



Planning Inspectorate
Arolygiaeth Gynllunio

Event Transcript

Project:	Frodsham Solar Farm
Event:	Issue Specific Hearing 1 - Part 3
Date:	2 December 2025

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FULL TRANSCRIPT (with timecode)

00:00:06:26 - 00:00:40:09

It is 4:00 and we'll recommence this issue specific hearing. I'd like to go on to agenda item four C, which is part four Supplementary Powers on article 19 which is the authority to survey and investigate the land. So the first part of that article, um, enables to go on any land within the order limit. It's the second bit of that article I'm interested in.

00:00:40:11 - 00:01:10:06

And that second bit says or enter onto any land which may be affected by the authorized development, or enter on any land which entry is required in order to carry out monitoring or surveys for the purposes of the authorized authorised development. This seems quite broad term to enter on any land. Can I please have the applicant's response to this

00:01:12:01 - 00:01:12:16

exam?

00:01:12:18 - 00:01:17:07

What about the applicant? Um, yes. So I think that it's, um.

00:01:19:10 - 00:01:52:23

So that. Well, a it's well presented. Um, but I know that that could go either direction. Um, I think it's. Well, I always try to describe this article as being helpful to landowners because you want to use it to be able to say, well, if we think actually it's an indirect impact of the scheme might cause an impact on that land, then it's better that we go on to do the surveys to work out if that might be the case. Um, you know, obviously there are um, given, um, the characteristics of where our land land is.

00:01:53:04 - 00:02:10:29

Um, there might be limited examples of that, but, um, I don't know why we would restrict it given the controls that are in it, including compensation for damage. Um, and that this is about talking about surveys, not, um, carry out development per se. Um, that.

00:02:13:00 - 00:02:19:00

Essentially, there was very limited harm for me to, to allow this power, given that there are, um, protections.

00:02:22:16 - 00:02:23:01

It would be.

00:02:23:03 - 00:02:23:18

Helpful.

00:02:23:20 - 00:02:25:11

I think, to see the precedent.

00:02:25:13 - 00:02:37:06

Set out. And it did different from what we were talking about earlier in terms of, um, works outside the old limits, but it is still outside the order limits. So I think it would be helpful to see the president.

00:02:40:17 - 00:02:43:24

And actually to have the

00:02:45:24 - 00:02:55:00

applicant explanation of the acceptability of authorizing work outside the outer limits from a legal point of view as well.

00:02:55:27 - 00:03:03:07

Yes, I'm supposed to like that. We'll certainly do that. And that to give worked example if we can. Um, I would just, um, you know,

00:03:04:24 - 00:03:29:08

the analogy only goes so far, but obviously in the context of, for example, section 172 of the Housing and Planning Act, which allows the promoters, such as ourselves to go essentially on any land with 14 days notice. And if you block it, we take you to the court. Um, this has more controls than that, that, um, power which allows you to do that anywhere, which hypothetically, we could use an alternative anyway. Um.

00:03:31:11 - 00:03:31:26

Thank you.

00:03:40:11 - 00:04:07:05

Uh, article 91, uh, see, uh, gives authority to survey and investigate land, including archaeological investigation on such land, including the digging of Trenches. Now, this is quite broad, and the addition of including the digging of trenches seems to go beyond the model provisions. And the applicant respond to this, please.

00:04:15:01 - 00:04:31:25

Mr. Fox and the applicant. We will take that away because I'm confident we did in preparation for this, do some comparison to recent precedents where that's not in there. Um, so we will look at that. Um, I think it comes down to the, um, thinking about worked examples where that might be necessary.

00:04:33:24 - 00:04:43:27

Could you also consider how that then links into, say, particular management plans or sees. So how would such fund be reinstated?

00:04:46:23 - 00:05:17:26

About the applicants and the first point about how that relates to etc.. So this is um, A conservative point I raised earlier in terms of this is essentially a land power. Um, but it still falls under the

definition of authorized development. So, um, it falls into the kind of discussion we had earlier about what's caught by the requirements, um, including in terms of the restoration. Um, I think we'll have to look at that because I can I can see the point there. If we were going to have that wording, you'd want to have restoration wording. So I can look at that.

00:05:17:28 - 00:05:18:18

Okay.

00:05:18:27 - 00:05:39:02

Uh, if this again, if this is carried out outside the old limits, this this would be intrusive works if you like, rather than, um, some surveying investigation works which wouldn't be intrusive. So it's, um, addressing that point as well in terms of those activities outside the old limits.

00:05:41:04 - 00:05:42:14

Yes. No. That's understood.

00:05:49:15 - 00:06:02:04

Before I move on to agenda item for the, uh, which is part five. Powers of acquisition. Can I check if anybody has any comments to make on what has just been heard?

00:06:04:06 - 00:06:06:26

From Cheshire West and Chester Council. No, sir. Thank you.

00:06:07:06 - 00:06:43:18

Thank you. So I'd like to move on to article 23. So this is drafted to enable compulsory acquisition of new rights over all of the other land. So such an approach would result in undefined rights in land not listed in schedule seven. And as such, the land is not clearly identified. And the explanatory memorandum and statement of reasons does not explain and justify.

00:06:44:24 - 00:06:48:12

Can I please have the applicant's response to this, please?

00:06:48:14 - 00:07:19:00

Yeah. Mr. Foxman. Applicant. So, um, I think the this point is that it's allowing for a lesser power. So the starting point for the land reference in the article 23 one is that we could fully, compulsorily require it so that, you know, this is saying but instead of that, we could seek rights instead, which is lesser than what we're also authorized to do, which is compulsory acquire the land.

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So that's why it's not justified. It's because what we've actually justified is the full acquisition. This is just giving us the ability to do less than that.

00:07:29:11 - 00:08:04:27

And I draw to your attention then to the Secretary of state's, uh, DFT decision. Um, so, um, so Department of Transport a5, A5 windy harbour to pull highway SEO on the A30, Tiverton to Castle

and Croft SEO as well as Manston Airport SEO. These limited the power to create undefined new rights by amending the temporary possession article.

00:08:07:13 - 00:08:41:19

And talks on behalf of the applicant. We can look at those videos, but I could then also point you to a number of um Desnos dossiers, which do allow for this wording. Um, I'm just frantically trying to find, um, that this came up on, um, Manor Pass as well. Um, and what we did there was to provide a bit more clarity. Um, is reference them to be the rights as are defined in the right schedule? Um, which just find that, um.

00:08:47:28 - 00:09:19:24

Chapter seven. So when we say that we can take rights over land that we otherwise could possibly require. It's defining those rights as to be. It could only be this set of rights that we've already asked for in the specific blue plots on the land plans. So that would define, I suppose, the categories of rights. But it wouldn't say that on this plot we would have this right. And on that plot we would have. Yeah. X other. Right. And that's because the starting point is we actually have full pink powers over that land. This is just allowing us to step back so we can look to do that, which I think gives some tramlines to it.

00:09:19:26 - 00:09:26:24

But I think that above and beyond that. So I feel like it's losing the, the kind of the main thrust of the article. Okay.

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So if you, um, at the deadline, one, uh, consider what we've drawn attention to as well as what you've just supplemented back to us so that we can have a coherent response from it.

00:09:46:24 - 00:09:57:29

I think given the weight of death and their precedents, I think I'm saying that's what we will do is we'll look to take a similar principle. So what we did in the past, and we propose to go beyond that.

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So it'd be helpful to understand the precedent. Yes, sir.

00:10:06:12 - 00:10:28:00

Article 26 is the next one I'd like to go on, which is acquisition of subsoil only. So can the applicant elaborates on this. For example, what are the conditions criteria for identifying the acquisition of subsoil only?

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And

00:10:34:24 - 00:10:48:06

the applicant? I think I'm going to say the same again. So this is this is to allow us to take less than what we would otherwise be able to do, which is take for the acquisition or take rights over basically any part of the land.

