



## Hearing Transcript

<b>Project:</b>	Frodsham Solar
<b>Hearing:</b>	Issue specific hearing 2 (ISH2) – Part 5
<b>Date:</b>	25 February 2026

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

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

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

FULL TRANSCRIPT (with timecode)

00:00:07:18 - 00:00:16:17

The times 1115. So welcome back everybody. Um, the issue specific hearing number two is resumed.

00:00:19:11 - 00:00:43:12

As I indicated before the break, we'll now move on to historic environment matters. So, um, should we pull up document as 011? Please ask zero 11, which are the statutory and non-statutory sites are featured in the historic environment.

00:00:59:03 - 00:00:59:18

Is that?

00:01:09:18 - 00:01:10:09

The way I just.

00:01:10:11 - 00:01:16:13

Noticed that members of the applicants team come in wanting as 011. But on the screen, please. Thank you.

00:01:40:28 - 00:01:43:09

Yep. Okay. Thank you. And.

00:01:46:03 - 00:01:55:00

It's probably best to look at. Let's have a look. I think, um, sheet three.

00:02:00:13 - 00:02:35:01

Now this is where I understand. So let's do a bit of context. These drawings show the order limits um non designated assets and conservation areas. And in the application documentation we see mentioned some non designated heritage assets which are um assessed to be some type of ventilation shaft or some of the type of equipment associated with the waterways.

00:02:35:14 - 00:02:41:25

Um I can't see them on this, this drawing. Is that an omission?

00:02:44:01 - 00:02:47:18

Mister Russell for the applicant. Um, I must admit, I.

00:02:47:20 - 00:02:48:19

Had anticipated.

00:02:48:21 - 00:03:22:18

That this question might come up when, um. When you turned up, ask us to turn up this plan. Um, it is a mission. Um, the the figures which you would need to look at are the figures which are contained in the environmental statement. Um, chapter 11, in order to identify, um, the point based, um, non designated heritage assets. Having spoken to the team, it seems that in creating these drawings, um, they only transferred um, areas, polygon shapes into these drawings.

00:03:22:20 - 00:03:26:20

So apologies for that. But the information is within chapter 11 which we.

00:03:26:28 - 00:03:28:17

Started in the Gazetteer as well.

00:03:29:00 - 00:03:31:26

Exactly. So if it's helpful we can bring those up.

00:03:31:29 - 00:04:06:03

Well, the the basis of this question is the, um, the consequences of, of this drawing, really, and whether this drawing will be part of the control mechanism for the recording of those non designated assets, which of course is captured in the written scheme of investigation. It's a matter of if it's described by text. Is there a drawing that the approving authority would then need to refer to to confirm which assets were being recorded?

00:04:06:09 - 00:04:39:03

Mr. Potter, I'm happy that. No, sir, because the DCO refers to the environmental statement and all of its chapters, appendices and figures. And as Mr. Russell noted, so it's at one, two, three, which is the chapter 11 figures, which shows this. So these these plans, sir, were produced in relation to the infrastructure planning applications, prescribed forms and procedure regulations and on our section 55 checklist, um, and underpins the section checklist for the the box that was reg five two.

00:04:39:06 - 00:04:48:26

I forget the letter. Um, it pointed out to this plan and the S figures. But in terms of the securing and what will be looked at in the future, it is the S figure, not this plan.

00:04:49:21 - 00:05:07:06

Right. So let's have a look. It's the council content with the explanation that reference would be made to its chapter 11 figures. Um. A peep. One. Two. Three. Uh.

00:05:07:18 - 00:05:12:06

And Cheshire West and Chester Council. Um, yes, I think with that explanation.

00:05:12:08 - 00:05:13:15

Yes. Thank you.

00:05:16:16 - 00:05:50:28

But the next one, let's move on to policy. And you wrote to us saying that you didn't intend to comment on the draft NPF, the national planning policy framework that was published in December

2025. Um, however, as I understand it, the consultation period on that ends in March. We are scheduled to close the examination in April, and then we have another three months to write our recommendation.

00:05:51:00 - 00:06:25:12

Report to the Secretary of State. So within that four months following the close of consultation. Um, it is possible that an NPF could be published. And our concern is the WSA would be that, um, you then wouldn't be given an opportunity to comment on that policy because we may not come back to you. We're not allowed to come back to you in that period, albeit the Secretary of State is um, could potentially re consult.

00:06:25:14 - 00:07:04:06

So that could add in some delay further down the line. Um, and what we would like now is a response based on the current draft NPF, so that we can report to the Secretary of State if the NPF is brought forward in its as the current draft. This is the applicant and indeed the council's point of view on that. Um, and I'm particularly interested in the historic environment policy because that's, as you know, always an area for litigation.

00:07:04:20 - 00:07:56:17

Um, in terms of the terminology that's used, and we'll come on to it later as well. Green belt. Because, of course, there's been some changes to green belt policy and the wording of that policy. So this isn't necessarily an issue that we think is a big issue, but it's an issue that we need to cover off. Um, for thoroughness basically. So the first question, then I'll come to the applicant and then the council. Do you think that the draft NPF changes how you would categorise the harm that you've ascribed to the development or your overall conclusions, and given that the NP dropped, NP also now looks at not just harm but benefits.

00:07:57:09 - 00:08:03:00

Would there be any benefits that we need to take into account and benefits to the historic environment?

00:08:03:11 - 00:08:34:11

And let's focus on that path. The applicant. So to answer those two questions, I will I will bring this to Russell. But just on the kind of preamble wording, I think our concern, sir, is that in every previous consultation of the NPF, the final version post consultation looks very different from those consultation drafts. It's not with the NPS. When, for example, the most recent consultation in the change, um, the version of the consultant on the versions that were then designated um last month were very, very similar.

00:08:34:21 - 00:09:16:19

Um, whereas if you compare that to, you know, the the last change with the um, NPF were quite different changes. So I think added to that, the fact that the government's been clear in the consultation documents associated associated with the NPF that the new NPF in its draft form is not a material consideration. I think we'd be slightly nervous with that, and I think we kind of accept point that if the Secretary of State, for whatever reason, decided that the NPF would come into force before, uh, he or

she makes that decision, that they would have to ask us, because in our view, so that it's not it is not policy at the moment and it can't be a material consideration.

00:09:16:21 - 00:09:24:28

We will answer the question because I do appreciate what you've said, but I think that that that is kind of our position on the baseline policy point.

00:09:25:00 - 00:10:03:15

Well, of course, in the the infrastructure planning regime, we're not talking about material considerations. We're talking about what's important and relevant. And that's a matter for both the examining authority and the decision maker. And this examining authority considers the draft NPF to be important and relevant, and for that reason we consider it would be in your interests to provide a response, albeit we do recognise that policy can change, as you say, quite significantly between a draft and the published policy.

00:10:04:02 - 00:10:18:09

So let's understand and we will we will do that I think. Sorry, I did use casual language there, but we'd taken him saying that about material to me, what he meant for important irrelevant. But we hear what you've absolutely here. We've had stages there. So we take that into account. Thank you.

00:10:19:00 - 00:10:27:01

So on the historic environment, draft policies. Could we have a response on that, please?

00:10:27:22 - 00:10:44:21

Um, Mr. Russell, for the applicant. Um, so, um, our interpretation of the changes that have been made between the extant 2024 NPF and the draft um, NPF, published in December 2025. Is that

00:10:46:09 - 00:11:30:09

the. The overarching policy tests remain similar, but with some subtleties and nuances that have been introduced. Um, albeit um, one of the changes, which is I'll probably say is less than subtle and is not a nuance, is what you've raised in terms of the positive weight that is now given, um, to, to um, if you are having a positive impact on the significance of heritage asset now in terms of are we alienated that are we looking to to obtain any further benefit from that? Um, I'd probably say to you, sir, that we'll maybe that's maybe something we'd want to consider in light of your questioning.

00:11:30:11 - 00:11:51:05

Now, in a written response, there are some components of our development where we're looking to enhance the knowledge. Um, and we've characterized this as mitigation, So I wouldn't want to overplay the positive effects, um, the, the benefits that would come from that work. But I think there would be some. So there may be some limited positive weight in that respect.

