think that's why we would suggest that that's for this scheme, where there are lots of different factors playing into each other. It's and the management plans and the detail of those being signed off that things would get, um, that, um, the discharging bodies would get satisfied.

00:14:15:26 - 00:14:40:08

And I make the point that at a procedural deadline being the updated camp, we've made it clear that part of what will be submitted for approval is a program, um, a taking account of all of these issues, including the pipeline, including all the constraints that we would have talked about in the, um, talked about it today and in the ES. Um, yeah.

00:14:46:20 - 00:15:20:24

I understand about the complexity and the number of documents, and it can be quite complex to try and understand how each element into intervenes, intervenes, and intervenes into other work faces. Um, and this particular schedule is a snapshot, and it's indicative, but it gives us the examining authority, the confidence that you have taken into account those elements that you're telling us that you have.

00:15:20:26 - 00:15:54:05

So it is a useful tool. And when we take it and look at some elements and think, oh, has that been covered? That's why we're asking for certainty and the surety that it has been considered. So, um, yes, if you're able to update this schedule, as you've already given us, uh, assurance that you will, that hopefully will deal with slight concerns that we have in the way you approached it.

00:15:55:00 - 00:15:55:21

Okay.

00:15:55:23 - 00:16:12:22

Um, so could I. Could I, please. Um, Michelle Sparke, on behalf of Cheshire West and Chester Council. Um, can we clarify a few points that were made and just come back on a few? Um, Laura, he's the principal natural environment officer for the council. Would like to comment on a few of the points made. Thank you.

00:16:14:15 - 00:16:15:00

Hello.

00:16:15:02 - 00:16:55:22

Laura Hughes for Cheshire West and Chester Council. Um, just a couple of points. The first one was that, um, I think Mr. Russell pointed out that we had agreed what the level of functionality was for the non-breeding bird mitigation area, and I don't recall that that's the case. It might be with Natural England that that's that that's happened. Yeah. Okay. So just to clarify that, um, and the second point was that, um, I agree with the examining authority's authorities questions in terms of um. That was a similar train of thought I was having as well, in terms of the preliminary site works, because the phase in plan wouldn't kick in for the preliminary site works, and they would include site clearance, which requires mitigation and requires the non-breeding bird mitigation area to be in place.

00:16:55:24 - 00:17:09:17

So I would really appreciate the more detailed kind of program. Um, that includes either includes preliminary works or takes those elements out of the preliminary works definition. Okay. So thank you. Just a couple of points there.

00:17:09:19 - 00:17:15:29

Thank you. Thank you. I'll ask if the applicant wants to respond to I'll take those actions.

00:17:16:07 - 00:17:37:10

So we can take those away. Um, just on the first point, as Mr.. Mr. Russell was indicating. Yes, the the agreement was with Natural England in terms of what, um, established means. Um, we will update that schedule. Um, but it is not a I suppose I'll make the point again that it's not it's not a program, per se. It's how we've thought about it. But but what is secured is in the management plans.

00:17:37:12 - 00:18:08:29

Yeah, It's a useful tool that gives us confidence that you've considered the certain elements, because the certain elements are across so many different application documents. And um, for a layperson as well, it's easily understandable. So yeah, it's appreciated that you will take away and update, uh, the schedule, I'll call it, rather than a program. Okay. Can we now move on to maintain.

00:18:09:09 - 00:18:27:24

So the way maintained is currently defined means that there's not seem to be measures in place to prevent removal, reconstruct or replace. Do you want me to repeat that question for you, Mr. Fox?

00:18:27:26 - 00:18:28:11

Yes, please.

00:18:28:17 - 00:18:59:15

Okay. So, um, the way maintain is currently defined, mean means there does not seem to be measures in place to prevent, removal, reconstruct or replace within the whole of the authorized development. The guidance of the Planning Act 2008, pumped into the Development Consent Order required for national significant infrastructure projects.

00:18:59:23 - 00:19:38:22

Notes that the definition of maintenance must not be so extensive as to permit the replacement of the consented development with the construction of what is effectively a different project. It is therefore appropriate to include such a restriction in the way maintenance is defined in the DCO. So can I. Yeah. So what I'm going to ask is the if the applicant look again at the definition of maintain And consider the wording used in the bias skill.

00:19:38:24 - 00:20:01:07

Solar order 2025. The Cottam Solar Project Order 20. 24 East Yorkshire Solar Farm Order 2025. The Burton Energy Park or the 2024 The Long Field Solar Farm Order 2023. I think you get the message. Sorry.

00:20:03:27 - 00:20:26:25

This this is a related point. So under five a major replacements. Um, there's some overlap between that and the point that Mr. Rowland has just made. Um, there are some separate points into five, but, um, I think, uh, it's important to us to have a clear definition of, of those works and.

00:20:27:00 - 00:21:02:29

Yes. Yes, sir, Mr. Watson, the applicant. So make two points. Three possibly so. So firstly, both the definition of maintain and article six, which talks about the power to maintain your appointment channel. The power is maintained to say that we can't cause any new material, new or materially different effects to those assessed in is going directly towards the point raised in that guidance. And I would note that some of the, um, uh, shows that you referenced there don't include that in their definition of maintain, although I think they all do in the operative article.