00:10:49:22 - 00:11:01:18

How do you decide how much of that? Less. How do you. Is there a particular criteria for identifying how much of the subsoil?

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I could give a suggestion, for example, that it might be that as a result of finding some unexpected obstruction, you know, we've committed to doing another UXO survey, for example. But but we also can't put the cable route anywhere else that we need to go. If you take, say, the road projects like Silvertown Tunnel and A33, it's generally to go under six meters. Then you take the subsoil because you don't need to take everything. So that that might be an example, but that is only an example. And I would not propose that we would seek to put any timelines into DCO on that.

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This is a very well presented article.

00:11:38:21 - 00:12:01:02

Yeah. Um, Just in passing really. Is there any obligation so I can understand the commercial drivers and compensation drivers of just securing the minimal rights required? Is there any obligation in the DCO for the applicant to secure the minimum rights required? It's an interesting question really.

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Yes. And part of that because so um,

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not for every article, but I think it, it um, flows from article 21, which of course is the most powers that we could take. Um, and that is the point that, um, in acquiring land we may acquire compulsorily so much as is required for the authorised development facilitate or is incidental to it. So if, um, for example, a landowner where we're using those powers to say we you're not required, you don't require to compulsory acquire all of this land, then they would be able to challenge the TBD.

00:12:52:12 - 00:13:24:03

Let me check if anybody's got anything to raise on this. No. Okay. Um, article 30, which is the temporary use of land for constructing the authorized development. So article 35 refers to remove all works and restore the land to the reasonable satisfaction of the owners of the land. But the undertaker is not required to. And then there's a list of things provided.

00:13:24:14 - 00:13:45:24

However, on ceasing occupation of temporary land for construction, there doesn't appear to be any provision for the undertaker to remove from such land any equipment, vehicles or temporary works. Is this correct? The applicant, please, could you respond?

00:13:46:14 - 00:14:11:15

Mr. Fox, on behalf of the applicant. So, um, under paragraph five of article 30 is essentially a, um, a closed list of things we don't have to do. Um, but obviously the article doesn't have a long list of

things that we must do. And it's all tied up into the point that it's to the reasonable satisfaction of the landowner.

00:14:14:29 - 00:14:44:28

Yeah. I mean, I mean, I would I would also make the point that, um, there is and you would notice in the land plans, there is there is no land. There's temporary possession only in this this scheme. I know you have to think about the operation of the article in any event, but, um, it's worth noting that. But yeah, again, a Well-presented approach where this equivalence of paragraph will set out what we don't have to do. But these articles don't tend to say what you do have to do.

00:14:47:06 - 00:14:50:22

So the applicant would be free to leave

00:14:52:09 - 00:14:55:13

equipment, vehicles or temporary works in place.

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If.

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I suppose technically, yes. Sorry, I must have that. Technically, yes. If the landowner agreed.

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Um, if the landowner agreed, is that secure.

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In a reasonable fraction of the landowner in that article? So if the landowner said no, take it off my land, then we have to take it off the land. Thank you.

00:15:28:12 - 00:15:46:22

And sorry, I should say. Um. So paragraph five does also say remove all works. should mention that first paragraph is restore. That's right. It's the removal works and restore to the means of satisfaction with the owners of the land. So that would deal with that issue. Sorry, sir. Yep.

00:15:51:21 - 00:16:13:15

I'll go on to article 31 then. The temporary use of land for maintaining the authorized development. So this is a similar threat. That doesn't appear to be any provisions within the Zeka to remove such land, any equipment, vehicles, fencing or buildings. So can I have your response to that?

00:16:15:24 - 00:16:25:17

Mr. Fox, applicant article 31.5. Um, before giving up possession and undertaking, must remove all temporary works and restore the land to the original satisfaction of the owners of the land. Okay.

00:16:37:27 - 00:16:46:27

Can the applicant provide justification? Why? All of the autoland has been included in this article for maintaining the authorized development?

00:16:50:27 - 00:17:21:08

Uh. I think that relates to the point that, of course, what we've sought CA powers over over all the land we feel we need for the scheme. It may be that once you've, um, built the scheme, um, that not all of the land shown. Um, obviously being careful how I say this. Um, but obviously we feel like it's all required now. But obviously, once you've done the detailed design, taking account of geotechnical considerations, for one example, it may mean that some aspects of your land you don't build a solar panels, for example.

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Um, and we wouldn't have used our powers. Again, this is all in the context that we have. Options are limited. Uses the article anyway. But um, in that scenario you might still want to go on to the land that you didn't build the panels on to, um, have access to that land to be next to it, to maintain your panels, for example.

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I think in summary. So the limits are wide as they are, because we think we need all of that land to to build it and put it there. And that will still count for maintenance phase.

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Um,

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we can get very academic if we're not careful. Um, but practically, um, it feels that more land would be required for construction and operation. Potentially. And, um.

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Is there land that should be clearly identified at this stage that wouldn't be required for operation, but would be required for construction. It is getting to grips with that issue, I think, in understanding that issue. So, um, because the power should be limited to what's necessary.

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What's happened, I would say that they are served by 30 11A, which is that the possession has to be reasonably required for the purposes of maintaining authorized development. And because we have to serve notice before we do, if someone disputed that, then they could dispute it and it would go through dispute.

00:18:54:06 - 00:18:54:27

Thank you.

00:19:01:22 - 00:19:40:24

I'll just look across the room. No comments. Okay. Um, I'll now move on to agenda item 40, which is part six. Miscellaneous and general on article 36 consents to transfer the benefit of the order. So explanatory memorandum uh paragraph 4.6.3. Um consent to transfer the benefit of the orders, as is a standard article included in numerous medicos that make provision for the transfer of any or all of the benefits of the provision of the order.

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The ESA would like to highlight. Its also recognized that a number of made orders do not. I would like to draw attention to Secretary of State's decision letter or by his skill Sola. Within that paragraph 9.5 states that the Secretary of State has removed article 64B from the draft order which sought to allow the applicant to transfer the benefit of the order to a holding company or subsidiary without the consent of the Secretary of State.

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He then goes on to say, if the applicant is to transfer the benefit of the order to a holding company or subsidiary. The Secretary of State would expect that company to be a holder of a license under section six of the Electricity Act, 1989, and therefore considers this additional exemption from the need for consensus to be unnecessary.

00:20:48:28 - 00:21:22:06

I would just like to take this opportunity to comment on president a little bit as well, if I may. Um, and similar points will arise in some of the items that we're going to discuss tomorrow in relation to decommissioning. For example, um, decommissioning funding, uh, end state decommissioning funding in particular. Um, so, um, just three points to, uh, suggest. So, um, firstly, obviously each development needs to be considered, uh, on its own merit.

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Um, and in light of its particular circumstances. Um, notwithstanding that, and I'm making a statement very carefully. Um, there are issues that may not have necessarily been considered on previous projects, previous cases. Um, obviously it's more and more cases of a particular type come through the system. Uh, the understanding of parties about the importance of different aspects become better known.

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Um, and, um, so

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it wouldn't be for me to criticise any decisions or anything of that type, obviously. Um, but um, um, certainly in our mind there's an increasing awareness of the importance of some of these matters, such as the transfer of benefit. And, and those do relate to some of the decommissioning matters that we want to discuss customer. So president is important, but also need to bear in mind the increase in understanding of some of these matters.

00:22:31:01 - 00:23:01:29

Thank you sir. And that that is fully understood. And I think that's always when you get into the details now that you can get into, we can both quote at each other and, you know, it has to be work for the circumstances of the case. Completely agree and appreciate with that. Um, on this specific point about article 36 three, see the two points with that. Now, um, I will admit, sir, on the drafting of that is was partly awaiting the decision in Byers Gill and also the quarry decarbonisation project from last month.