00:11:52:29 - 00:12:33:08

Um, the policies which are now um, named um within the 2025 version, um, policy 84, um, it maintains this principle of a balanced judgment, um, on the scale of harm and the assets significance. And then, um, it's expanded upon in policy 85, where it's very clear whilst it was, I think, um, implicit

in the, in the extant NPF, the need for an assessment, but it's very explicit about the need for an assessment of the heritage significance and significance, including the contribution of setting.

00:12:33:21 - 00:13:10:10

Um, and then that goes on to, um, be very clear that the degree of harm has to be set out by the applicant, and it has to be considered by the decision maker. Those concepts existed in the 2024, and that's the approach we've taken in our assessment, which I'll come onto in a moment. But there are some subtleties there. Some of the terminology has changed. Um, so whilst the term substantial harm remains, the term less than substantial harm in itself no longer exists in that draft.

00:13:10:14 - 00:13:43:01

Um, again, when I talked about nuances, if you are not substantial harm, I think by virtue of natural language you are less than substantial harm or you're having no harm, which is what existed in the in the current, which does exist in the current NPF. Um, but I think that they my interpretation is that they are trying to make sure that applications when you are not causing substantial harm, You're giving a clear indication of what that level of harm might be, because that in itself is on a sliding scale.

00:13:43:05 - 00:14:07:12

Um, and certainly in, um, in the application in front of you. Um, and in our general practice, we've always sought to encourage that, that level of lessons, substantial harm to be characterized. And that's not always the case. And you will get applications where it just says it's less than substantial. And I presume that's probably where the government was, um, looking to make sure that doesn't doesn't happen.

00:14:08:28 - 00:14:45:00

Um, when you get to policy, um, 86, which is where we're talking about designated assets. Um, it continues to give this, um, substantial. Um, sorry, it was great white that the, uh, 2020 the the extant NPF, um, advises that is given to harm. It's now substantial weight. Um, but the supporting documents to the consultation have confirmed that that is more about aligning terminology across the NPF, rather than giving it a different level of weight.

00:14:45:02 - 00:15:16:23

So. So that's a nuance rather than a change I'd suggest. Um, in terms of designated heritage assets. Um, it really continues to apply the same approach in terms of the harm weighted. Um, the harm identified should be weighted against public benefit. So in terms of substantial harm, it continues to say that there needs to be substantial public benefit, um, where it is not substantial harm, but it's harm to a designated asset.

00:15:16:25 - 00:15:21:09

There needs to be, um, weighed weight against the public benefits

00:15:23:02 - 00:15:54:09

when it comes to non designated heritage assets in 87. Um, there was there was already a requirement for a balanced judgment to be made. I keep almost referring to the 2024 as if it's gone. Sorry. In the context of this conversation, but in the extant NPF there is still a balanced judgment required, but it's

not clear. Some may say about what it is that you're weighing against the the harm, whereas the revised NPF is much clearer on that.

00:15:54:11 - 00:16:04:22

And it's talking about the benefits of the proposal. Interestingly, it doesn't refer to public benefits. It's very clear in terms of just benefits of the proposal.

00:16:06:12 - 00:16:37:28

Um, and then when we're talking about non designated assets, and I think this is important in the context of, um, the application in front of us that the, the glossary now confirms that that encompasses more than just, um, uh, heritage assets that might appear on local listings. Again, that's a practice that we have followed in this application. And, um, uh, and all the applications that we prepare, recognizing that there is more, um, heritage assets out there than just those that appear on the listing.

00:16:38:00 - 00:16:41:25

The scope was agreed in any event of that, wasn't it? Yeah, yeah, yeah.

00:16:42:13 - 00:17:07:12

Um, so I think in terms of that was a long summary and hopefully that's helpful. Um, I hope I'm not teaching you suck eggs. I'm sure you've read the policies yourself, but I think I've characterized the main changes there. I can come on to in a second if you'd like. How we then essentially deal with the assessment within our application against the 2025 draft.

00:17:07:14 - 00:17:34:13

Let's hold on to that for a minute, because I've got some broader questions on how we read across both parties. Um, conclusions on heritage effects. So I think the, um, the consequences of any new terminology that may arise probably follows one from that. But that's a that's been a helpful summary. I'll just go over to the council now to see if there's anything it would like to add.

00:17:35:15 - 00:18:11:25

Uh, Paul Friston Cheshire West and Chester Council. Um, hearing what the applicant said, I think the, um, the only, um, point I'd sort of, uh, look at is whether the change from great weight to substantial weight is a new one. So, you know, terminology, it can be quite sort of, um, important, you know, in terms of, uh, that, that balancing. But, um, that was the, the main point in relation to the, uh, the applicants submission, I think, from, um, in terms of the, uh, changes in the assessment of the harm, um, we

00:18:13:18 - 00:18:29:06

we we would have, uh, identified the, um, the, the impacts as, as generally in relation to harm rather than less substantial harm in the new version. Uh, so not still not substantial harm.

00:18:29:08 - 00:18:30:10

It's not substantial.

00:18:30:12 - 00:19:03:05

Yes, yes. Yeah. And, um, I was going to say clearly not total loss. Although the ventilation shafts are probably coming to, um, potentially into that. Um, and, and overall, in terms of its terminology, I think, you know, it still, um, relates to being minor adverse, um, rather than significant. Um, I don't know whether you want to go through some of the.

00:19:05:08 - 00:19:07:05

You know, the details of the actual

00:19:08:26 - 00:19:10:08

accident at this stage.

00:19:10:15 - 00:19:28:08

Um, well, that probably leads on to my next question, actually. And, um, if we look at your local impact report. Um, so that's our EP 1046 and turn of pages 58. 59. 60.

00:19:54:18 - 00:20:19:11

Yeah, I know the internet's a bit slower than it is in the room. Um, so what you've done now, and I think it's quite helpful in terms of setting out the, I suppose, the relative effect you've categorized it using minuses and so on, haven't you? Yeah. Um, the what we want to be, um, wholly clear.

00:20:19:13 - 00:21:02:21

About is how that relates to the applicants assessment. And, you know, just going back now to the the current NPF and we've got paragraphs 5.93, 5.9.32 and 5.9.33 of NPS one, which I don't think we need to turn it up. They they broadly repeat what's said in the NPF. Um, we want to be certain about any differences between the council and the applicant in terms of conclusions using that NPS or NPF terminology.

00:21:02:23 - 00:21:43:23

So whether it's substantial, less than substantial and so on. Um, I've prepared just as a sort of guide which one of my case team colleagues can give you a copy to. I think the council and the applicant, just a a table and this isn't set in stone. Um, you can adjust it if you'd like, but we'd find it particularly helpful if you just set out what you've already written in your application documents. And then the council can translate their assessment from what's in this appendix to the local impact report, um, into the same language.

00:21:43:25 - 00:22:19:13

So we've got a direct read across to see whether there's actually any differences. Um, as I said, you know, please feel free. Will, we can email you a copy of this as well, but please feel free to, um, adjust it. This is just a suggestion. Um, and also, um, I imagine the council sorry, the applicant's position wouldn't change, but, um, if the council would give us an explanation for any difference in the categorisation or or just not applicable if there's, there's no difference.

00:22:19:29 - 00:22:24:09

Um, does any party ever so messed up.

00:22:24:20 - 00:22:49:09

Um, can just just to check, sir, on the table that you've given us. The, um, fourth column refers to MPs MPF effect and significance. Yes. Do there by that mean heritage significance, or is that actually the reason I'm asking this is because the row below says e.g. less than substantial. Yeah. So just a query there. Do you mean harm or do you mean.

00:22:49:11 - 00:22:52:08

Well the effect on the significance of the heritage asset.

00:22:54:02 - 00:23:29:15

Okay. So if we if you look at the um, the wording above the table, so 5.9.32, that's the the paragraph from MPs and one which is broadly the same as the MPs. Yeah. It talks about where the proposed development would lead to less and substantial harm to the significance of the okay designated heritage asset. So we've just tried to replicate that wording in the the columns. But if if you want to make any clarifications, you know this is your application to present to us.

00:23:29:17 - 00:23:36:04

This is just a suggestion, um, of a way to present a read across basically.

00:23:36:16 - 00:23:44:02

And when you refer to the NPF, yeah, you want us to use the language of both the current and the proposed.

00:23:44:09 - 00:23:52:05

The the language is the same for the historic environment policies in PSN one and NPF.

00:23:52:12 - 00:23:55:22

Sorry about that. I mean, sorry the versions of the NPF because if we just.