00:21:03:18 - 00:21:38:00

Um, so I would say having sat through and having worked on most of the details that you just mentioned there, the reason that those TCAs referred to, but not replaced a whole is because in that I suppose, wave of solar farm days, this was an inherent issue, um, which I imagine you're well, you were aware of where, uh, the ISS didn't really consider the issue of replacement very effectively. And so, um, well, you know, as I said, that wrongly, as robustly as Islamic authorities would expect, I should say.

00:21:38:05 - 00:22:12:03

Um, and it meant that essentially applicants had to do that because they hadn't considered the impacts of a wholesale replacement. And that's why those limitations are put in there. And I know you've asked ten questions on the question about, um, replacement here. And we will go through that analysis. And I wonder, so if we come back to this after we've had that discussion, because our position is that we feel that we have assessed that and that we think that we should have the power to replace, because we don't feel that it would lead to any significant environmental effects.



00:22:12:05 - 00:22:45:09

So, so I have been involved with the solar cases as well, and I've had discussions on similar issues. Leave those to one side, but I think the applicant's approach of being open and transparent about those activities is very helpful. So I think that that is certainly a step forward. Um, it will bring into play things that we need to be satisfied about in terms of the effects being assessed and all of the other things that are listed in that. Five a question and, you know, um, anxious to go through those quite carefully.

00:22:45:11 - 00:22:50:16

Yes. Understood, sir. But that but that's why we haven't. It's good in that definition. Yeah.

00:22:53:01 - 00:22:57:00

Has anybody else got any comments regarding maintain.

00:22:58:28 - 00:23:38:00

Nope. Okay. I'd like to now go on to agenda four B which relates to part three streets. So the power in article ten including 12, 13 and 14 authorizes alteration, etc. on any street within and beyond the order limit. Can the applicant explain why it has included any street within the order limits, rather than those streets identified in the relevant schedules.

00:23:38:02 - 00:23:42:13

So, for example, schedule three, four and six.

00:23:44:07 - 00:24:21:02

Mr. Fox, on behalf of the applicant. Um, so this is almost a perennial question. Um, I will say said that, um, this is on the basis that the DCO is supposed to be a one stop shop. The street works are fairly limited. Um, article 210 two says what we can do in the context of what street work means. Um, they can't be done without the consent of the street authority. And in the case of this authority, we have, um, protective provisions for the benefit of the local highway authority, and it has been excluded from national highways, roads.

00:24:21:14 - 00:24:45:14

Um, so I appreciate, um, that there will be concerns here. I think that will be our Opposition. You feel there's not sufficient protections. Um, you'll recommend may suggest a deletion of those words, but I don't think we will move from that because we feel that that's, um, there's enough controls in there to make sure this is not untrammelled and it won't be an issue.

00:24:48:07 - 00:25:25:08

That appears something for us to reflect on. I think it always causes discomfort with it when there are very broad powers in the DCO, and this is a good example of that, where it would be relatively easy to, um, set out the specific streets, um, that it applies to. So this does seem an easy one to remedy. Um, I think there is some comfort about the agreement of the street authority being required in particular. I think that's true, that, um, it feels first, um, it's sometimes helpful to give a first reaction.

00:25:25:10 - 00:25:40:23

The first reaction is it is an easy thing to be a little bit more specific than is the case at the moment. Um, and, you know, that's a general encouragement for CEOs to be appropriately specific and to avoid broad powers. Um.

00:25:41:12 - 00:26:16:20

Yes. Mr. Watson, um, on behalf of the applicant, that is understood. I think we've gone for the approach. That paragraph one is the specifics, and paragraph two is a generic power, because the DCO is able to do that, and you should have the benefit of the one stop shop approach. Do you understand the concern, sir? Um, and I think, um, between us, we could quote different details at each other about how it has or hasn't been taken forward. Um, but, you know, we've gone through that exercise. We've tried to be specific where we can, um, but seek the benefit of, you know, what the planning, the the power of the planning Act regime, I suppose.

00:26:16:22 - 00:26:36:12

Um, but I understand also, you know, that it's incumbent on the examining authority, secretary set to make sure that that is not, um, used, you know, you know, absolute control. Um, so I think that's essentially where the balance lies in either direction. We feel that there's enough controls, but we understand that. You may disagree.

00:26:39:20 - 00:26:44:22

I'd like to bring in the local host authority. So.

00:26:46:21 - 00:26:53:00

Um, Michelle Spark, on behalf of Cheshire West and Chester Council, the highways officer has left for today.

00:26:53:09 - 00:26:55:00

Unfortunately, I find this perfectly.

00:26:55:02 - 00:27:11:26

I know, I know. So rather than put words into his mouth, can I take that point away and come back? Um, at deadline one, um, I think I know what its position is, but I don't want to talk for him. So if that's okay, we'll we'll come back on deadline one. Thank you.

00:27:11:28 - 00:27:12:13

Very.

00:27:12:15 - 00:27:13:00

Much.