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Um, where that wording was very specifically deleted by the Secretary of State. Um, so we will look to do the same. But I wanted to just make one point and wondered if to get your initial reaction, sir, to, to, um, potentially not completely deleting it, but caveat ING it, which is that, um, this is something that we looked at doing on um, Manor Pass as well, which is, um, that that might be possible where it relates to, um, either work number eight, which is our general kind of green infrastructure or, and potentially, um, work six be our Skylark mitigation area and work six C which is a non breeding bird mitigation area, um, where you can envision a scenario where the, the applicant might set up a separate entity to manage those aspects.

00:23:58:18 - 00:24:24:10

If we're going to do grazing for example, then you might set up a separate entity to do that. Um, so I think obviously we need to take a view of that range of saying this to you. Now, um, but we might look at amending that wording to say that it's, it is possible, but only in relation to the carrying out of, of those works, because that's quite a specific bit of work that you can see how it might flow from some of the obligations we're putting in the DCO.

00:24:24:20 - 00:25:01:14

I think that, um, grateful for what the applicant has said and the willingness to address these issues. I think that's very helpful and it'll be helpful going forwards. Um, do you recognize there are some works, uh, which are not directly related to generating electricity, for example. So so there are different types of works where there might be a case for, um, some exemptions. A different approach. I think it we would still be looking where that mitigation is being relied on going forward.

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We'd still need to be confident that that mitigation would be maintained properly, that there are measures in place to ensure that an appropriate organisation, um, would be maintaining that mitigation. So, um,

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there needs to be some control I suggest in place still, but it could be different for different areas. I can recognize that the applicant.

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I think, um, one way that we can do that is in the, um, the lamp requirement where it talks about, um, the, um, we talked about earlier the establishment management and maintenance regime and program that perhaps we could look to put some wording in around there in terms of and structure or something similar, so that you may not have seen it already. But in the updated nonlinear mitigation strategy, we talked about the fact that we've made, uh, you know, positive conversations with RSPB, for example.

00:25:58:17 - 00:26:20:04

But, you know, the final structure of what that looks like, um, may do that. And I think it would be useful to be able to, if Natural England, uh, the local authorities, everybody's happy with how we're setting it up that that also includes the structure and that you wouldn't then have to go separately to the

secretary of State to say. And also now can you consent to this entity doing if everyone's happy with that entity?

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Sounds as if that could be a helpful approach. Yeah, let's do that.

00:26:23:03 - 00:26:23:18

Thank you sir.

00:26:32:28 - 00:26:41:21

Can I check if any other party wants to make any representation on article 36? Consent to transfer the benefit of the order?

00:26:43:29 - 00:26:58:17

No, I'm not seeing any hands or anything in the room either. Okay. I'll move swiftly on to the next one. Article 39, which is the felling or looping of trees and removal of trees.

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Um, and the applicant explain why the article doesn't say removal of hedgerows identified in schedule nine.

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Just checking out that question again. Sorry, again. Sorry, sir.

00:27:47:03 - 00:27:49:01

Do I say can you ask that question again?

00:27:49:28 - 00:27:55:04

Okay. Um, so, uh, article 39 and, um,

00:27:56:23 - 00:28:16:16

is it possible for the applicant to explain why the article doesn't refer to, uh, the removal of hedgerows, which are identified in schedule nine currently as this is trusted so you can remove any headroom within the order limits.

00:28:19:19 - 00:28:52:09

So same as the applicant. So this is a similar approach to subparagraph five does refer to specific hedgerows that we have identified. Um but um that's a specific power. And then subparagraph for permission to hedgerows in subparagraph one in relation to trees and shrubs is a general power. Um but again this article is giving permission for that specific activity, but it still falls within the definition of authorised development.

00:28:52:17 - 00:29:00:03

So if you wanted to do any of this, we can only do it having had the various limb and Kemp signed off. Okay.

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So you could take any other hydro that's not identified in that particular schedule, but you'd need prior consent beforehand.

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But the length requirement specifically requires us to identify the hedgerows that we're proposing to remove.

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Okay. Okay. And that would need local authority consents.

00:29:18:29 - 00:29:19:14

Yes, sir.

00:29:19:16 - 00:29:20:21

Yeah. Okay.

00:29:33:21 - 00:30:18:29

I'll move on to agenda item four then, which is schedule one of the authorized development. So this part of the hearing is seeking to clarify matters on the work plans and work numbers in schedule one. We may also have to refer to certain figures, but we will come to that as and where necessary. So if I can start with work number one, which is for ground mounted solar A photovoltaic voltaic generating station, and then it includes a list of things that associated with that work.

00:30:19:14 - 00:30:48:08

If you then look at work number two, the work number two makes reference to power conversion systems. And if I jump back to work, number one, there doesn't seem to be any reference to work number one to power conversion units. So I want to check this power conversion unit included in any of the of those elements listed in work number one.

00:30:54:00 - 00:31:26:00

And for the applicant. So the power conversion units which are described within the environmental statement and are defined as And the units which contain an inverter and a transformer in one unit. And so we've combined that term within the environment of the statement and other other documents. But the, um, the order is being very specific about the actual piece of equipment.

00:31:26:10 - 00:31:37:25

Um, and then in terms of a power conversion system, that's, that's quite a defined, um, term when it comes to a battery energy storage system. Okay.

00:31:38:01 - 00:31:39:27

That's clear. Thank you.

00:31:43:26 - 00:32:15:27

Um, on work number two, it seems that formatting is slightly different. So, for example, worker number two way has a separate Roman numeral point for IX fire water storage and suppression systems. Whilst working number two it has been embedded within a VIP drainage infrastructure, including bunds and fire, water storage and suppression systems.

00:32:15:29 - 00:32:19:24

So the question is, is there a reason why it's different?

00:32:22:03 - 00:32:28:05

That began. Um, no. The C template being difficult. Um, no. Will, um, will change that.

00:32:28:18 - 00:32:29:21

Okay. Thank you.

00:32:32:03 - 00:32:54:14

I'll move on to work. Number three next. Um, which includes two substation options. Um, can the applicant confirm if substation A in the works number? This is the same as option one shown on figure two. One in app Dash 106.

00:32:56:04 - 00:32:59:03

So it might be just an annotation issue.

00:33:02:17 - 00:33:11:10

So we can take that away. But I believe yes, A and B are one and two. I think is the general point. Um, that was

00:33:12:29 - 00:33:13:22

just a.

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How that application developed. The DCA drafting convention is that it's A and B rather than one and two. And it's just by that point lots of the application documents have started talking about option one. So that's just what they did.

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So uh, would the application documents be updated to make them consistent with the DCA?

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I do think that's that seems a bit disproportionate to the point, which is a is definitely one and B is definitely two for everything all the way.

00:33:47:27 - 00:33:54:20

There are clear statements in where the option one relates to substation A and option two relates to substation B. In that case.

00:33:55:09 - 00:33:55:26

Um.

00:33:57:24 - 00:34:16:18

And for us for the applicant, um, there isn't a clear statement that says that. However, there are clear plans which would indicate that. So if you were to overlay the works plans or put it put them next to each other, I think you would quite quickly get to that conclusion. That's sufficient.

00:34:16:20 - 00:34:19:21

It's ensuring there's no scope for confusion is the point. So.

00:34:25:03 - 00:34:51:18

The next query relates to drafting consistency. So for work number three a substation A as in the Roman numeral X I II drainage infrastructure including bund. However, for work number three B substation A refers to drainage infrastructure but does not mention any bunds. Can I have the applicant's response?

00:34:52:24 - 00:34:55:23

So it's about the applicant. That's a typo essentially. Okay.

00:35:11:01 - 00:35:14:09

I'd like to move on to number four next.

00:35:17:01 - 00:35:36:11

Which relates to connection works from work number three, and I check whether this work would entail any associated access tracks. Drainage infrastructure. Joint base marker post underground cable market tiles, tape.

00:35:38:10 - 00:36:13:24

Mr. Fox impact applicant. I feel like I'm about to open a rabbit hole because imagine you're going to get there. Um, but this is where the ancillary works at the end of schedule one. Come in. Um, which allow for essentially um, and we will be adding a heading because I realized that there isn't one in between the end of work eight and that list, but as you'll be used to from other DTO, that is a list at the end which says that basically associated with any of works 1 to 8. Um, we can do any of those things, which includes various things including joint base, link boxes, cable docks, etc..