00:23:55:24 - 00:24:27:25

Yes, this is the the NPF, not the draft NPF. Okay. Yeah. Um, Mr. Russell, I think you said you'd be clarifying points on the draft NPF two, as did you then Mr. Russell from the applicant. Yes, I can, I can go on further if you want to talk about some specific. Well before you, you gave your summary of changes between the NPF and the draft MPO. I understood that you said you'd be providing us with some information on that.

00:24:27:27 - 00:24:28:28

Is that correct?

00:24:29:00 - 00:24:30:15

Sorry. Do you mean generally?

00:24:30:17 - 00:24:31:02

Yes.

00:24:31:04 - 00:24:53:16

Generally, yes. Yes. I was going to say on that. I think realistically, um, given a number of other actions and things. Um, and for this table, which will require back and forth between ourselves and the council, that I would suggest that this table, as well as our note on the implications of the new NPF for not just this topic, but generally it's more likely to be deadline five.

00:24:53:18 - 00:24:54:03

That's fine.

00:24:54:05 - 00:24:54:20

Yeah.

00:24:54:22 - 00:25:26:25

So we'll take that down as an action point for historic environment. Um, response on um, any draft NPF and this table to be a deadline five. Um, you'll see on the back there's a similar one for Greenbelt, which we'll come on to later, but It shouldn't be any surprise. It's a similar type of read across. Um, and this is just so we can present something that's, you know, absolutely clear to the secretary of state, the council.

00:25:26:27 - 00:25:28:25

Do you have any comments on this?

00:25:30:21 - 00:25:39:15

Uh, and Cheshire West Chester Council? I don't think so. Probably, um, just be discussing this with the conservation officer. So it's. Yeah, it's good to be able to do it in writing.

00:25:39:17 - 00:25:53:04

Yeah, yeah. Um, hopefully it shouldn't be a lot of additional work. Um, it would be, you know, transposing what's already written by the applicant and then just re categorizing yours in the, the policy language.

00:25:54:02 - 00:26:06:15

So I can just check on, on the, the broader point of the note of the impact of the revised, sorry the consultation draft NPF. Yes. You content that that note is only in relation to heritage points.

00:26:07:12 - 00:26:38:02

Um yes. We may have some points on Greenbelt later, but um, I will keep that action point limited to the historic environment matters. Yeah. And, you know, it doesn't need to be a lengthy explanation. The the only point, Reid. The only point, sir. You know, Mr. Russell said in relation to, um, the different terminology and whether, you know, of course, benefits is, is as opposed to the big change, isn't it, that Mr.

00:26:38:04 - 00:26:52:11

Russell has been talking about. So it's really an opportunity for you to put your best foot forward and, um, see if there's any other points you need to add to your case, I don't know. Does anybody else have any. No points on that? Okay.

00:26:52:13 - 00:26:56:20

Thank you sir. And if that's the case. So if we can get an electronic version of this.

00:26:56:27 - 00:27:04:04

Yes, we'll we'll get somebody to email those to the council and the, the applicant. Thank you.

00:27:20:23 - 00:27:27:03

Just on this categorization as well. This is a point for the council in your.

00:27:29:05 - 00:28:10:09

Response to the the first examining authority's questions you suggested and wasn't specifically in relation to historic environment, that some of the environmental enhancements that have been put forward by the applicant, that the council considered those to be necessary mitigation rather than enhancement. So it would be helpful if you could specifically bear that point in mind and where I've suggested that you explain any difference in weighting if any of those points arise that you could specifically include that, please.

00:28:12:09 - 00:28:17:01

And of course, the applicant would have an opportunity to respond to that at the subsequent deadline.

00:28:22:21 - 00:28:54:04

A final point on historic environment now. Um, and this links back to the discussion on landscape earlier that we had and the, um, I think both parties referred to attention, um, between the provision of landscaping as mitigation and the, the existing condition of the landscape. Would there similarly be any tension in terms of the provision of mitigation and the change to the setting of heritage assets?

00:28:56:02 - 00:29:26:21

Um, Mr. Russell, for the applicant. Um, I don't believe that. Would my, um, the judgments that we've made in terms of setting, um, which I was going to possibly touch on. But in essence, we've got a position where it's less than substantial harm on the setting of all heritage assets, and we've also concluded it's at the lower end of the scale in terms of less and substantial harm.

00:29:26:23 - 00:29:58:23

So in the context of how would the mitigation that we put in place influence that judgment? And given the location of these designated assets, and I don't believe that there would be a, um, an alteration in our judgments. Right. Okay. So on that basis, then can we just have a look at. Yes, chapter 11 please. And that's Document App 044.

00:29:59:28 - 00:30:06:25

And I'm interested in paragraph 11 .8. 66 zero.

00:30:19:19 - 00:30:55:01

And I think he may have answered this anyway in your response just now, but at that talks about, um, the setting of the assets, the sorry upon completion of the decommissioning of the long term effects of the operation phase on the setting of the assets would be removed with the setting of those assets restored to the current baseline condition, with the exception of the elements of new green

infrastructure, including the non-breeding bird mitigation area, which would be left in place at the point of decommissioning.

00:30:55:13 - 00:31:03:12

Um, so leaving that in place, you are not assessing as a potential harm to the setting,

00:31:04:29 - 00:31:11:14

and Andrew. Also for the applicant. Oh, okay. Thank you. And counsel, do you have any views on that point?

00:31:16:28 - 00:31:20:26

Oh geez. I've not been able to follow the.

00:31:21:00 - 00:31:49:00

Oh that's that's okay. I'll just go back over the point. The point relates to the decommissioning stage and, um, the the applicant. The applicant can correct me if I'm mischaracterizing them, but has said that they don't believe that the tree belts and so on would be harmful to the setting of the designated. Sorry to the heritage asset, both non designated and designated.

00:31:49:28 - 00:32:00:08

It's Paul Preston Cheshire West and Chester Council. Um no. I think the uh that would agree with that position. Yeah.

00:32:00:10 - 00:32:01:03

Thank you.

00:32:03:18 - 00:32:15:28

Okay, that's all the questions I have on historic environment. So, um, if we can move on to Greenbelt next, are the appropriate people here to talk about that? Okay. Thank you.

00:32:18:22 - 00:32:33:29

So let's begin with a clarification, please. If we turn up the applicant response to relevant representations and that's um PD 2027.

00:32:45:17 - 00:32:51:27

And I'm interested in page number 13 which is PDF page 16.

00:33:03:10 - 00:33:04:20

TF 16.

00:33:22:24 - 00:33:37:12

Now that if we look probably three quarters of the way down, it says viewed from a lower elevation. Figure 648. Roman numeral two. Viewpoint 28. Um.

00:33:40:07 - 00:33:54:16

Now, looking at that document that's referred to AP one two, one that refers to viewpoint 26, I believe app 121.

00:33:59:00 - 00:34:07:10

So the question is, is this just a typo that we can correct, or are we referring to a different document?

00:35:04:29 - 00:35:08:23

So I say, I think we're all experiencing spinning discs at the moment. No. That's okay.

00:35:14:12 - 00:35:30:02

If it doesn't come up soon, perhaps what we'll do is, um, you can look at that over the lunch break and then come back to us after. Then I think it's hopefully a it's either it's a typo or you need to look at a different document response.

00:35:31:20 - 00:35:38:01

Do I? Is that okay? Um, just possibly there. So.

00:35:42:05 - 00:36:13:15

Sorry. Are we talking about viewpoint 26? Sorry. Let me just flick between. We're talking about. Well, the response to the relevant representations points us to Document app 121 and yeah, refers to viewpoint 28. But app 121 is, I believe, only viewpoint 26, that is. Sorry, sorry, Mr. Adams. On behalf of the applicant. You're correct. Yes. It's viewpoint 26. Right. So we just changed that in the I.

00:36:13:17 - 00:36:22:21

I don't need that to be changed. Um, I'll just note down that, um, that's the document. That's correct. Document in fact. Correct. So we should. Okay. That's

00:36:24:07 - 00:36:30:16

good. Thank you. Now, more broadly on in terms of Greenbelt.

00:36:32:04 - 00:36:44:09

From my reading of all of the documents before me, both parties agree that, um, very special circumstances. Is that correct?

00:36:46:26 - 00:36:48:16

Let's go to the council first.

00:36:49:00 - 00:36:51:16

Uh, Cheshire West and Chester Council? Yes.

00:36:51:18 - 00:36:53:00

And the applicant?