00:27:13:09 - 00:27:20:10

And if and you know any reasoning behind the view that, um, that person may have. Please pass. Yeah.

00:27:21:21 - 00:27:27:18

Um, can I thank you? Uh, can I ask National Highways if they've got any comments to make on this?

00:27:29:09 - 00:27:29:24

Um.

00:27:31:06 - 00:28:04:03

So hello. Um, you'll have noted from our relevant rep ro three one that we have raised comments on this particular article. Um, having flicked through the revised DCO that's been provided, um, at PD 206. It does now seem to be excluded from the SRN. Paragraph three of schedule 27. Um, so rather than put words in in my client's mouth, is it alright if we take that point away and double check whether our concern persists?

00:28:04:25 - 00:28:06:07

Yeah, that would be fine.

00:28:06:12 - 00:28:07:05

Thank you.

00:28:20:11 - 00:29:02:23

The explanatory memorandum, Random paragraph 4.3.2, and that's per page 24 states. The powers have been extended to include streets outside the order limits to allow for unforeseen circumstances, which may arise during the construction stage. Should this article also include something about not authorizing the carrying out of any works which are likely to give rise to any material, new or materially different effects have not been assessed in the environmental statement.

00:29:04:21 - 00:29:09:25

And I further extend that to ask for President of

00:29:11:18 - 00:29:15:20

works being authorized outside water limits as well.

00:29:19:08 - 00:29:22:03

As thoughts in the House that will take that away from Mhm.

00:29:24:05 - 00:29:24:23

Um.

00:29:30:18 - 00:29:40:05

I'll also take away so at that point about the environmental worst effects. Um I'm going to check the presidents. And also I think um.

00:29:43:29 - 00:30:04:19

We need to look at how article 12, um, relates to the requirements. Because although it is a cheap work power, it still falls under the definition of the authorized development. And the authorization must not commence until the requirements are. So I don't think there's a scenario where they could rest of that because they are controlled by the requirements. But we'll we'll set that out in writing.

00:30:05:02 - 00:30:07:21

That that would be fine. Thank you, Mr. Fox.

00:30:12:07 - 00:30:24:20

Um, just to follow up briefly on that, would temporary alteration to such streets require the need to be restored? Or should this feature be included in the article?

00:30:28:09 - 00:30:30:12

You might want to take that away as well.

00:30:33:10 - 00:30:47:06

Mr. Fox. On behalf of applicant that's covered by article 11. So I see what you're saying. Um, yes. Yeah. It should be covered by article 11. So we'll look at article 11 to make sure that it dovetails with article ten.

00:31:28:05 - 00:32:02:12

I'd like to move on to article 12 now, which is a temporary prohibition or restriction of use of streets and public rights, of ways on authorizing vehicle use, on public rights of way. Notwithstanding other precedents, the explanatory memorandum should justify why the power is appropriate and proportionate, having regard to the impacts on pedestrians and others of authorizing temporary working sites in these streets.

00:32:03:28 - 00:32:23:06

This article, in effect, appears to give Temporary Traffic Regulation Order in connection with any road, but does not appear to require consent from the Streets Authority. Can I check if this is correct?

00:32:24:17 - 00:32:52:15

Uh, Mr. Fox, I'm the applicant. So the control here, sir, is, uh, article 12 six, which says we can't do anything under this power until we've had the public right of way management plan. Um, for the part of the development in which we want to use the power approved under requirement 15. Um, and the outline, the public railway management plan talks about our interaction with the public rights of way, including the use of motor vehicles. So that's the authority's control over the use of the power. So.

00:32:56:21 - 00:33:07:01

It's such a power. Give unrestricted powers to enter on the strategic road network without any national highways input or oversight.

00:33:08:03 - 00:33:15:24

For that applicant. No, because we've excluded this article from the roads and the protective provisions in the latest version of Protective Visions.

00:33:18:08 - 00:33:46:13

But this particular article 12 one be limited to temporarily alert. Divert prohibits the use of or restrict the use of any street or public right of way. Included in schedule five and shown on street works. Public right of way. Um. Vehicle usage on access plans. If you did this, it would give greater clarity.

00:33:52:25 - 00:33:54:07

We're talking about article 12, sir.

00:33:54:27 - 00:33:55:27

12 one. Is it?

00:34:02:18 - 00:34:09:06

I'm asking, is it possible to reference to schedule five and shown on the particular drawing?

00:34:09:15 - 00:34:40:15

Um, Mr. Fox and the applicant. So we do do that, um, in subparagraph. Paragraph. Um, cool. So this is again an example of a generic power and a specific power. So 12 one is allowing us to do it generally, but 12 four is indicating to show that we've thought about where it's most likely to happen. We want the power in 12 one two. Um, in other places if we need to do.

00:34:41:01 - 00:34:48:02

Um, but again, it's all controlled, whether it's under paragraph or a paragraph or by the Public Rights Way management plan.

00:34:50:25 - 00:34:55:12

And I just checked to see if the local authorities got any comments to make on that.

00:34:57:05 - 00:35:04:05

Michelle Sparke for Cheshire West and Chester Council. Again, I'll have to take that away. Um, and come back to you on deadline one. Thank you.