00:36:22:13 - 00:36:57:18

Um, I'm just going to take this opportunity just to give a quick heads up on something that will come up during, uh, after the first set of questions. Um, so this is in relation to connect private wire connections to businesses. Um, so it's something we would be wanting to explore in terms of the justification for powers required over land, um, and the works required to establish those connections.

00:36:57:20 - 00:37:27:27

In the absence of firm undertakings from um, businesses, um, that may take advantage of that. So this will be something that we'll be wanting to go through. Uh, at some point I'm raising it in case there's

some work that could be usefully done in the meantime. Um, and, and whether there should be a trigger in the DCO to be satisfied before those rights could be used.

00:37:28:09 - 00:37:45:13

And the trigger might include, you know, a, uh, something that relates to a commitment from a party to use those facilities. So let's not go through that in detail now. But, uh, hopefully the thrust of that makes some sense.

00:37:46:14 - 00:38:00:24

Yes. Mr.. Mark, the applicant. Um, we were expecting that scrutiny, sir. Um, and, um, something like you suggest, and we will take that away. But, I can't immediately see a practical issue with that. But we can obviously discuss that. Okay.

00:38:06:20 - 00:38:50:20

I'll move on to work. Number six next which is works to create, enhance and maintain green infrastructure. Um, can I double check with the applicant that because you've got any team there in the heading that it applies to all of the elements specified? Um, for example, yes. You're quite particular in some of the things that you name below. You'll see planting of native species hedgerow, you'll say, creates open water habitats and reed beds, fencing gates and boundary treatments, signage and information buzz.

00:38:50:22 - 00:38:54:22

So can I check all of those features will be maintained as well.

00:38:55:24 - 00:39:25:05

Mr. Fox, on behalf of the applicant. Yes, sir. Um, because of the, um, sorry landscape and ecological management plan requirement, which requires maintenance regimes to be part of it. And that's also mentioned in the, um, outline that we can take away. So to look at that wording, to, um, avoid confusion with that, those uh, Roman numeral paragraphs saying creation when we set the maintenance above so we can probably look to delete create reference to creation of that.

00:39:25:07 - 00:39:26:14

Would be fine.

00:39:53:22 - 00:40:39:28

Uh, can the applicant clarify, um, why he deems. Um, and this is under Roman numeral VII, uh, laying down of internal access tracks and car park as green infrastructure. Does it mean for the car park that there would be a renewable energy integration? Uh, so with that consistency. Charging points for electrical cars? Uh, for the internal access track, does it mean that these tracks would be formed using, say, recycled aggregates? So really, I'm trying to understand why you've referred to those as green infrastructure.

00:40:44:18 - 00:41:17:24

So the questions that you asked, the detail of that would be coming through the approval of a lemon, to an extent, a detailed design, um, requirement? Um, I think so. Obviously the car part we we touched on a little bit in that discussion with National Highways. We're proposing to create that as part

of the kind of, uh, overarching, uh, enhancement to access in that area. And if there is a parking issue and the local planning authority agreed, then we would put that in place as per the article.

00:41:18:10 - 00:41:21:25

Um, 12 or 13. Um, I think,

00:41:23:21 - 00:41:35:11

yes, that's that's where the, the access tracks and existing streets and private tracks are all kind of part of it, I think. But part of the issue is that the, um.

00:41:38:23 - 00:42:10:13

Where we don't have the built infrastructure, we don't yet know. Um, subject to what we will say tomorrow about replacement, but the fine detail of exactly where the actual track is going. We've got the plans which we know where they're going to go, but, um, some of that is happening in the area that's green on the works plans. Essentially, in the areas where the solar isn't happening, we have to get there. And that involves putting a track across the green infrastructure. So I can see the point that I suppose in a way that's not really green infrastructure, but it is.

00:42:10:25 - 00:42:14:12

That's what we want to be able to do within those geographic spatial areas.

00:42:16:01 - 00:42:30:21

It's the reference to the green infrastructure works. So they could quite easily interpret that as um, meaning that you would be providing these particular works, such as the example I've given you. Um.

00:42:36:15 - 00:42:37:00

I mean.

00:42:39:29 - 00:42:42:09

Mr. Russell, for the applicant. Um.

00:42:45:06 - 00:43:17:01

So it's, um, You suggested earlier that we could be getting academic and we could be getting an academic here, I think, in my next comment. So. Green infrastructure in its broadest term, um, actually encompasses a lot of different types of infrastructure. Um, and it's probably best to find in what else. I realize that's what we're talking about here, but it could be social environmental benefit. So, um, in terms of the car park, you certainly are attempting to give more access to nature. Start talking about yesterday's environmental improvement plan.

00:43:17:03 - 00:43:48:07

But, um, from the government, but also the access track, some of which are going to be used for the, um, different user groups. So including, um, those with mobility issues. So I think in its, in its we, we're trying to portray in its broadest term the benefits that would, would perhaps be derived from the elements of this scheme, which aren't fundamental to that generating station itself, and they're sort of ancillary to it. So that be my broad suggestion.

00:43:48:15 - 00:43:58:28

It's that explanation that you've given me which is quite helpful. Is that anywhere in the application document? Because I may not necessarily have come across it yet.

00:43:59:00 - 00:44:23:00

Um, not not to my knowledge, and it's not in the application document, but I guess I'm explaining that term. Um, and what that term perhaps could be interpreted to me. I think, I think the, the list of items that are beneath it obviously let somebody know what is going to be delivered. Do they need to know it's a green infrastructure perspective, I don't know.

00:44:28:21 - 00:44:35:00

Um, I'll just check with the host, local authority if they've got any comments to make on this particular book.

00:44:36:26 - 00:45:07:15

Hello. Laura Hughes for Cheshire West and Chester Council. Yeah, just a couple of comments. There's, um, replication of creation of skylark habitat. Um in work number 68.4 and then separated out at work number six be um. So just not sure why that was. I think it's good separated out. So I prefer prepare that if that's um applicable. Um, and then just the kind of newer mitigation areas that have come along, I think it's just a note rather than probably just needs a bit more clarification.

00:45:07:17 - 00:45:32:08

The area by the Lum and the reed bed area, the kind of publicly accessible rebadged area by the non breeding bird mitigation area. Um, it's not explicit which work package they come in, but I think the applicant may say that it's in work package six A in the green infrastructure. Um, but on the works plan it's not labeled as such. So I might just need a little update to the works plan potentially. Or just to clarify that.

00:45:32:24 - 00:45:35:00

Can I ask the applicant to respond to that.

00:45:35:12 - 00:46:07:08

Mr. Parks and the applicant? So on the first point about skylarks. So the the point is that because the schedule relates to the works plans and setting limits deviation where we need to. Um, because, you know, with the ancillary works and everything else. Otherwise, you take a quite generalist approach. Germany. It's actually drafting to what's going to be in certain areas. So work six Be is a separate work because we wanted to make clear that that specific field, in that field, that is all we are doing is skylark habitat.

00:46:07:10 - 00:46:41:10

Whereas the reference to it in 6A4 is that as per our commitments in the, the lamp at the moment is that we want to be creating skylark habitat more broadly than that, and we would do that in amongst the rest of the green infrastructure that's happening in the rest of the site. But we need to delineate six B because we don't need that field for any other reason other than the skylark habitat. So that's why it's got a specific work number there. Um, and on the point about the kind of mitigation areas that,

um, that were mentioned there and are drawn out, in particular in the updated non-breeding bird mitigation strategy.

00:46:41:16 - 00:47:13:21

Um, they are within. They incorporated within essentially the green on the works plans which delineates work. 6AI think what we can take away is whether um that six a list needs to be had, anything added to it to account for what we're proposing at the Lum and the other area? I don't think so, but we can take that away just to double check. But the point is that it's in and amongst essentially the rest of the green, and we wouldn't want to say that it's just for that specific purpose that's in the mess, because there will be other green things happening in that area, I suppose.