00:36:53:12 - 00:36:54:16

That's. That's correct, sir.

00:36:54:18 - 00:37:15:12

Yes. Thank you. Um, would it be wrong for me to characterize your cases? The primary argument is, relates to or justification relates to paragraph 155 of the NPF. Even though you agree that there's very special circumstances.

00:37:16:23 - 00:37:51:13

Uh, Mr. Adams, for the applicant. Um, yes. In effect, the the applicant's position is that the land the difference between the council and the applicant's positions that the applicant is of the view that the land is greenbelt. It doesn't strongly contribute to the purposes in the in paragraph one, four, three, um, and, uh, it, it that the, uh, the, the assets in footnote seven do not provide a strong reason for refusal.

00:37:51:16 - 00:38:22:08

That's the primary difference. There is then sort of a sub subset of that that the applicant contends that, um, the tests in power one, five, five are met. And obviously the council having not accepted that it's it's gray belt coming from a different perspective. Don't agree with us on that. And then moving on from that, it's the applicant's position that on that basis footnote 55 applies and therefore substantial weight need not be given to the harm to the greenbelt, including its openness.

00:38:22:29 - 00:38:52:04

The way the greenbelt assessment was undertaken was that was our that was our position. But we carried the greenbelt assessment through on the assumption that the examining authority or in the in the circumstance that the examining authority, um, disagreed with any of those points. But as you rightly point out, the council and and the applicant are in agree in agreement that it's CMP infrastructure and that there are voices.

00:38:52:29 - 00:38:54:06

Right. Okay.

00:38:58:15 - 00:39:04:04

And of course, the council disagrees that it's greenbelt land. That's correct, isn't it?

00:39:05:29 - 00:39:36:18

And Cheshire West and Chester Council. Um, that's that's correct. Um, uh, particularly in relation to, um, uh, purpose be um, in relation to, uh, preventing neighbouring towns merging into, um, uh, in particular Lincoln and Frodsham. Um, the uh, uh, acknowledging that there is some development on there. It's still largely free from existing development.

00:39:36:20 - 00:40:07:24

Um, uh, but it's taking up part of a substantial part of, of, of the gap between those, those two areas. Um, and um, can be seen as, as you know, resulting in a lot of visual separation. So we consider this strongly contributing to purposes. And um, and therefore, uh, you're not great. But in addition you've got purpose as well. But um, with similar sort of, um, you know, assessment.

00:40:08:13 - 00:40:35:22

Yes. Thank you. So I think you used the term urbanization or urbanizing effect in your submissions. And I usually associate that with more, I suppose, town like development, you know, houses and shops and so on. So is that a term that we should be using when reporting to the Secretary of state, or is it is it the presence of inappropriate development in and of itself?

00:40:37:01 - 00:41:05:16

Well, um, in Cheshire, West Chester, um, I think the term urbanization or um, urban sprawl put it that way as well. Um, is normally you'd be thinking about housing development. Um, but but it can, um, you know, extend to industrial, commercial developments. And I think it falls into that sort of category. Right. Um, that we're looking at and, you know, urban sprawl is sort of a, um,

00:41:07:06 - 00:41:15:07

mono development, as it were, of, you know, of development of one type spreading across, uh, you know, a large area. Yeah.

00:41:15:09 - 00:41:34:27

Thank you. So just back to the applicant then. Um, if both parties agree that very special circumstances exist. What benefit do you gain from your primary argument being that you satisfy paragraph 155.

00:41:38:22 - 00:41:45:24

David Evans, um, on behalf of the applicant, um, we're not reliant on that because of that exact point. Um, you're.

00:41:45:26 - 00:41:46:11

Not sorry, I.

00:41:46:13 - 00:42:18:09

Didn't. We're sorry. We're not reliant on on that. Um. And hence, that's why the Greenbelt assessment was written in the way it was. Um, what I would say is that by, um, being grey belt, as we believe it is, we believe that the council have not accurately interpreted the planning practice guidance in respect of determining whether whether the, um, whether the site and the area, um, strongly contributes to the purposes.

00:42:18:11 - 00:42:51:07

But by but by being grey, bold and um by passing the 155 criteria. Um it enables the, the the decision maker to consider a footnote 55. And therefore, when you're considering, um, considering the the impact of the development on the green belt, you can have that have that regard. And that's what we, um, what we're highlighting. But as I say, it's not a, it's not a a was, to use Mr.

00:42:51:09 - 00:42:55:05

Fox's term, it's not die in the ditch point.

00:42:55:24 - 00:43:12:21

So just looking at paragraph sorry, footnote 55 then. And this is the current NPF, the 2024 revised slightly in 2025 wasn't it? Um, and um, that relates to

00:43:14:20 - 00:43:45:16

it says when considering any planning application, local planning. This is sorry, this is the text of paragraph 153, to which footnote 55 relates. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the greenbelt, including harm to its openness. And then footnote 55 says, other than in the case of previously developed land or greenbelt, where development is not inappropriate.

00:43:46:12 - 00:43:56:03

So are you suggesting by that then, that, um, using paragraph 155 disengages the openness test?

00:43:57:15 - 00:44:31:00

Um, I'm saying that that. Sorry, Mr. Adams, on behalf of the applicant, um, I'm saying that when the green Belt policy is is and I appreciate that that is specifically referring to planning applications and local planning authorities. But the green belt policy that we're applying in this case comes through the NPF, right? Um, and so what I'm saying is that, um, by demonstrating that it's grey belt and that it's not inappropriate.

00:44:31:10 - 00:45:00:03

Um, through paragraph 155. Uh, it it enables the decision maker to come to come to, to take the benefit of the fact that, um, that, uh, that you do not need to, um, apply substantial weight. I'm not saying that it disregards para 155 I'm just saying that it, it

00:45:01:27 - 00:45:19:19

it takes away that that, um, requirement to ensure substantial weight is, is given to any harm. As I said before, the the the the position of the of the applicant is that irrespective of that we come to the same position. But um, that's that's the point.

00:45:19:25 - 00:45:35:07

The substantial way point. Is it a step along the road really to um, I suppose you need to establish that it's inappropriate development and then the substantial weight is in the the greenbelt balance, isn't it?

00:45:36:00 - 00:45:37:27

David Adams Yes, that's right sir.

00:45:37:29 - 00:46:05:08

So I'm still not clear what benefit this argument provides to the applicant when it's already been agreed that, um, very special circumstances exist, um, to, um, outweigh the harms caused by inappropriate development and other harms, which is, I think both parties have agreed on. Am they?

00:46:05:21 - 00:46:38:24

So, Mr. Fox, can I just come here on that? Sorry, Mr. Fox. Applicant. So I think we're not trying to say that there is a benefit from the argument as to our argument that this is this is great about land, but I think you said to yourself that it's because we're just applying the the NPS policy in our planning statement on greenbelt assessment, um, which talks about the fact that, yes, if, if, if you are

inappropriate development, then to the question of national priority status means you can assume very special circumstances.

00:46:38:27 - 00:47:09:27

And for whatever reason, if you thought we weren't seeing infrastructure, then we'd have to make the very special circumstances case. So all we've done so in our statement really is acknowledge the fact that the order of events, the question is, is it an appropriate development or not? And if it is, then you have to ask yourself whether the special circumstances test. So all we've done is, is set that out, essentially the point that the, um, we're now agreed on various circumstances. When we wrote the green belt assessment, that wasn't the case that's come through the examination submissions.

00:47:09:29 - 00:47:39:29

So I think that that's happened after the event. But I think we're not I suppose we're not trying to gain for this application any kind of benefit from saying, you know, we think this is great about it's just the application of the policy. And that's what we've done in the planning statement. And if that steps process, um, and obviously now we're debating, uh, there has been debate with the council about whether it is greenbelt land or or not, and the application of the policy that after you've established that.

00:47:40:09 - 00:47:44:23

But that's just because we're going through the policies essentially, and. Mr.. Russell.

00:47:45:11 - 00:47:46:29

Sorry, sir. Mr..

00:47:47:01 - 00:47:48:05

I'm sorry. Sorry, sir.