00:35:04:07 - 00:35:19:00

I think part of the question is whether Street or whether it should be explicit that within the DCO that there should be consultation with the street authority. And consent from the street authority in relation to article 12.

00:35:20:16 - 00:35:30:28

I can answer on behalf of my client to say yes, I should, um, but I will come back. Um, at deadline one with their specific response.

00:35:31:19 - 00:35:32:04

Thank you.

00:35:37:09 - 00:35:49:22

Mr.. And I'll just say that essentially it is there by pursuant to paragraph sub, paragraph six, if they don't approve the public works by management plan, then we can't use any of the powers. Um, but Mr. Chairman as well.

00:35:49:25 - 00:36:25:26

Sorry to ask Mr. Russell from the applicant. Um, I was going to make the point that, um, Matthew's just made, but, um, there is specific reference within the outline, public right of way management plan at the moment that relates to this article and paragraph 3.3.1 I. So that may help give some reassurance that this follow through, um, has been considered, and then also requirement 1515 two requires that public right of way management plan not only to be approved by the relevant planning authority, but they must consult with a relevant highway authority.

00:36:25:28 - 00:36:32:09

So I think the logical sequence sits there to give all those necessary powers.

00:36:39:14 - 00:36:57:04

I am going to comment a little bit more on some items. It is very helpful in the DCO where consultation consent of the state authorities required all the highways authorities required. It is explicit in the DCO. It feels a little bit odd that it isn't explicit in this case. Um.

00:36:59:09 - 00:37:08:26

That wording of consultation with the street authority consent of the street authority isn't in the DCO itself. So that just feels sorry.

00:37:08:28 - 00:37:09:13

So is that.

00:37:09:15 - 00:37:10:02

A little link.

00:37:10:05 - 00:37:13:00

To that? Not in there by virtue of requirement 15.

00:37:14:11 - 00:37:26:04

So I think I think what you're getting at is that at the moment we we have it, but it's if you're having to read, well, three different paragraphs at the same time to get there. Um, and.

00:37:26:06 - 00:37:27:07

You're telling me I.

00:37:27:09 - 00:38:01:18

Can tell, but I think sorry, sorry, but I think what we're trying to say, sir, is that it doesn't say you can't use these powers without the consent of the street authority. I agree, it doesn't say that, but what it does say is we can't use them unless the Public Rights Way management plan is approved on the requirement 15. And requirement 15 says that's approved by the LPA in consultation with the highway authority. So it gets you there. It's just not in the needs. Saying it in article 15 with the consent of the street authority. And so the reason we've taken that approach is because we want that kind of consenting process to be in the context of thinking about how we're managing it.

00:38:04:29 - 00:38:20:12

I understand that I don't think that would be affected by article 12 make an explicit reference to consultation with and consent from the Street authority. I don't think that would undermine the approach that has just been described.

00:38:20:14 - 00:38:33:21

So I think that we can do that, but we will probably we would look to do so by linking it to requirement 15 still. So it'd be the consent of the street authority obtained pursuant to the approval of the Pro management plan.

00:38:33:23 - 00:38:36:10

Would be interesting to see what is proposed.

00:38:39:13 - 00:38:40:24

Sorry, sir. Um,

00:38:42:13 - 00:39:09:04

I was going to suggest what? Um, um, Mr. Fox has just proposed because I think, um, an important principle of of, uh, the DCO should be that we're not having to obtain multiple consents for the same thing in different places. So I think the, um, the ability for that requirement to be formally discharged but linked, if that helps, to that particular article.

00:39:14:25 - 00:39:16:06

Let's see what comes out. Okay.

00:39:16:19 - 00:39:17:05

Thank you.

00:39:20:06 - 00:39:20:24

Um,

00:39:22:23 - 00:39:59:14

I'm going to. Yeah. Check on article 13 because it might have moved following, uh, procedure. Uh, deadline. Be the submissions that you've provided. Um, but it's related to the permanent stepping up and creation of new public right of way and authorizing vehicles for public rights of way. So it's if I can maybe link this to national highways and their concern about wanting to permanently stop up the footpath, which runs across, um, National Highway assets.

00:39:59:23 - 00:40:22:07

So we have a lane bridge and then providing a bridleway in its place. National highways raised And concerns regarding technical approval procedures and how it's secured in the DCO. So if you could maybe update me on that position point and then I'll ask National Highways.

00:40:24:24 - 00:40:56:26

Um, Mr. Fox, on behalf of the applicant, say we did amend article 13 at uh, procedural deadline B, um, in response to NH National Highways comments. And that was we didn't change our position, but it just spelt out more of what our position is. Um, in terms of the use of those, um, bridges. Um, I

think the, the general position with National Highway is I'm sure Mr. Grant will give his view on this is that, um, is really about the scope of the protective provisions.

00:40:57:07 - 00:41:27:17

Um, our position is especially with, um, the amendments that we've made at procedural deadline. B, although having looked at these again, we might have to consider how they talk about article 13. But the general principle that we've said is that we can't use, let's say, no. Schedule one limits of deviation apply to these bridges. And we've now excluded the operation of the articles that, um, uh, would allow street work type activities to happen on those bridges.