00:47:15:23 - 00:47:32:17

Andrew Russell for the applicant. Um, yeah, I agree with that position set up by um Fox and both, um, within the, the, um, indicative layout plan, um, at figure two point.

00:47:36:10 - 00:48:07:17

Two one. Um, sorry. 2-2. Um, within the environmental statement figures where we talk about, um, the slum area, um, and the area around Marsh farm, which is to the east of Marsh farm, that's identified as areas of landscape management and habitat creation. So it's very clear it's habitat creation. Similarly, within the, um, environmental illustrative environmental masterplan sheets. Um, it's identified as biodiversity zones.

00:48:08:00 - 00:48:24:23

Um, and I think it's quite clearly described within the outline landscape and ecological management plan for those purposes as well. So I'm very confident that the provision of the enhancements in the land and the area to the east of the um, Marsh farm are secured control documents.

00:48:27:16 - 00:48:28:01

Yeah.

00:48:29:05 - 00:48:48:01

That's Laura Hughes for Cheshire West and Chester Council. Um, I think in, in figure 2.2, um, as referred to by Mr. Russell, it says areas of landscape management and habitat creation rather than green infrastructure. So it might just be a case of the terminology, maybe need to just be a bit more consistent between that or I don't know. It's just it's just clarifying it I guess.

00:48:49:01 - 00:48:56:08

Mr. Russell, for the applicant, I think that comes down to what is green infrastructure again. Um, I, I won't take any further.

00:48:58:12 - 00:49:28:11

Sorry. I would just add sorry. I think it's because it's the works plans are doing something different to what that figure is doing. So the works plans is giving us the power to do the work to create green infrastructure in the broadest sense, which includes Lumb and and the Marsh farm area. Whereas figure 2.1, which is the initiative environmental masterplan, is trying to give a bit more detail of

within that green infrastructure heading the types of works that we're proposing to do. So I think that's it's just the the difference between the function of the plans, I think is the point.

00:49:33:17 - 00:49:52:13

Um, This is just a consistency thing that we've already raced before. But you'll notice for work number six be and work number six. See both includes the phrase creates but neither mentions maintain.

00:49:54:15 - 00:50:01:01

So look at work. Yeah be work number six be works to create a skylark habitat.

00:50:03:17 - 00:50:05:24

Yeah. Sorry. Yes, we'll pick that up.

00:50:06:11 - 00:50:06:26

Thanks.

00:50:20:17 - 00:50:30:12

I had questions and work number seven, but I'm going to follow those up in my written questions, so I'll move on.

00:50:43:24 - 00:50:46:27

I'll do the same with book number eight as well.

00:50:55:07 - 00:51:09:08

I'd like to move on to item four G on the agenda, which is requirements. I'd like to invite the applicant to outline his position on the omission of construction hours as a requirements.

00:51:11:25 - 00:51:43:25

Thank you, Mr. Watson, for the applicant. Um, I don't think that we would characterize it as an emission. So, um, the provisions around construction working hours are in the outline camp, and that's secured by requirement. Um, I mean, not an out of the race. I can tell you that nine out of the most recent 12 solar major CEOs don't include one, but obviously means it's 3D. Um, I, I this feels like this is an example of the circumstances of the case. This is this is really a drafting preference point.

00:51:43:27 - 00:51:57:25

And I think our position is that we prefer it being in the camp, because that allows more words about, um, how, you know, outside of the core hours, you would agree that with the LPA, etc., etc.. I really do think it's a drafting preference point.

00:51:57:27 - 00:52:21:20

So okay, so the construction of working hours, um, I think in the proposed developments is looking from eight in the morning until 1800 hours on Monday to Friday and then eight till 1:00 on Saturday. So those are the start of any works on site. Is that correct?

00:52:22:03 - 00:52:33:05

Okay. Thank you, Russell, for the applicant. Um, yes. That's how you referring to paragraph 4.1.2 of the Construction Environmental Management plan. Okay.

00:52:33:17 - 00:52:42:24

Um, similarly, those are the hours that you would work if DCO was granted for the permitted preliminary works.

00:52:44:21 - 00:52:56:24

So Mr. Fox and the applicant, um, uh, yes, but I appreciate that. That is not, um, pretty clear. So we will we'll take that away. Take that. Okay.

00:52:58:02 - 00:53:08:12

Um, the a that's a number of questions on requirements. Um, these will be included in our first written questions. So I'll now move on.

00:53:08:14 - 00:53:44:21

And just make. So, um, I think it would be helpful to have the council's position on working hours and on works outside working hours and how those are all controlled. Um, it's there certainly been matters that have raised some anxieties on other developments. Um, um, take the applicants point about, uh, preferences for whether it's within the DCO or or elsewhere. Um, and that does we'd like to be guided by the council in terms of how critical some of those controls would be.

00:53:45:05 - 00:54:20:16

Um, it may well be the applicant's preferred approach is acceptable, but we'd like to have the council's view on that. And, um, the process for controlling, particularly controlling, works outside those hours. Um, and whether, um, the construction environmental plan, for example, is sufficient in those respects. Um, I'd like to that um, we'd obviously, uh, we need to be confident that any works outside those hours have been correctly assessed.

00:54:21:18 - 00:54:37:17

Um, so, um, it is something that we'll be looking at in terms of the adequacy of the environmental statement. Um. Um, I'll go no further than that at the moment, but but it would be helpful to have the council's view, if possible, please.

00:54:43:01 - 00:54:47:06

I'm sorry to cut across you either now or in writing, whichever is preferred.

00:54:51:11 - 00:55:23:23

Paul Friston um, West Council um, yes, I think we have been looking at, uh, some drafting, so it probably, probably will come through with deadline. One response, but I think the preference would be to have something in the DCO, um, establishing basically the core hours, if I can put it that way, and then give some flexibility to working outside of those hours through an approval in the camp, maybe an approach haven't as yet discussed that with the applicant, but that's initial thoughts.

00:55:23:29 - 00:55:25:05

Okay. Thank you.

00:55:26:24 - 00:55:33:14

And do you know if there is an opportunity to discuss those obviously, before deadline one and reach an agreement on them, that would be helpful.

00:55:45:07 - 00:56:17:17

Okay. I'll go on to agenda item four, which is schedule 12 procedure for the discharge of requirements. So the paragraph 12 to 2 in the schedule gives consent by grant, which is not a feature included in national significance in project advice. No. 15 drafting of the Development Consent Order. Can I have the applicant's response, please?

00:56:19:14 - 00:56:21:06

Sorry, I missed that. Sorry.

00:56:21:24 - 00:56:27:09

12. Two Two. And if you feel you need to take this away.

00:56:39:29 - 00:56:41:00

From the applicant.

00:56:42:21 - 00:56:55:08

And this is another example where I think I feel like that guidance is perhaps not caught up with what's actually happening on recent schemes. Um, including, as mentioned earlier, Oaklands, where um, that similar provision was in place.

00:56:57:26 - 00:57:13:01

Can you give us a written response by deadline one to justify why you think it hasn't moved ahead and maybe quote any precedents slightly. Control reference to Mr. Smith.

00:57:13:03 - 00:57:35:07

Applicant. We can, sir, but I think this is not necessarily a this is a kind of a general planning point, which is that n steps are urgent. We want to get them. We'll make these points. But, you know, there should've been. We wouldn't want to have delays to be able to crack on with getting these things built. Um, but it wouldn't be. You know, that would be the same for any scheme that's also tried to justify this provision.

00:57:57:07 - 00:57:58:19

Can I check whether.

00:58:00:24 - 00:58:14:22

Um, that paragraph, um, relates to applications made in the requirements. It seems to be repeating article 46 for. So.

00:58:15:20 - 00:58:19:13

Um, Mr. Smith the applicant. So article 46. Uh.

00:58:23:01 - 00:58:25:25

Doesn't apply to requirements.