00:47:49:09 - 00:48:39:22

Mr.. Russell, for the applicant and apologies, I haven't interpreted your question right, but I think in answer to your question, which is about, um, the application of this footnote 55, I think the planning practice guidance possibly helps, um, in this. So under the heading of considering the potential impact of development on the openness of Greenbelt, um, it very specifically then has another heading, how should harm to the greenbelt, including harm to its openness, be considered if a development is not inappropriate development? And within that explanation, it sets out that if it isn't inappropriate development, by virtue of it being in greenbelt and passing those subsequent tests, then this is excluded from the policy requirement to give substantial weight to any harm to the greenbelt, including to its openness.

00:48:39:24 - 00:49:10:18

So I think it's very clear that were you to take the view that it was gray belt and that we are inappropriate, which is our case, you no longer have to consider the impact on openness. So that would be the benefit that would derive from that approach. And all we're saying is we're just following. We're just following planning practice guidance um, here sir. And national policy. So we are stepping through those various hoops. The first hoop is is this great belt. Is it inappropriate development? Our case it is.

00:49:10:20 - 00:49:51:16

If you were to agree, you don't consider openness. If you don't agree, we're then on to the common ground that we have with the Council that very special circumstances exist. So in terms of presenting two arguments, there are two different approaches to policy. Um, of course, my main concern is how I report that to the Secretary of State. So are you inviting the examining authority to decide whether or not it agrees with the paragraph one, five, five point? And then, if not, to proceed on the basis of, I guess it's some paragraph one by three.

00:49:51:18 - 00:50:28:16

Is it from memory? Um, yep. So that we proceed on that point, given that both parties agree on that. Mr. Russell, for the applicant. Um, yes. That's what we are inviting. And that's, um, commonly what occurs with in a town and country planning appeal process. Um, there have been quite a few decisions where inspectors and the Secretary of state have considered it in that tiered approach. Thank you. Now, can I just hope we understand a bit more about the council's position on openness? And, um.

00:50:30:18 - 00:50:41:02

I think this the best document for this would be rep 1036, which is the, uh, the statement of common ground.

00:50:47:03 - 00:50:47:25

And

00:50:49:14 - 00:50:55:09

this relates to, um, greenbelt, of course. And

00:50:57:02 - 00:51:36:24

there's two points here where you refer back as well to your relevant representation. So the first point, you say that the council's of the opinion that the proposed development would result in substantial harm to the openness of the greenbelt. Then the second point, you say that the councils of the opinion that the proposed development would result in substantial landscape and visual harm to the openness of the greenbelt. Now, is that are you referring there to the visual dimension of openness as opposed to specifically landscape harm?

00:51:41:22 - 00:52:26:16

Cheshire West and Chester Council. The, um, I think the, uh, inference to some extent was that the, um, consideration of openness transcends the sort of greenbelt policy, partly this sort of, you know, even if, uh, the discussion on openness in terms of Greenbelt isn't there in terms of landscape harm, um, because of the landscape character. And we've discussed it earlier this morning about the importance of the openness of this particular character area, that the concept of openness shouldn't be sort of put in a box, as it were, and that decides that that was that was one of the main points in terms of the, um, uh, the.

00:52:28:12 - 00:52:44:16

The, um, the visual spatial harm. Um, then, um. Uh, I think it is. On both both the visual impact and the spatial impact in terms of impacts on openness.

00:52:45:00 - 00:53:17:29

Right. Okay. Um, I'm concerned to avoid double counting of effects, you see. So, um, I think I'm, I'm clear now on that point. So thank you for that response. Um, could we move on now to the, um, effects as set out in the the planning statement, please. So these are summarized in table one of page 40 of the appendix, which is page 287 of the PDF.

00:53:19:11 - 00:53:23:05

So the planning statement is document app 1 to 8.

00:53:36:11 - 00:53:39:13

Two page PDF page 287.

00:53:57:15 - 00:54:37:20

Have we got there? Yeah. And I believe this relates to the the paragraph 153 argument. And you know, let's set aside 155I understand your position on that. So this relates to paragraph 153 where you've summarized um harms. And then below the um the lilac colored line, you've got some benefits now. Which of these, if any, would be covered by the critical national priority point that set out in NPS? Even one.

00:54:42:15 - 00:54:48:12

Applicant. Can I clarify Wednesday covered by. Yeah. What do you mean by that?

00:54:48:14 - 00:55:18:17

I mean that, um, NPS one sets out that, um, where there's a critical national priority. I'm paraphrasing here that very special circumstances would usually exist for development in the green belt. We've got a list here, um, that includes, for example, um, national need for renewable energy.

00:55:19:05 - 00:55:26:07

So would national need for renewable energy be covered by critical national priority

00:55:28:03 - 00:55:37:25

and similarly with any of the other energy security local need with any of the other benefits that are listed here

00:55:39:24 - 00:55:43:27

fall under that critical national priority banner.

00:55:49:12 - 00:56:15:16

For the applicant. Um, yeah. I think the it is only those and obviously the the table does go below that page, but yeah. Um, it, it is only those, those first two uh, below the pale blue lines. So the need, the national need for renewable energy and the national need for energy security. Um, I wouldn't suggest any of the others do.

00:56:15:18 - 00:56:24:27

So we'd have those as being covered by the CNP point, and then all of the others would be other benefits of the proposed development.

00:56:25:01 - 00:56:32:06

Correct below that. So from local need of renewable energy onwards, they are other benefits.

00:56:32:20 - 00:56:33:15

Thank you.

00:56:36:16 - 00:56:39:00

Now you have um

00:56:41:00 - 00:56:43:10

on the on the um harms here.

00:56:44:28 - 00:56:57:27

You have categorised green belt encroachment. It's the second line on table one. Purpose. See um, as a harm.

00:56:59:14 - 00:57:05:04

And I think that's the only one of the five purposes that you

00:57:06:25 - 00:57:12:10

consider to be affected by the proposed development. Is that correct?

00:57:19:14 - 00:57:47:03

Mr. Adams for the. For the applicant? Um, no, I'm not saying that. That's the only I'm not saying that we are not having an having an effect on on the greenbelt. Um, purposely obviously is not is not considered when when considering Grable. I appreciate we've moved on on to the next, next level here. And I think perhaps,

00:57:48:18 - 00:57:49:03

um,

00:57:50:22 - 00:57:59:18

perhaps that should, should, should not, uh, shouldn't, should not have purposely after it to be brutally honest.

00:57:59:23 - 00:58:33:21

Right. Okay. Well, as I said earlier, I've handed out a table that gives us an opportunity to look at this again. And there's another couple of points that I would like to be picked up on that as well. So I take that on board that you may wish to revisit this. Um, and I guess the other, you know, the follow on questions from this, which may be resolved by our answer to this is where policy invites me to weigh in the balance harm to purposes rather than harm to openness.

00:58:34:05 - 00:58:39:20

Um, is that something that would be resolved by you looking at this again?

00:58:42:23 - 00:58:44:27

Sorry. Could you just repeat the question?

00:58:46:02 - 00:59:30:15

Greenbelt policy. It looks at the harm to openness in any other harms. Correct. That's that's paragraph 153. And we've got here. It specifically refers to purpose. See, now, I'm not aware in the NPF of any policy that specifically directs the decision maker to look at the effect on the purposes. Um, and if it did, Then I would need if I disagreed with or the Secretary of State disagreed with, the 155 argument I'd need to be considering as well whether, as the council says, they consider that to be hard two purposes, A and B as well.

00:59:31:00 - 00:59:36:15

So the question is whether. Purposes come into this at all.

00:59:36:17 - 00:59:44:24

Yes. Sorry, Mr. Adams, for the applicant. That is why I say I don't think he should be saying purpose. See there. Right. Okay.

00:59:45:18 - 01:00:13:17

So should green belt encroachment, given that that is in effect purpose C should that be in in there as well, or are we taking that as under the paragraph 153 argument to be an effect on openness? We've already gone over that hurdle. We've said that there's harm to hope openness. And then we're looking at other harms and then benefits.

01:00:17:05 - 01:00:51:29

Mr. Owens for the applicant. Yes. I think when I was drafting this, I was in my mind thinking there is a there is a subtle difference between, um, between openness and all that in all that entails, both in terms of spatial, visual and, and perceived openness and encroachment into the, into the, into the country, into the greenbelt. Um, I think that is one that we probably would need to, to, to take away and think about. Um, because I think there is an argument to say that it is covered under openness in hindsight.

01:00:52:01 - 01:00:57:19

But maybe I was, I was, uh, being being very cautious myself.