00:41:28:02 - 00:42:08:10

Um, the national concern had been that with the way that the ECA was drafted, that some works could take place on those bridges and as a result, um, they would want what you normally see in national highways protective provisions in terms of approval of specified works and everything that flows from that inspection bonds, etc., etc.. Um, and our position has always been we don't think that's necessary because we don't intend to take to, to, um, undertake any works on the bridges. The next point was then, um, primarily about how much the, um, What the applicant is proposing through the legal mechanisms.

00:42:08:12 - 00:42:52:09

And the DCO, um, involves a change of use to those bridges. Now, what we've tried to make clear in, um, both the DCO and our responses, National Highways relevant representation is that we don't believe we are creating a major change. Sorry. Take a step back because national highways consider there may be a change of use. They would be seeking the protective provisions to then deal with having inspection inspection of the bridges, and if any further works are necessary, because it's considered that change of use would, um, you know, cause damage to the bridges, then you would need the wider protective provisions to deal with the fact that you might cause damage to the bridge as a result of change of use.

00:42:52:22 - 00:43:29:04

What we've tried to make clear through the DCO and those responses is that we're not attending a change of use. They are very likely used bridges. They will continue to be like the used bridges where we're saying no construction vehicles or maintenance vehicles would use those bridges. Um, that it would only be for, um, pedestrians, cyclists and, um, for one of the bridges. Uh, horses. Um, the and we've tried through the amendments to try and make that clear. Now, the point of debate essentially now comes down to the extent to which, um, sorry.

00:43:29:06 - 00:44:08:27

And I should say, we say it's not changed using the context that those people already use the bridge to access the footpaths and the routes around where our scheme is going to be located. Um, and given traveller sites and Environment Agency and other people who have assets in that area already pass over vehicles, although we may, depending on how parking goes once our improvements to local area come into force. Have a small car park off of more Ditch Lane. Um, that is, you know, we would say not going to lead to more use than essentially it's currently used, despite the fact that they are currently designated as footpaths, that people do drive vehicles down there, essentially.



00:44:08:29 - 00:45:03:08

And what we're doing is not material change to that. Sorry. What the the the key point of difference between us at the moment is the fact that on the, um, with the Lane bridge is, um, we are going to our DCO is allowing for that to become a bridleway. Um, and there is a concern that allowing horses on that bridge would require, um, changes to the parapets of that bridge. That is something that we're still discussing. Um, and we need to be technical discussions about whether, um, that's likely um, and that may ultimately, you know, end up in various provisions being or not being in the DCO, but that that's the key point of difference between us essentially, is is there a change of use? Is there not a change of use? I'm hoping that we've got to the point that that is really now focused on the change of Weaver Lane to add our water users.

00:45:06:26 - 00:45:38:29

I think our principal concern is increasing loading on the bridge and the implications of that and and the effect on the parapets that you talked about as well. Um, so there might be informal uses of the bridge at the moment. Um, um, but here we're creating formal powers to use the bridge. I think there's another bridge as well that has a similar issue. So so it's having confidence that, um, um, National Highways and the applicant are aligned in terms of how the use of that bridge is described within.

00:45:39:01 - 00:45:39:16

Within?

00:45:39:20 - 00:46:08:12

Yes, sir. Yes, sir. Yes, sir. Um, and that's what we have sought to do through the amendments to that article. Also the amendments to the uh rights schedule, which I now don't have in front of me, but to to differentiate, to be absolutely clear, um, that, um, there is, uh, what Donovan is seeking is just not to have any construction vehicles or maintenance vehicles on the the one bridge.

00:46:10:13 - 00:46:21:24

The Brooks Furlong bridge. Yes. It may be the case that we would be essentially formalizing what's already in formal usage of vehicles to a car park or mortgage lane, which I don't want to be, but.

00:46:27:12 - 00:46:41:04

Yeah, the size of the area where the car parking the car park would be if it needs to be put in place at all, is not significant. We're talking 1020 spaces. That's not a material increase in loading when you've got people going across it at the moment.

00:46:41:26 - 00:47:07:29

So there is I'll just reiterate, there is, although it's been used informally, if it's been used informally, it may not have gone through national highways. Necessary processes for considering the increased loading from informal use is my concern. So so just to formalize something that's already happening and you set a sufficient reasoning may not be adequate because it hasn't been through the correct processes.

00:47:08:10 - 00:47:33:27

And Mr. Russell, for the applicant, um, I actually understand that premise. Um, that may well be the case. We need to have that discussion on National highways, but, um, in particular, Brook furlong

provides access to um, the, the farm, um, various significant utilities, all of which have a right to access along their the Manchester Ship Canal and effectively to a berth. Um.

00:47:36:05 - 00:47:40:20

Yeah, I probably I probably will stop there before I suggest what the National highways perhaps.

00:47:41:08 - 00:47:47:04

If people have done it incorrectly in the past. And I'm not suggesting this is the case, but that sometimes happens.