00:58:31:08 - 00:58:38:13

About paragraph 41 specifically says it doesn't include the requirements, and then said paragraph three refers to schedule 12 for dealing with requirements.

00:58:41:12 - 00:58:45:12

Sorry, I'm not sure what the responses there.

00:58:46:04 - 00:58:53:14

Say is that Mr. Smith that begins the article 46 is not implied. Apply to the requirements. Okay. It says that in article 46 one.

00:58:55:02 - 00:58:55:25

Thank you.

00:59:04:14 - 00:59:25:27

And the applicant provide justification for including paragraph 12 two three, which seems to enable the relevant planning authority to approve an application that is likely to give rise to any material, new or materially different environmental effects compared to those in the environmental statement.

00:59:28:24 - 00:59:51:22

Mr. Fox, on behalf of the applicant, this is something that this paragraph is always slightly weirdly written, but I think needs to be written. Um, because this is the president drafting, um, needs to be taken with subparagraph four, which says that it isn't, um, because it essentially says, uh, I'm sorry. Now I see your point. Um.

00:59:56:05 - 01:00:06:09

I'll take that away, sir. Um, I see paragraph two, paragraph four as well, where they don't determine it, where you're talking about whether you determine it. Um, we'll take that away, because that is very well presented.

01:00:07:15 - 01:00:25:29

I'm. I'm going to raise one of my hobby horses now. I can't resist the temptation. Um, materially. So not to give rise to any materially new or materially different. Makes sense. If those are adverse it doesn't make sense if they're beneficial.

01:00:27:00 - 01:01:11:13

Mr. Fox applicant I cannot agree with you more. But you will be aware, sir, that, um, without wanting to cast aspersions, people aren't in the room that doesn't seem to have a problem with with putting in drafting that says that. I will say, for example, both Quarry and Manor Pass, which I worked on, had drafting which said materially knew not to give rise to any material and or materially different environmental effects that are worse than those in the environmental statement, and that was deleted and replaced with the wording that we have here. Now, there has been some case where, um, it has

been claimed DFT, for example, has allowed for a a kind of catchall paragraph earlier on in the DCA which says when we use this phrase, this is what we mean.

01:01:11:23 - 01:01:21:03

Um, and I have been reflecting in the preparation of this hearing whether, um, we might put that into the DC and see where we get to. Because as I said, I couldn't agree with you more.

01:01:21:06 - 01:01:23:18

I have a feeling we might support.

01:01:25:06 - 01:01:29:22

So we'll we'll put that we'll put that paragraph in in the right place and then we'll see where we get to.

01:01:29:24 - 01:01:30:16

Thank you.

01:01:32:15 - 01:02:04:05

Um, paragraph 1232 contains a 20 working day deadline for the local planning planning authority to request further information. This seems in balance when you consider paragraph 12 for two A, which gives the undertaker six months to appeal. Any local planning authority decision. The length of time for an appeal in national significance. Infrastructure projects.

01:02:04:12 - 01:02:17:21

Advice note 15 drafting the development consent Order. Appendix one is 42 days. Can the applicant provide justification for the six months time frame it is seeking?

01:02:23:01 - 01:02:24:17

Sorry. So what was it? Six months?

01:02:28:17 - 01:02:29:24

What do I say?

01:02:53:07 - 01:03:06:05

To the applicant. I will we will take that away. The reference to the guy doesn't have in front of me. Is that in relation to specifically the appeal period for the Undertaker, or is that to do with the decision period for the LPA?

01:03:08:02 - 01:03:29:12

So it gives the Undertaker a. It in the DCO was a six months to appeal. That seems when you compare the 20 working day deadline, there's an imbalance there. And then I make reference to appendix one in the advice notes. So you need to go to appendix one.

01:03:32:13 - 01:03:38:05

They will take that away. So it's just that appendix one is it the six months that's the problem or the 20 working days.

01:03:38:07 - 01:03:41:08

Yeah. It seems an imbalance. You want six months.

01:03:42:11 - 01:03:44:00

Okay. We'll take that away, sir. Okay.

01:03:50:06 - 01:04:17:19

Um, it also seems to be an imbalance with the length of time of eight weeks given to the local planning authority to make a determination under paragraph 12 to 1. So the local authority seems to have a very short time frame in comparison to The Undertaker where. So if you could take that away as well, please.

01:04:17:26 - 01:04:44:27

So that's something that I think that I'm slightly concerned here that we're, we're talking about two different things there. So we're talking about the difference between the local planning authorities approving details that we've we've given and the decision by the undertaker to appeal. And they're not they're not the same thing. So you're referring to an imbalance. But that's not a when we're appealing it. That's that's not the same question.

01:04:45:28 - 01:05:08:28

Yes. Yeah I hear what you're saying. But again, if you're taking into consideration, um, what we have in the advice notes, and then I will ask the host local authority to say whether it is an imbalance or whether they feel they can provide that information in that time frame.

01:05:13:16 - 01:05:27:05

I think it's just helpful, probably, to have clarification from the applicant and the council on the various time frames so, and ensure that there's an appropriate balance between them. I think if we could just leave that as a general.

01:05:27:11 - 01:05:52:03

Yes, sir. I think I think we will change the six months to 42 days. But I would say that that is a different question to what is the appropriate time that the LPA gets to approve. And that is, again, you get into President Tennis. And I think what we can do is particularly look reference to the high net carbon pipeline, DCO, which is in the Clarke area and was recently approved as an example of what could work.

01:05:53:14 - 01:06:29:06

I think, you know, alongside that, there's also, um, um, ensuring it is important that the council has sufficient time. Um, it would be to the benefit of all. If the Council has a reasonable time to make a good decision rather than a rush decision. Um, um, but recognizing that this is a national infrastructure project with the priorities that come alongside that, um, overlaid onto that council resource issues as well.

01:06:29:08 - 01:06:45:11

To some degree, we need to bear in mind. But I think it's most helpful, probably for the two parties to get together and just work through those. And, uh, for us to hear at deadline one, what the positions are and any adjustment that's proposed, if that's okay with everybody.

01:06:46:20 - 01:06:57:14

For Cheshire West and Chester Council, we did pick up that six month issue, um, when we were going through the DCO. So yeah, we would welcome making representations at deadline one on that issue.

01:06:58:12 - 01:06:58:28

Thank you.

01:06:59:12 - 01:07:01:10

Anything more from the applicant on that one?

01:07:01:22 - 01:07:14:04

Uh, that's just to confirm that we will change the six months to 42 days and. Yes. And we will have the discussion about. Yes. Sorry. Yes. And we will talk to them about the, the the, um, the date to the local authority. Okay.

01:07:14:10 - 01:07:14:27

Yeah.

01:07:15:15 - 01:07:17:01

And to confirm, we'll do the same.

01:07:17:12 - 01:07:18:04

Thank you.

01:07:18:27 - 01:07:39:16

Um, I've got one other just to highlight. Um, whereby, uh, paragraph 1242, D and D give ten working days to respond to another party submission. Um, the time limit in the advice notes is 20. So if you could consider that.

01:07:39:28 - 01:07:59:06

So I think we can, sir, but I think I would just reemphasize the point that the advice may say what it says, but so does a bunch of precedent say it's again, it doesn't feel like this is a this is if we can get to the point that's agreed with the local authority, then that should be acceptable because it balances the effort. Okay.

01:08:28:00 - 01:09:06:29

Schedule 12 four relates to appeals, and paragraph schedule 1243 gives the person appointed to decide an appeal of five working days to request further information. Nationally significant infrastructure projects. Advice. No. 15. Again, the drafting of the Development Consent Order mentions as soon as reasonably practicable. So, um, can the applicant explain why it feels five working days from the appointed person's appointment is sufficient time.

01:09:07:29 - 01:09:11:05

Spokesman for the applicant. Because that's what a number of presidents say.