01:00:57:21 - 01:01:20:06

So that's fine. This is in I think my colleague can probably attest to being beaten with sticks by the planning inspector from Greenbelt policy because we get, uh, you know, some legal challenges on how it's it's actually set out and interpreted. So I just want to be totally clear and give you the opportunity to be clear that we're reporting it as well.

01:01:21:24 - 01:01:22:12

Um,

01:01:24:05 - 01:01:30:24

I think that deals with that point. Does the council have any comments on that?

01:01:33:18 - 01:02:05:11

Uh, well, for us and Cheshire West and Chester Council. Uh, not not on that specific point. Uh, so but um, just just information. Um, the council, I think we've referenced that we're doing a greenbelt assessment as part of the local plan. Yes. Um, it was just to update you really that the expectation is that that will, um, uh, the draft draft of that assessment may be out, um, towards the end of March. April. Um, I haven't got a specific date or progress, but that's my understanding.

01:02:05:13 - 01:02:20:08

Is that's something the council could proactively let us know about if that happens. And then, um, if it's past a deadline, we would still provide people with an opportunity to respond to that.

01:02:23:09 - 01:03:16:29

Yeah. Thank you. That's a helpful update. So just on this, um. And I'm sorry, sir. Yeah. Um, Mr. Russell, for the applicant, I, I don't want to confuse anything further because we know how complex a greenbelt is. And this may allude to where why we considered the purposes of the greenbelt in our planning balance. But paragraph five 1137 of NPS one, which is under Secretary state decision making. Um, it's it's it's describing how the secretary of state should ensure that substantial waste is given any harm of the greenbelt when considering any application for such development, while taking account in relation to renewable and linear infrastructure of the extent to which its physical characteristics are such that it has limited or no impact on the fundamental purposes of greenbelt designation.

01:03:17:01 - 01:03:56:13

So that. Talking about the purposes. So I think that may be where some of the rationale we want. We didn't want to miss a base. That's fine. You know, I'm happy for you to go away and come back with an updated document to us so that we can base our recommendation on that. I know that, um, when it's when you have to read across different policy documents, it's not always the easiest thing to do either. So, um, you know, it isn't criticism of anybody. It's merely trying to get to the bottom of what we need to report so that, um, we don't get in trouble or contravene our inspector manual or anything like that.

01:03:56:15 - 01:04:11:20

Yes, I appreciate that, sir. Yeah. Okay. Um, can I come to you in a minute? If you don't mind, I've just got another couple of questions on On table one, some some points of clarification really. Um,

01:04:13:16 - 01:04:25:03

so with reference to that, we've got residential amenity and then it says brackets construction and limited weight.

01:04:27:09 - 01:04:33:21

Yeah. And but if we look back at um, paragraph 1.10 point two

01:04:35:12 - 01:04:47:07

of this annex and it's Roman numeral five, it says here limited residential amenity harm, which is given very limited weight.

01:04:49:25 - 01:05:02:02

So, um, I'm not going to ask you which one you think is correct. It's again, one of those points I think you could pick up when you come back to us. Um.

01:05:06:08 - 01:05:40:04

And then just on that point as well. Again, another clarification point here is that TBA refers to construction specifically, but the the paragraph I just referred to, 1.1.2 brings into play noise and glint and glare. And I don't know if you were here earlier on where we discussed the construction phase and the operational phase. In my mind, noise would be construction phase, glinton glare would be operational phase.

01:05:40:20 - 01:05:53:20

Um, and of course, you categorize it how you wish, but, um, that's another point that it may be worth just thinking about. Um, similarly on

01:05:55:06 - 01:05:58:27

annex A, paragraph 1.1.2.

01:06:01:08 - 01:06:34:27

And this is Roman numeral six, where it says very limited harm to cultural heritage, which is given very limited weight. Now we've got a statutory test in relation to designated heritage assets in the infrastructure planning decisions, regulations and of course, NPF 212 tells us that when considering impact and it doesn't say what type of impact, it just says that great weight should be given to an assets conservation.

01:06:34:29 - 01:06:40:20

And I think that follows on from the the Barnwell management. So

01:06:42:06 - 01:06:52:25

just bearing all that in mind, is it accurate in your view, to say that we should give very limited weight in this balancing exercise to cultural heritage?

01:07:00:28 - 01:07:04:02

And Andrew Ross for the applicant.

01:07:06:15 - 01:07:39:08

In terms of the level of harm, which we talked about earlier, um, that's how that has been characterized within this greenbelt assessment, rather than that separate statutory test which we would recognize. Um, I was just about to try and bring up that section of the planning statement where I do think that is addressed. So I think we do actually give the specific, um, direction to the decision maker that they need to provide that substantial grade eight, sorry, 8.2.4 of them. Is this an issue then to pick up in the review of.

01:07:39:10 - 01:08:15:09

I think we can I think it's a case of explanation, maybe of how we've come to a decision on that harm and making sure that perhaps if we retain that view, that there's very limited harm in the context of this green belt argument, we should at least introduce a cross reference to how we then considered the, um, weighting the weight that's given to that. And again, that's one of those points etched on inspector's mind. The training stage. So we need to make sure that we've, um, you know, we've properly trained that. I agree and appreciate the theme, but we none of us want to go down that that rabbit hole of an issue.

01:08:16:04 - 01:08:18:09

Yeah. Thank you. Um.

01:08:32:00 - 01:08:37:06

I'm sorry. I'm just considering my next questions. Would you like to. To come up and make your point?

01:08:40:19 - 01:08:41:04

Hello.

01:08:41:06 - 01:09:15:15

Uh, Councillor Sumner from Cheshire West and Chester Council. Thank you. Inspector. A greenbelt is a designated zone of open land surrounding or adjacent to urban areas where most forms of development are restricted or banned to protect urban sprawl. This serves a multitude of purposes, including preserving natural environments, improving air quality, providing recreational space, and protecting the character of rural communities. Cheshire West and Chester Council's position is that this site is designated Greenbelt, not Greenbelt.

01:09:15:19 - 01:09:46:05

The council also identifies substantial harm to openness and the separation between Runcorn Frodsham Frodsham Marsh forms part of the wider Australian landscape, functionally linked to the Mersey Estuary, SBA, Ramsar and Triple Sea. Many of the bird species using this area depend directly on open, unobstructed landscapes, so focusing on openness not only as a greenbelt concept but as a defining ecological characteristic of the marsh.

01:09:46:19 - 01:10:19:27

Frodsham Marsh is widely recognised as one of the premier birdwatching sites in northwest Cheshire. And it's not simply open land, it's a functioning habitats mudflats, glass, grasslands, reedbeds, sludge tanks and river margins, and it serves as a critical feeding and stopover site for migratory birds. The marsh regularly hosts flocks of black tailed godwit, including ringed birds tracked from Iceland. Winter roosts of pink footed goose have reached over 13,000 birds in recent years.

01:10:19:29 - 01:11:02:05

Wintering duck species include the greatest scalp, the long tailed duck, and the common goldeneye, while autumn brings wages such as the dunlin, the ringed plover and the nuts. Raptors including the short eared owl. Marsh harrier. Hen harrier. Depend on open sightlines to hunts over rough grassland.

Rare species such as the glossy ibis and the osprey have also been recorded. And what unites this diversity as a reliance on openness. Open marsh provides long sightlines for predator detection Why don't interrupted feeding areas, safe roosting space during high tides, and a hunting habitat for owls and raptors.

01:11:02:07 - 01:11:32:13

It's not theoretical. The marshes bird life has been meticulously documented over decades by local Laurent biologists, including Bill Morton, widely known as the frog and birder, whose long term records demonstrate the marshes national importance to birders and conservationists alike. So, in greenbelt terms, openness about the absence of development and protection from encroachment, and in legal ecological terms, about a functional habitat structure.

01:11:33:13 - 01:12:12:18

Even if the solar arrays were low in height, the horizontal extent represents encroachment across the landscape, and it must be considered. The harm to openness is substantial. That this harm is both visual and functional, that it affects the settlement separation and affects this habitat character. It's about the integrity of a premier bird habitat of national significance. If the site is properly regarded as greenbelts and the development is inappropriate, then the substantial weight must be given to that harm and critical national priority status engages the very special circumstances.

01:12:12:20 - 01:12:26:00

But it does not negate the need to fully acknowledge the loss of openness, particularly wherever openness underpins internationally important bird habitats, and that requires careful scrutiny in the planning balance. Thank you.