00:47:48:00 - 00:47:57:22

And hence why I got myself there. But I think that's what we have to explore with national highways. Um, and I guess the logical position is to be taken by both parties.

00:47:57:25 - 00:48:28:10

Just to be briefed out to that. So just to clarify that although its status in highway terms is a footpath. So if you have a property right to go over a footpath with a heavy goods vehicle or a heavy vehicle, then you can do that. That's allowed. So um, that I suppose we were just trying to get across that is happening when we can't compared to what that is happening there. We're not talking about a significant or any form of material increase in load. Um, but as I say, that's something we're still discussing with them.

00:48:28:12 - 00:48:57:18

So, so ultimately, it's down to us being satisfied that, um, the proposed use of those bridges is consistent, that National highways are clear about the proposed use of those bridges and are satisfied that, uh, any necessary mitigation has been identified. So that's that's where we'll come down to because we are just responsible for, um, this case, Other uses.

00:48:59:00 - 00:49:27:18

That's understood. I think I think that the key point is the interaction of article 13, uh, in the provisions which we currently say can't be used, which is probably incorrect and will change that, but it's how that interplay is with the protective provisions. Um, and to the extent to which they need to say more, um, because at the moment, as you'll see, they are brief, but they were deliberately brief because we're trying to get across that we're not causing that material change in use.

00:49:32:03 - 00:49:37:09

And I ask National Highways if they've got any comments to make on what they've heard so far.

00:49:38:15 - 00:49:42:23

Uh, yes, sir, we do. So, um,

00:49:44:15 - 00:50:19:12

the first point is, I'm not sure this is entirely caught up with the protective provisions debate. That's slightly separate. There may be overlaps, undoubtedly. Um, but these aren't necessarily a substitute for this point. Um, it sounds to me, from the examining authority's questions like you've rather got the points that we've been making and are concerned with. Um, there's the Weaver Lane bridge, which is

to be shut as a footpath and reopened by a bridleway. There's also indications that it'll be used for emergency vehicles, and that's in I forgot what the acronym stands for.

00:50:19:14 - 00:50:52:09

Forgive me, but the oh oh MP at 137 at 2.4.15. Um, do forgive me. I didn't introduce myself. Nick Grant for National highways. Um, the bridle way concern is, has been spotted already. Um, about parapet height. And of course, it goes a little more complex than that, because if you start sticking parapets on a bridge, there might that might well change the loadings on that bridge in any event. Um, and the concerns here are obvious.

00:50:52:14 - 00:51:27:14

Um, parapet heights, a clear safety issue in terms of anything drop potentially from horseback or people from horseback onto the SRM below. And if there's issues with the loadings that can affect whether elements of the bridge might deteriorate and drop onto the SRN below. So what we're really seeking on that, um, in regard to River Lane Bridge, is some sort of assessment showing it's good for what it needs to be good for. Um, and if it's not that those works are carried out before it's opened as a bridleway and on, that doesn't seem to be an unreasonable request.

00:51:28:08 - 00:51:58:17

Um, Brooks Furlong Bridge is the second one, and that's one that's currently restricted, by way. And this is the one that has the car park. Um, that's the applicant intends to allow vehicles along the bridge for the purposes of the car park. That's again in the MP at one three, seven at 2.4.3. And now the revised DCO at PD 206, article 39. And again, emergency access along this to um OEM at 1.37.

00:51:58:19 - 00:52:30:24

At 2.4.12. Um, so again, it's much the same point that there needs to be some checking that the bridge is good for the additional loadings that may be placed upon it. Um, now there's, um, the suggestion that saying things can't happen on the SRN solves the problem doesn't quite because the issues of ownership around things like these bridges where the right of way over it is for the local highway authority, but the bridges go over.

00:52:30:26 - 00:53:06:13

The SRN is, um, complicated, and I'll go no further than that. In in in this we may we certain National highway certainly maintains the bridges and looks after them. Um, but we wouldn't rely on some sort of strict SRN carve out for that. Um, and in relation to the point that the applicant now makes that they're simply trying to formalize what's already be happening informally as far as public rights of way go. We agree, um, with the comments made by, uh, Inspector Cowperthwaite, that if you're formalizing something new and granting new public rights over it, you should check the what you're granting public right.

00:53:06:23 - 00:53:39:03

The thing can support what you're granting public rights for. Um, as for what private rights may or may not exist? Um, obviously, that's a point that needs to be taken up. But if there is a private right baseline, if I say, um, then obviously that seems to be something that can factor into the assessment without any particular undue difficulties. So again, not really an excuse or reason not to resolve this

point. And whether it's sufficient information to to resolve it at this stage, I prior to your recommendation in the decision or something that requires additional provisions.

00:53:39:10 - 00:54:23:09

Um, afterwards we're not ambivalent is the wrong word as long as the protection is there and, and the work is done and we can be satisfied, the bridge is secure, we don't mind whether it happens pre decision or after. Um, but it does need to be done at some point. Um, there was one last point, not on article 13, but a haul back to article 12, if I may, just very briefly, because, um, a question was posed over whether this is excluded now from the SRN, um, and schedule 20, the paragraph three of schedule 27, the UPS does do that to an extent, but paragraph 32 excludes the operation of article 12 or C.