01:09:14:08 - 01:09:40:24

I mean, I would say particularly for this scheme, um, I mean, just for additional color on that, I suppose this is not compared to a lot of other schemes that complicated, um, a scheme in terms of the impact. So obviously I don't want to underestimate the impacts of the birds and ecology. Um, but it feels like this is not a you had to get to this process. It wouldn't be a necessarily as complicated as some other schemes. Other schemes.

01:09:42:13 - 01:10:12:10

Um, I'd like to go to the host local authority first with my query regarding schedule 12 five, which relates to fees. So, uh, is the fee prescribed under regulation 61 B of the town country planning Funding fees for applications deemed application requests and site visits. England Regulations 2012. Adequate. I do believe the fee has changed, so.

01:10:14:08 - 01:10:14:23

I.

01:10:15:04 - 01:10:35:24

Shall speak on behalf of Cheshire West and Chester Council, and we are going to discuss a potential PPA requirements with the applicant. I don't know if that has been discussed yet, but certainly that has been discussed internally. And in answer to your question, no. In particular, in light of the resource issues that I discussed earlier today.

01:10:36:01 - 01:10:44:21

Um, just for the be helpful to the members of the public, could you just give a brief summary of what the PPA means? The.

01:10:45:02 - 01:11:04:02

Yeah. So, um, the planning, sorry, planning performance agreements would, um, provide additional resource to the local authority to be able to deal with these applications quickly, quicker than they do at the current moment in time due to limited resource available. Does that cover.

01:11:04:04 - 01:11:04:19

That?

01:11:04:21 - 01:11:05:06

Yeah, no.

01:11:05:08 - 01:11:05:23

That's fine.

01:11:05:25 - 01:11:06:10

Great. Thank you.

01:11:07:16 - 01:11:12:13

Um, and I think we'd be interested in seeing the outcome of those discussions and, um.

01:11:13:04 - 01:11:23:26

And, um, Michelle Sparke, on behalf of Cheshire West and Chester Council. Um, and in light of the applicant's submissions that there are precedents. I have precedent for that too. Thank you.

01:11:24:27 - 01:11:28:22

And can I ask for the applicant's response?

01:11:29:25 - 01:12:00:00

I've spoken about the applicant. I will await details of what this means in terms of precedent, for I don't think, um, the applicant is averse to a PPA, but that is a different point to what the DCO says, I think. Um, so again, as I say, not averse to that, I would I would say that the, the reference to those regulations, um, I realise now we're missing both the word regulations, and there was a typo after one sixth one, so we'll correct that.

01:12:00:02 - 01:12:00:22

Um.

01:12:02:26 - 01:12:15:19

Sorry. That down. Sorry. Um, is the kind of the common approach now, um, to, to this, um, and I believe is what is on high net. Um, CO2 bubble. Check that.

01:12:17:20 - 01:12:25:03

Michelle spark, on behalf of Cheshire West and Chester Council, there are there are agreements sitting behind that DCO itself as a side agreement.

01:12:27:09 - 01:12:53:12

Yeah. So so so I think I think um, from our point of view, we, we, um, are seeking some confidence in the council's ability to discharge its obligations as the discharging authority. Um, um, if it wasn't able to, that would cause us concern in a very general sense. So that's that's the reason why we want to keep a weather eye on those discussions.

01:12:53:14 - 01:13:13:06

And Michelle Spark, on behalf of Cheshire West and Chester again, and to give comfort to the examining authority. We're in the midst of discharging the requirements for the high net scheme, and so there is not an issue with discharging and the resources available, and it's just readjusting those resources where they're needed.

01:13:13:28 - 01:13:14:16

Thank you.

01:13:19:16 - 01:13:38:00

Okay, I'll move on then. Um, and ask the applicant if they can, uh, give me a brief update on, uh, progress, uh, regarding, uh, the protected provisions. So these are schedule 13 to 27.

01:13:39:18 - 01:13:42:17

Uh, apologies. Could you just hold for a minute?

01:14:27:13 - 01:14:42:03

After having a quick conversation with my colleague, we're going to ask that we have a progress update by deadline, one by the applicant. Um, uh, the protected provisions.

01:14:42:11 - 01:15:16:24

Um, yes. So we will do that as part of the requested tracker in appendix E of the rule six letter. So I would I know, I know, we want to get to the actions, but I would like to make a quite an important point on the piece, which is in relation to the Environment Agency. So which is that, um, the form of the PPE, we have a form of protective provisions in the DCO for the Environment Agency, um, which are based on their kind of common sense in which they are released. The promoters have not had any comments on that yet from the agency, and that is because you might pick it up from their relevant rep.

01:15:16:26 - 01:15:52:08

But they are saying that, um, unless we provide a very long list of detailed information that they are going to be, um, unable to agree to a dis application to the relevant provisions, um, which, you know, that's why you have protective provisions. It's the quid pro quo. You do supply the need for a flood risk activity permit, and instead you have the protective provisions that protect provisions don't only cover that, but they're a big part of it. Um, and I just wanted to set out that because of the position really early on this, which is that I know you can't force the Environment Agency to give their approval, they have to under section 150.

01:15:52:11 - 01:16:28:12

But but in our view, so they're asking for far more detail than is usually required at this point in time to get this application for a flood risk activity permit. Um, there's been a suggestion that this is because of the nature of the scheme being so close to, um, the relevant watercourses and flood issues, but from our perspective that that is, um, not the reason not to give the this application when there's been many other schemes, including 2 or 3 that I've done myself alongside the River Thames, where flood risk has been an issue, where, um, I'm going to use the acronym now for this applications have been allowed for.

01:16:28:14 - 01:16:44:20

So we don't have time to get into the detail of it. But I wanted to raise that point because I feel like we do need to be. And then they're on the call asking the Environment Agency to explain why this scheme needs more information in order to get to this application than others.

01:16:44:23 - 01:17:16:14

So, um, for my comment, um, the issues of the flood risk assessment, the issues of um, environmental agencies view of the flood risk assessment of the um protected provisions are things that we will continue to look at with some detail and do have some concerns about. There are a number of

unresolved things at the moment that give us cause for concern. Um, the flood risk issues in particular appear to be potentially quite complex on the site.

01:17:17:00 - 01:17:25:28

Um, so, um, uh, we will no doubt come back to those issues several times. Um, um.

01:17:29:08 - 01:18:04:13

I think I'm going to generally keep the powder dry. Uh, apart from that, I think I would encourage the Environment Agency with the applicant to try and make as much progress on those issues as early in the examination as possible, given the complexity of the issues. Um. Um, it may be that the secretary and this is a statement to the Environment Agency. Really? Uh, there may be a position where the Secretary of State takes a particular view. Um, or we recommend a particular approach that differs from what the Environment Agency would prefer.

01:18:04:27 - 01:18:40:14

That there may be a case for that, in which case it would be beneficial for the Environment Agency to have in place, um, the best possible protective provisions for itself. So, um, I hope that's clear enough. And I think I'm sending a message to the Environment Agency to engage on, um, uh, developing protective provisions. Um, albeit it may wish to make a statement towards the end of the examination. Um, more generally, about the protective provisions and its position in relation to flood risk, etc..

01:18:40:21 - 01:19:00:04

Exactly. Yes. Sorry. Can I just interject there? I think it would be really useful if they're still on the call, just to briefly ask them, um, whether they've got anything to add to what they've just heard. So can I ask if the Environment Agency are still on the call and whether they need want to add anything?

01:19:00:17 - 01:19:03:26

Sorry. So maybe just before the Environment Agency speak. Sorry.

01:19:03:28 - 01:19:10:14

Please, if you don't mind. So yeah, the Environment Agency. Can I just check to see if you're wrong?

01:19:14:16 - 01:19:56:08

Morgan Hagman from the Environment Agency here. Yeah, we're still on the call. I can confirm that we we have been having lengthy discussions with the project team around protective provisions, and we only request protection provisions are input within dsos where flood where flood risk activity permits can be applied in order for them to be displayed. We need certain information upfront. And as you said, given the nature of flood risk to this scheme, much of the development is in flood zone free as well as you have crossings that are being proposed which will not be above the design flood level.