01:12:26:03 - 01:12:45:21

Thank you. Um, some of those points crossed over onto Mrs. Bellows, um, topic of ecology, which I believe will be coming on to this afternoon. So, Mrs. Bellow, is there anything you'd like to pick up at this point? Okay. Well, I've taken those down. And also in relation to the the relationship with the greenbelt. Thank you.

01:12:45:28 - 01:12:46:24

Many thanks.

01:12:46:26 - 01:12:47:19

Thank you.

01:12:49:08 - 01:12:50:18

Sir. Could I make a point, please?

01:12:50:20 - 01:12:51:05

Yes.

01:12:51:07 - 01:13:00:24

Of course. Michelle's back for Cheshire West and Chester Council. Just to clarify, the councillors representations are for her as a councillor, not for Cheshire West as its formal response.

01:13:00:26 - 01:13:05:16

That's fine. Thank you. About that. Yes. Um. Thank you.

01:13:14:00 - 01:13:52:06

Right. So we we talked a few times about the decommissioning of the development. And, um, in the statement of reasons, for example, if you want to turn that up, um, or I can just tell you what it says. It discusses the the reversibility, the development. Um, what weight in greenbelt terms do you attach to the reversibility of the development when it's decommissioned.

01:13:54:24 - 01:14:25:23

Mr. Adams, on behalf of the applicant. Um, well, I certainly think with regards to, to openness and, um, and how one considers the impact on openness when considering, as I say, um, visual and, and, um, spatial impact and perceived impact. Um, the matters that need to be considered are. Um, as I say, both spatial visual and and and perception.

01:14:26:02 - 01:15:09:03

Um, and that's about sort of the volume of the, the volume of the development. It's about, um, it's about the context in which it sits. It's about, um, how uncluttered or cluttered the area is that you're, that you're sitting within how open the, the, the greenbelt is in that location. But added to that, there is um, the from a particularly from a perception uh, but from a perceived um, perspective there's it's, it's the degree of activity. So how busy is it once it's once it's built the third and sort of equal sort of third limb of that, that I would sort of have ask you to have regard to is the duration of the development and its reversibility.

01:15:09:05 - 01:15:33:12

Now the reality of of it is, is that a, the, the DCO is for 40 years and the um the reversibility of it is, is an important point to have regard when considering impacts on, on openness. Um, and so, so in that regard, I think it's uh, I think it's quite important.

01:15:33:15 - 01:15:34:08

Thank you.

01:15:39:14 - 01:15:48:09

Now, the council you've probably seen in its, um, relevant representation, which is RR 037.

01:15:51:12 - 01:16:28:17

And its on PDF page 18 of 87. It refers to N-1, NPS and one defining CNP in the glossary is including lifetime extensions of nationally significant low carbon infrastructure projects. And then it's it's said to us, therefore, even even though the proposed development is temporary, the presumption must be the development will continue existing on the site for longer than the initial 40 year consent period.

01:16:28:19 - 01:16:32:12

So what's the what is the applicant say in response to that?

01:16:32:16 - 01:16:53:01

Uh, the applicant I think we disagree with that because DCF has a requirement that says it has to be decommissioned within 40 years. Uh, if we wanted to change that, that would require a whole new planning learning process that we can do that. So the, the, the proposals have to be seen on their face and on their face is a specific requirement. City commission within 40 years. Thank you.

01:16:53:20 - 01:17:02:18

So if that's the case, why are you seeking the permanent acquisition of land and rights rather than time limited market?

01:17:02:24 - 01:17:08:20

Because it's not possible legally to compulsory acquire a lease or a short term land.

01:17:08:27 - 01:17:10:19

I'm not talking about a lease.

01:17:11:12 - 01:17:18:19

Well you can't. What else would it be? If you can? You can't compulsory acquire a land for a certain amount of time.

01:17:18:21 - 01:17:26:06

It's not for me to answer questions, but for example, why? Why aren't rights time limited?

01:17:27:29 - 01:17:30:25

You can take temporary possession of land, for example, can't you?

01:17:30:27 - 01:17:38:13

But you can only take temporary. Sorry. Can you take temporary possession of the land for as long as you need it? For construction purposes?

01:17:40:29 - 01:17:51:17

I mean, we can take that away, sir, But I think that every, every time limited solar scheme that that has been has also sought compulsory acquisition powers that have not been time limited.

01:17:51:21 - 01:18:01:22

Right. Well, I, I think it would be helpful to have a response on that. Um, in the context of, um, compulsory acquisition and land rights.

01:18:03:16 - 01:18:12:17

Yes. Thank you. Um, now, looking at the the way that, um, the considerations would be weighted.

01:18:14:24 - 01:18:49:12

Um, and we've already touched on very special circumstances existing. I'm not clear from the council submissions, um, where those other harms are set out. So we've looked at the harms to the openness which we've discussed, but are there any other harms and also whether, as the applicant set out any benefits that ought to be, weighed in the balance. And that's where we come to the. The reverse side of the handout, um,

01:18:51:06 - 01:19:22:27

that was distributed earlier. And again, this is merely a suggestion of how to present it. But we've heard that the applicant is going to go away and look at table one in annex A again. Um, so we need to give the applicant a bit of time to do that. But what I'd like to happen then is for the council to again provide a read across, if that's okay. Um, what do we think would be a realistic timescale for for doing that?

01:19:24:23 - 01:19:26:16

I think deadline five.

01:19:27:10 - 01:19:30:24

So we'll take that as an action point deadline. Are you happy with that?

01:19:32:15 - 01:19:33:01

Yes, yes.

01:19:33:03 - 01:19:45:06

Thank you, Mr. Friston. An action point. So a deadline five we'll look forward to receiving the the read across table of, um, green belt effects.

01:19:46:15 - 01:20:11:16

So it's nothing. Yes. Um, I just wanted to just briefly touch on that in terms of both this table, but also table one. Um, and I don't want to go backwards too much, but I just wanted to emphasize that that balancing exercise in table one is done after sorry is only relevant, I think, if you consider that CNP status does not apply.

01:20:11:18 - 01:20:20:12

That's right. Yes. And that's I, I said earlier that this is setting aside the oh 155 argument so that we can test both of them.

01:20:20:26 - 01:20:28:03

So yeah, but it's also setting aside a theme. Sorry. What I'm trying to say is that it's both setting aside 155 and setting aside CNP.

01:20:28:05 - 01:20:44:10

Well, the CNP is I took it from your colleague would be um, dealt with in the review of table one because some of those points would fall and fall within the ambit of CMP. So the national need for example.

01:20:44:29 - 01:21:24:23

Its sorry, it would in the extent that if you're going to give a waiting to it, you look at the NPS which says there is a critical national priority for this type of infrastructure, but that is you only asking yourself that question if you've determined that we don't have the status in the NPS, which has the presumption that VFC is made else because what I'm trying to say so. So yes, there is there is a read across to the fact that the NPS, if you read the whole of section three as a whole, talks about the

critical national priority that there is for this infrastructure, and therefore, even if we not don't have CMP status, there is still a critical national priority for this infrastructure.

01:21:24:25 - 01:21:40:09

And I think that's different from trying to get the cross. So we'd only be that this table was only relevant if you were saying, okay, we disagree on 155 and we disagree that it's MP status, and the caveats are given to CNP status in section four of the NPS.

01:21:40:11 - 01:22:12:25

So in that case, why is your planning statement presented all of those other harms and benefits when it says that it's, you know, sort of like paragraph 1.6.7 of appendix E touches on that, the point about, um, CMP and it says that, um, very special circumstances to justify inappropriate development in the green belt has been met through the application of the mitigation hierarchy and the presumption in favor of CNP infrastructure in n one.

01:22:12:27 - 01:22:15:17

So so what's the point of that table one then?

01:22:15:20 - 01:22:21:05

It's it's in case you disagree with what we've said in section 1.6 about why we think we have CMP data.

01:22:21:07 - 01:22:26:08

So would the same principle apply to the the read across table that I've just handed out.

01:22:26:10 - 01:22:32:23

And then that's why I'm raising the point. So. Right. Well this is a this is a two what ifs situation. You get I understand this.

01:22:32:25 - 01:22:39:22

Yes. Yeah. Yeah. Is there anything you'd like to add from. You're the author, I presume, of of this.