00:54:23:11 - 00:54:44:03

I'm not we're not quite clear what that exclusion is for. I mean, we can read 1240, but if that's not relating to the SRN, then it doesn't need to be excluded. And if it is relating to the SRN, then we're not sure why the why the carve out is there. Um, so I just put that point down there. It might be something that can be easily resolved and discussed offline, but um, given that we've covered article 12 and 13, I thought I'd make those two points.

00:54:46:17 - 00:54:52:07

Thank you, Mr. Harrigan. Right to reply by the applicant, please.

00:54:52:23 - 00:55:22:27

Um, so, Mr. Fox and half the applicant say. Yeah, I think three things. So on the on the point about the, the parapets, um, we don't disagree on the principle that if the change of use means that the right allowing horse riders on there means that we need to consider the parapet sufficient and everything that comes with that. We totally agree with that. And that's what I said at the start. We need to have that discussion with with the National highways. And I would say that to the extent that, um.

00:55:26:03 - 00:56:00:03

Well, to the extent that that investigation identifies that an increase in parapets might be utilized, then as the applicant, we would probably have to be starting to consider that proposal. And whether, you know, the amount of cost that would be involved in approving a bridge versus the benefit, and we would have to look at that. So I want to say that now, um, just in case of those age changes exchanges on on the um. Emergency vehicles point. That's the line in the um is just clarifying. You know, if there's if there's an emergency in that area now, an ambulance is going to drive down that road.

00:56:00:14 - 00:56:37:21

So I think we were just saying that that's what the DCO is, is doing as accounting for that. I think I would say suggest that that's not unreasonable to suggest that, um, just because we're saying that that can still happen, that that's a change. Um, and then thirdly, on, on the, um, the Brooks Furlong Bridge, I think we can if you have a look at what we've said in our response to National Highways relevant Rep again, we can expand on expand on that. But I think it's a difference saying that at the moment people are allowed to um, the companies that Mr.

00:56:37:23 - 00:57:06:04

Russell mentioned, including Ineos, including Ship Canal, are driving heavy vehicles over that bridge. We are talking about 10 to 20 cars being able to park there. Um, I can't just from a point of basic principle. That can't possibly be a worsening of the position. Um, but we'll continue to, um, debate the point. But I just wanted to say that we accept the principle and the parapets, at least.

00:57:06:23 - 00:57:40:02

Uh, I am going to reiterate that although the bridge may be used in a certain way at the moment, whether that's for access or emergency access, if those have not been properly considered by, um, we need to consider what this what the proposed development would authorize. So just because it's already happening doesn't seem to be sufficient grounds for us to be satisfied. I think we need we need we need to ensure that national highways are confident and and certain of the position.

00:57:40:04 - 00:57:49:22

So that's just so please encourage the applicant not to rely on what the bridges are being used for at the moment. A sufficient justification.

00:57:50:29 - 00:58:07:12

That is understood, I think. Yes. I think at that point I was just trying to get to say that we recognize that what we are doing is additional to that. So it's the question of whether the additional load, the additional movements that we're creating, if that in itself necessitates.

00:58:07:27 - 00:58:31:15

But so although the bridge may be used for higher loads than the applicant's, um, suggesting at the moment, um, we don't at the moment know that that use is being considered by National highways and is acceptable to National highways. We don't know that the current uses are, um, have been properly considered by National Highways.

00:58:31:17 - 00:58:32:15

Yes, we understand that.

00:58:32:23 - 00:58:57:19

So, um, so what I think we're getting to is that for deadline one, obviously there's more discussion and it's very helpful. Um, obviously the applicant and National Highways are going through some very helpful discussions and narrowing the issues. So that's very, very much welcomed. I think it would be helpful for us to have an update both from the applicant and National Highways, and for deadline one in its position at that time.

00:58:57:25 - 00:59:29:25

Yeah, absolutely. So I think, um, we um, we had a significant exchange of emails, I should say, at the end of last week or the beginning of this, um, and we, you know, if we can, we'll try and have a meeting between now and then to, to do that. And so just I would also say what we will do, sir, is absolutely take your point. And I don't want to say that we're not listening to you. So in terms of the not relying on existing use, but what we will do, taking Mr. Grant's point about complicated property positions is that those uses that are happening at the moment are, are.

00:59:30:04 - 00:59:43:20

I would understand, pursuant to property agreements so that we will look at we will see what investigations you can do in terms of this point about if they are acceptable to National highways because of the way the property right, wouldn't have been given. So I do take the point there that we shouldn't be relying on that.

00:59:43:22 - 00:59:50:17

But and there are, you know, physics comes into play in terms of the engineering capacity of those bridges.

00:59:50:19 - 00:59:51:04

Absolutely.

00:59:51:06 - 01:00:03:07

Which need to be borne in into account. Our national highways, confident, are satisfied with committing to carrying out those discussions and providing an updated deadline. One, please.

01:00:03:24 - 01:00:10:08

Uh, yes, I will. We're we're happy to do that. Engage and provide the update as best we can by deadline one that won't be a problem.