01:19:56:10 - 01:20:33:20

But we have made some exceptions where we where we can be reasonable, but still we require that information upfront for this application and therefore for protected provisions to be input. If you think otherwise, we can engage with our legal advice to try and put some protective provisions together. But the warning is that our legal department is very tightly staffed at the moment. So it would be

something that would take a long time to get around to doing and probably will be finished by the end of the examination.

01:20:33:22 - 01:20:50:23

But again, that's that our whole approach with with Frodsham is in keeping with what we do and what we request for other developments depending obviously on not the nature of the flood risk is on the site.

01:20:52:12 - 01:21:29:18

Okay, I'm going to make a pose. Welcome to you. Thank you to the Environment Agency. Um, we need to be satisfied about the MPs tests, and we need to be satisfied about the exception of sequential tests. Um, and we need to understand whether the Environment Agency is satisfied on those matters. And these are very clearly set out in the national policy of those needs. The the policy regarding those tests is very clear. Um, so, um, uh, it can be something that runs and runs and runs through the examination.

01:21:29:20 - 01:22:02:21

It becomes quite complicated. And the issue of not increasing flood risk elsewhere can become quite complicated and required some very detailed modelling. So we do have experience of that. Um, um, it's important to push forward on those matters with, with some urgency because of the need for some quite deep technical agreement potentially around the adequacy of the modelling about, um, looking at increases in risk health and other things around the risk assessment.

01:22:02:23 - 01:22:09:12

So, so these can become, um, weighty issues for the planning balance and for the recommendation.

01:22:09:27 - 01:22:42:17

Mr. Rosenberg. And then we'll bring in Mr. Russell as well. What do you want to emphasize from the start that we've obviously we have understood the need for that all the way through, given where the site is located. And we have engaged with the Environment Agency from, well, early on in the pre-application process has not just been since the application had been submitted. We do feel, sir, that actually a lot of positive progress has been made in relation to, um, both eco drafting and technical issues. And I want to just, you know, put on record. Our thanks to Environment Agency for working really positively with us, and they have done that.

01:22:42:19 - 01:23:15:14

So, um, and we'll continue to do that for the very few matters that we will briefly touch on, um, that are still outstanding. Um, we know, sir, that, um, we need to deal with the sequential test. That's where we've put together out into site report, and we know we'll get into that with the questions, I'm sure of that. And I'm appreciating that that was going to come. Um, I think just the point I was trying to make said was that, um, ultimately the Secretary of state can't put the drafting in about this application if the Environment Agency doesn't agree, because section 150 of the Planning Act.

01:23:15:24 - 01:23:52:02

Um, but we feel that they are asking for more information at this stage, that at a greater level of detail than would normally be asked for at this stage in the process. And that's what I'm saying. You can ask

the question and we'll both be able to respond, um, to be able to give the application in the context, when they have the protected visions, they are still getting to see all the information, and there could be just a point of maybe the protective provisions being expanded more broadly to cover some of the information that they're asking for. Balancing that with the fact that there's certain information that you will need to be happy with to make your conclusions with the policy tests.

01:23:52:04 - 01:24:22:13

So I'm not saying they're not related. I do appreciate they're related, but it's the level of detail that's needed to pass the tests. But also and relatedly, to be able to give the application in the context that the piece would still allow the information that's needed at the point that it's got, that it's available, could be given for the protective provisions, because some of the detail that's being asked for, never mind asking, no scheme, would be able to give. At this stage in the project development process.

01:24:22:22 - 01:24:57:14

Okay. We probably need to conclude on this point. Um, it is something we're watching very closely. We do need to be consistent with good practice. Um, and, uh, you know, national good practice. There is. It is important to be consistent with that. Um, I think we are mindful of the challenges on this particular site. Um, so we'll be bearing that in mind as well. And if we, if we get to, um, a position of disagreement about the level of detail, then we will be asking for the views of both parties and we will take a view on that.

01:24:57:16 - 01:25:32:12

But it'd be rather nice that we don't if we don't need that, we don't need to do that until at all. Um, hopefully things resolved. But if we have to do that at the end of the examination, then so be it. Um, and that that information would also be useful to the Secretary of state. Of course. But, um, it's very encouraging to hear that issues are being surfaced, that efforts are being made to reach agreement on those issues, that I would maintain the advice of, uh, the importance we will be giving these the clear policy position on satisfying those tests.

01:25:32:17 - 01:25:45:15

The importance of the EA being satisfied. Um, so it's, um, if we were to have a very short list of, um, uh, important key issues, this would be on the very short list. I think it's fair to say.

01:25:54:21 - 01:25:55:06

That it's.

01:26:00:10 - 01:26:02:10

The Environment Agency again, please.

01:26:04:00 - 01:26:38:19

From the Environment Agency. I can share the same sentiment with the project team that they have worked very hard with resolving a lot of issues that we have raised and have been very proactive and engaging with us. Um, we we are keen to engage some more on this issue. I'll take away from this, that I'll speak to management within my team about this matter, because it seems like it requires quite a bespoke approach. Um, and engage with our legal department almost immediately and see if we can get some sort of steer of where to go from here.

01:26:38:23 - 01:26:48:29

Um, in terms of what you would want from us. Is there a key deadline you'd want us to work towards on this matter?

01:26:50:19 - 01:26:51:10

Um,

01:26:53:00 - 01:27:16:12

I don't think we'd like to commit to that at this moment. I think we it is an issue we'd like to see. Oh, we very much welcome updates from the Environment Agency and the applicant and necessarily the lead local flood authority. Um, if there are concerns there as well, it is the type of issue we'd like to see regular updates on progress to the different deadlines, please.

01:27:18:10 - 01:27:20:16

Was there any other point to be made by.

01:27:21:06 - 01:27:21:28

No. Sorry for.

01:28:00:19 - 01:28:26:00

So for me, just on the actions, I'm just conscious. Um, but there's been a lot of them. Um, this in this session, particularly this afternoon, and I did I want to propose I have done this in other schemes. If perhaps I could read out the list that I have. Um, just because I think there was some, some as we were going through, there was some discussion about what exactly we were going to do. And, uh, and if you disagree, then we can add to it.

01:28:26:02 - 01:28:59:09

Let's, um, it sounds as if the applicant has good notes. And I did say sounds like, um, I feel that we have good notes, so I think we're probably in a good position to go through them tomorrow morning. Um, okay. Um, I'm sure other parties have been keeping notes as well. The majority of the actions are for the applicants, but, um, very mindful of the time. Very mindful that we indicated at 530. It has been a long afternoon. Um, but I think our notes are probably sufficiently good that we could do that first thing tomorrow.

01:28:59:13 - 01:29:06:18

Would it help, sir, if I, um, at some point this evening were to email the case officer with the list that we have in writing. Uh.

01:29:06:27 - 01:29:11:05

Let's do it first thing tomorrow, okay. That's okay. Okay.

01:29:11:11 - 01:29:46:00

So, um, as you can gather, um, we are going to adjourn, uh, for this evening, um, to morrow morning. Uh. We'll continue. We'll start with the action list missed from today's hearing. And then we will go on

to 4G, where we will ask the host local authority to outline principal matters of disagreements that it has with the applicant on the draft Development Consent Order.

01:29:47:08 - 01:29:58:23

For Cheshire West and Chester Council. So the main areas are on tomorrow's agenda and I'm not sure we can kick that off or I can read a statement out tomorrow, but that's basically the main issues are on the agenda tomorrow.

01:29:59:23 - 01:30:00:14

And.

01:30:00:16 - 01:30:08:00

In terms of the next item, so that we would say the same. We've either already covered them or on the or they're on the agenda for tomorrow. Okay.

01:30:08:07 - 01:30:18:24

Great. So um, it's 5:30 and will adjourn uh, issue specific hearing. And we'll be back here tomorrow morning at 9:30. Thank you all.