01:22:40:14 - 01:23:03:26

Uh, Mr. Adams, on behalf of the applicant. Yes, I was the author of this. That's quite right. And, no, I think, um, it's the it's precisely that point of that. It's it's we wrote. I wrote it in a way that it's. If you do not agree, first of all, with the grey belt argument, and if you do not agree that a CMP, then you've got this, you can fall back on onto this.

01:23:04:01 - 01:23:29:01

I've got that, I think, from the documentation that's been submitted. However, as I said, the table that I distributed is just a suggestion, a starting point. You can change it or come up with a completely different way of presenting the information once you've reviewed the table and so on. And I'm more than happy for you to restate it if if that's what you want to emphasize.

01:23:29:09 - 01:23:42:10

So I think that's I just wanted to make sure that we were all on the same understanding in terms of how we presented our case. So we will absolutely do this table. But it's I just want to be clear that that's the the what if times two situation where it arises.

01:23:42:12 - 01:23:45:12

Thank you. Right. So

01:23:47:04 - 01:24:19:21

moving over to the council now and this is the the general operation of policy in relation to green belts. And um, you said in your written representation I don't think there's any need to turn it up if you don't want to, but it's um, rep 1048 and paragraph 6.7, you said. CWC maintained that the impact of the proposed development on the Green Belt and openness would be substantial and needs to be considered in the planning balance

01:24:21:11 - 01:24:43:21

now in the applicant's submission. So back to appendix A of the planning statement. The applicant uses the term the green belt balance, so suggesting that there's a balancing exercise that needs to be undertaken before the overall planning balance.

01:24:45:14 - 01:24:56:24

Is there anything. Can can I just go to the applicant first on that point and and why you have said use the terminology green belt balance rather than planning balance.

01:24:57:27 - 01:25:16:06

Mr.. Balance the applicant. Um, that was it is just it is a term I used, um, to conclude on this particular point because it was a green belt assessment. Um, you know, it it could apply equally to the overall planning balance.

01:25:16:21 - 01:25:52:02

Right? So I'm thinking more about how a decision maker would proceed to consider, um, this matter. So we we start off whether it's inappropriate development or not. And then if it is inappropriate development, and again, I accept the points that you've got other arguments on under 155, but under 153 if it's inappropriate, whether very special circumstances exist. And by that point, you've already considered harms because there's a harm to the openness and any other harm.

01:25:52:23 - 01:26:29:13

Now you get to very special. Well, you've got to very special circumstances existing in this case. So we don't need to talk hypothetically. Do I then need to say right, I need to I accept that that that test is satisfied or do I go on and say, um, right. The test satisfied? However, I need to take all of those harms, the openness and put them in the the overall planning balance at the end as well, Which is the approach that you think.

01:26:30:01 - 01:26:31:19

Policy support.

01:26:34:10 - 01:26:50:11

On behalf of the applicant. No, I don't believe you do. I think your first point is absolutely right. You, you you do not need to then go back and put them back into into a balancing exercise. You've already gone through that process to get to where you are. So I would say no.

01:26:50:13 - 01:27:15:10

But it's a kind of gateway test that you satisfy. And it's like monopoly. If you don't go, you don't get your £200. If you do, you can you can get um, further along. So and you know, that's notwithstanding that still will be harms that you've weighed in the balance that have to go in the overall planning balance. But it's not within, under the umbrella of Greenbelt.

01:27:15:12 - 01:27:15:28

Exactly.

01:27:16:00 - 01:27:31:00

Yes. Okay. Now so that's what the applicant understands to be the planning. So the Queen of balance. You've said that harms need to be weighed in the planning balance.

01:27:32:22 - 01:27:40:12

Now, following on from that discussion, do you do you want to come back on that point at all?

01:27:40:26 - 01:27:57:09

Yeah. Well for some Cheshire West and Chester Council. Yes. Um, I think that you would do the, um, the greenbelt, um, uh, balancing exercise, but you're looking at all, all of the, the harms in not just greenbelt harms as part of that.

01:27:57:11 - 01:28:28:26

So that's the openness and any other harm. Yes that can. 153. Yeah. And then we say whether it passes the greenbelt test or not. Yes. And then some of those harms may still be considered in the planning balance in and of themselves. But the um, the point about where you've said so, I've just I've been darting around my notes here where I think you said substantial harm needs to be given to.

01:28:29:26 - 01:28:41:03

Um, yeah. Here we go. Openness would be substantial and needs to be considered in the planning balance. We would have already considered that at the greenbelt balance stage. Is that.

01:28:42:21 - 01:28:46:00

Is that what I understand from your submission.

01:28:46:11 - 01:29:03:09

Uh, Paul and Cheshire Council? Yes. In terms of the, um, specific openness within the greenbelt context. And we've heard, um, from council somewhere about openness in other, other forms and, and uh, reiterate to that in terms of landscape.

01:29:03:11 - 01:29:40:23

I know this is very it's a very abstract concept. And, um, you have to try to box things off to some extent. And that's why I was saying that, for example, the landscape that was the landscape effects or

the ecology effect still stand and have to be put in the overall balance. Yeah. but what I'm trying to get to here is, um, I would be concerned that if I weighed openness in the overall balance, that I would be double counting, because I would take that to be weighed in the greenbelt balance and then to decide whether or not we've got through that gateway test.

01:29:41:13 - 01:29:43:15

Uh, Francesca. Yes, I would agree.

01:29:43:17 - 01:29:45:20

Okay. That's really helpful. Thank you.

01:29:49:07 - 01:30:21:27

Right. I think everybody be pleased to know that's all the questions I had on Greenbelt. Um. Sorry, sir. Yeah. So, may I speak for. Of course. Yeah. Um, Mr. Russell for the applicant. Um, and obviously the council's opinion is the council's opinion, and I just want to make sure that in weighing up, um, all of the harm of the development, ultimately, you're making the the the right assessment. Um, we would suggest that there are components, as we've talked about, of openness in landscape and visual assessment.

01:30:22:10 - 01:31:13:22

And so I do think you could consider openness in the context of greenbelt, which is a multifaceted concept and landscape and visual openness. Yeah. So I want to make sure that you you have considered considered it. That's my understanding that it's it's kind of a Venn diagram situation where the considerations overlap. But my main concern is that, um, we, we undertake the correct process in terms of balancing and that we don't double count any effects, um, by counting them in a greenbelt balance, first, to test whether it passes that I'm calling it a gateway test on very special circumstances, if indeed this is the policy that is engaged.

01:31:14:08 - 01:31:44:23

Um, and then we don't put all of those back into the planning balance and, you know, lead to an unfavourably negative conclusion, perhaps because we'll already be considering the landscape effects on openness and so on under landscape and visual impact, for example. So I think we're at the same point there. I think so, yeah, I think for the applicant, I think

01:31:46:11 - 01:32:16:18

it's all complicated by terms of substantial harm, substantial weight. I think it's important for us to express that, that if it wasn't considered to be great, that we weren't considered to be CMP. So you're getting to the point where you're balancing m harm that we are placing substantial weight on the harm to the greenbelt, because you have to. But the harm to the openness, we believe is very limited.

01:32:16:20 - 01:32:55:27

And my interpretation is the council think that the harm to openness is substantial. So saying that there is substantial harm to the openness is slightly different to giving substantial weight to the harms of the greenbelt. I think I get the, the points from this that there's been obviously a lot of chewing and throwing on this, these points. And I think that the written submissions, in my view, anyway, is sufficiently comprehensive. But the point I was, um, trying to get to the bottom of was the,

um, the distinction between a greenbelt balance and an overall planning balance to avoid double counting.

01:32:56:13 - 01:33:25:27

Um, all that said, I'm more than happy for you to, um, make some limited submissions, you know, on the basis that we've had quite a lot already. If you think there's any points that need to be clarified from today. I appreciate that, sir. And I think it's purely just giving that reassurance on that double, double counting point. Yeah. Thank you. Is there anybody else in the room who would like to say anything on Greenbelt?

01:33:28:10 - 01:33:30:04

No. And anybody online?

01:33:32:27 - 01:33:46:26

No. Right. Well, then we'll adjourn this hearing for a lunch break. Wood coming back at half one 130. Be acceptable to everybody. That would give us about 40 minutes.

01:33:50:18 - 01:34:03:20

Seeing sort of nods from the council and the applicants team. Is that okay? Yeah. Is that okay for everybody else? Okay. Thank you. Well, we'll adjourn then until 130. Thank you.