01:00:15:14 - 01:00:37:24

One final thing on article 13, which is 13 seven, um, authorizes the use of motor vehicles on the listed right of way from the current drafting of article 13 seven. It does not appear that the power being sought is temporary. It's just correct.

01:00:37:29 - 01:00:39:05

Yes. That's correct.

01:00:43:18 - 01:00:47:07

And why would you need it permanently then?

01:00:47:15 - 01:00:51:14

So it's about the applicant. Um, in order to undertake maintenance activities.

01:00:56:07 - 01:01:09:13

So you would have seen from the unaccompanied site inspection that it's fairly you get to the end of the road, essentially. Um, so, um, this is to ensure that we can, um, maintain it in the, the wild or extremes of the site. Exactly.

01:01:10:04 - 01:01:14:28

And I think we're doing we have an item for tomorrow to look at access tracks, etc..

01:01:17:19 - 01:01:24:08

And I ask if the host local authority has got any further comments to make on this article before I move on.

01:01:24:25 - 01:01:28:20

Shell support for Cheshire West and Chester Council. No, sir. We don't. Thank you.

01:01:28:22 - 01:01:38:16

Okay. Um, I'd like to go on to article 14, which is access to work. Um, first question is, are some of these accesses temporary?

01:01:40:08 - 01:01:42:16

And then with reinstatement, follow.

01:01:45:16 - 01:01:53:01

Mr. Fox and the applicant. So no, they are permanent. Um, and, um.

01:01:55:08 - 01:01:58:00

But it is with the approval. Um.

01:02:00:08 - 01:02:34:22

The LPA, um, and, um, no, they're they're they're permanent and we've assessed that as such. But what I would say is that permanent needs to be seen in the context of, um, our commitments in the DEP, and I'll stop there because there's a whole agenda item on that, which I'm sure we'll go to tomorrow. But it's the kind of the, the similar principle, the, the permanent in the sense that it's for this scheme for as long as it is in place. Okay. Um, they're not temporary. Is in temporary construction. Um, but they would ultimately be restored pursuant to the various commitments in the dump.

01:02:35:01 - 01:02:35:16

Okay.

01:02:35:18 - 01:02:40:16

And would requirements six detailed design Self-Designed approval apply to these successes?

01:02:47:15 - 01:02:48:04

Um.

01:02:52:18 - 01:03:23:04

Um, I'll take that away, because I think that depends on the wording of 14 A and B, taken together with requirement six. Um, but I think in a sense that's where we have paragraph two. The answer is yes. Essentially we're trying to take Mr. Russell's point from earlier. Avoid double approvals. So requirements X applies to all accesses. Um, and so we were just trying to say you don't need another approval under this article. If you've already given approval under that, uh, requirement.

01:03:23:06 - 01:03:25:05

This is just giving you the power to do it.

01:03:26:24 - 01:03:28:06

Okay. Thank you.

01:03:35:09 - 01:03:43:19

Um, for these successes, local authority approval would be required, but with National Highways consent be required.

01:03:44:13 - 01:03:47:23

No, sir, because that article has been excluded from the assignment. Okay.

01:03:56:19 - 01:04:10:23

In the explanatory memorandum, could you just double check that the reason for these accesses are clear? So for example, access A2 on sheet three of the rights of Way plan,

01:04:12:23 - 01:04:16:03

and I leave that with you as an action.

01:04:17:28 - 01:04:50:03

Um, Mr. Fox and the applicant, um, you can, although I just wonder if, if the, um, is the place for it. And, um, if we can take that away because I'm conscious that the Public Rights Way management plan talks a lot about how we're interfacing with the. Because although this is referring to streets on this site. So the streets are predominantly public rights of way to a legalistic language of street being the same as pub the right way. So it does feel like a lot of that is covered off in the right way. Management plans and we can look to if that needs to say more on access is.

01:04:50:24 - 01:04:51:09

Yeah.

01:05:25:16 - 01:05:36:15

I'm going to suggest we take a very quick ten minute break. And if we can come back at times, you in a 4:00.

01:05:37:18 - 01:05:51:05

Month that just to say, appreciate my speaking for our side of the room. But if if we needed to go on to 5:30, for example, then we would be able to do that. I don't know if it's for crack, but just I'm conscious that you might want to at least have got through the items by the end of the day.

01:05:51:24 - 01:05:56:03

Let's see how we get along. Thank you. Thank you for that offer. And from the council as well.

01:05:58:07 - 01:06:01:14

Does anybody else have concerns about carrying on to 530?

01:06:04:15 - 01:06:16:08

Two Nick Grant for National Highways I, I am checking I'm taking instructions via WhatsApp, as you might have imagined. And if there are concerns, I'll I'll get back to you. But if I don't reappear after the break, then assume we're okay with it. For our part.



01:06:16:21 - 01:06:17:13

Thank you.

01:06:20:08 - 01:06:20:23

Okay.

01:06:20:25 - 01:06:22:20

Quick break. Yeah.

01:06:24:17 - 01:06:26:09

Two. Three. Four.