



Hearing Transcript

Project:	Fosse Green Energy
Hearing:	Issue Specific Hearing 4 (ISH4) – Session 2
Date:	12 March 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.

AUDIO_FOSSEGREEN_ISH4_SESION2_130 326

Fri, Mar 13, 2026 1:32PM • 1:41:28

00:04

It's it's just gone 20 to 12, hearing resuming. Mr. Shape, Mr. Barton, isn't there? Are you happy that we we carry on?

00:15

Yes, sir, yeah. She'll be back in a

00:24

and then turning to requirement 20, which is decommissioning.

00:32

The first point on this requirement relates to enforcement.

00:39

And this question is directed at both the applicant and the council

00:44

in responding to

00:46

examination question

00:49

round one, DCO 124

00:54

the applicant considers that the words no lack

00:59

no later than means that there would be nothing to prevent decommissioning works being undertaken prior to the end of the anticipated 60 year life of the proposed development. And that's found on page 43 of rep two, hyphen 29

01:17

while that might be the case, the examining authority wants to be sure it understands what mechanism

01:23

would be to avoid a situation where the development was not generating electricity for several years, years, whilst not being in a sort of entering the decommissioning phase.

01:37

New Paragraph 6.14,

01:40

added to the framework operational management plan in rep to hyphen, 015,

01:47

which was made in response

01:50

to comments made by

01:53

North Kesteven in its local impact report and Lincolnshire County Council, Lincoln really Tongue Tied Lincolnshire County Council in its

02:06

local impact report covers periods of extended outage, ie more than 12 months.

02:11

What are your views on whether this would be sufficient to trigger decommissioning before the end of 60 years,

02:19

when we get to Lincolnshire County Council's response

02:26

in terms of your position, expand on its suggestion that you made in response to

02:35

examination question round One, DCO, 124, which you commented on at the page 13 in rep to hyphen zero, 4043,

02:49

that wording be added to the requirement to include a timetable for implementation.

02:55

Sorry, you added a comment about implementation. Do you see the changes that the applicant has made addressing your early cessation point,

03:05

turning to the applicant first. Any observations?

03:11

Reuben Taylor, for the applicant, I'm not entirely sure I've understood the point in relation to

03:18

the paragraph six, point 1.4, of the framework om.

03:25

Well, there's an amendment's been made to the OM to try and address the council's concerns. Yes, what happens in the early cessation?

03:34

How you get to the point of deciding whether that

03:37

is cessation for a reason other than the decision having been made for permanent decommissioning, decommission. We decommissioning. If I wore dentures, it would be a good excuse, but they don't.

03:52

It's all right, I'm still smarting from

03:56

trying to trying to say, what was it? Yeah, exactly. Not

04:01

even going to try again. So, yes, I think from from our side of the room, the

04:13

simple point is

04:16

that, as I understand what's in the the the OM, what we're

04:21

attempted, to try and do is

04:25

to

04:28

provide a mechanism where there is a long term cessation to explain The reason for that.

04:37

It may be that

04:40

if

04:43

it may be that the concern that you're looking at isn't, isn't specifically addressed by that, which is namely a situation where, effectively, generation has as permanently cease, but in advance of this 6060, years.

05:00

Is, and to use, as I understand it, that notification process. So whether notification is to the effect, yes, we've permanently ceased to then trigger the decommissioning process, I think is, is my understanding that correctly, yes,

05:19
the

05:20
as currently drafted. I don't think the the OM does actually achieve that,

05:28
and I think that's something that I'll need to take instructions on. Will need to go away and consider the

05:36
I mean, certainly, obviously, from the applicant perspective, it's difficult to see

05:45
circumstances in which that would ever be triggered, but

05:50
I can see that there may be a need to address the outside possibility of that event

05:59
so we can take that away.

06:09
Turning to North kisteman, did you have any observations, although it sounds like the applicant thinks it may need to tweak the wording anyway to provide greater clarity.

06:19
I think, sorry. Ben hunt, North cube District Council, I think some discussion with the applicant may be offline, might be helpful, but my initial reaction is, I think there may be a slight difference in perception here, whether we're talking about or when we're talking about,

06:39
a sort of extended period of outage,

06:44
permanent cessation, and when one leads to another.

06:50
And to give an example, Springwell

06:55
operation environmental management plan includes a short section which deals with giving notification of succession of generation from parts of the development

07:07
for about four months,

07:10
and then has a sequence

07:13

of timings thereafter, but it's got an end date

07:18

if that part sees the generation to say, 36 months,

07:24

then decommissioning requirements are triggered.

07:29

And the rationale behind that is to deal with situations where

07:35

at an early stage, prior to 60 years, a part of the development stops producing electricity, but it can't just sit there for the remainder of the

07:44

60 years without being fully decommissioned. Thank

08:01

you, Mr. Hunt and Lincolnshire chairmanship for Lincolnshire county council. So our position is largely the same. I think

08:09

what we're trying to get at is some sort of mechanism to secure early decommissioning if there is cessation of energy generation,

08:19

the notification procedure obviously allows for a specific timeframe, so if there is temporary

08:25

cessation, then the applicants to notify the local authorities and indicate why and what they're doing to try and resolve that. I think again, what we're concerned about is potential early cessation, which means that the infrastructure would basically be sitting there with the harms, but without any of the benefits.

08:47

Again, I think this Springwell Omp is a helpful example of how this has been addressed in practice, and a helpful mechanism which adds on basically to what is already set out by the applicant in the framework on peer beyond a notification, some sort of trigger required a trigger.

09:06

That means that, after a certain amount of time and after steps have been taken to try and resolve cessation of energy, if there is therefore thereafter ongoing cessation,

09:17

then early decommissioning is required.

09:21

So I think there is, there is an example of a mechanism that we would suggest the applicant considers in this case.

09:29

So if I might also just while we're on the paragraph six, point 1.4 of the framework o web,

09:36

the council has slight confusion just in respect to the last sentence of that so perhaps, if we could just ask the applicant to consider the phrasing of of that last sentence is perhaps slightly unclear where there's reference to the

09:50

last part of the last sentence, which is about including where the relevant planning authority agree otherwise following document decommissioning commencing pursuant to an approved.

10:00

Removed decommissioning environmental management plan. We're not wholly clear what that means, and so either if clarity could be given, or if the phrase, the phraseology, could just be reconsidered with grateful So,

10:28

is Thank you. Mr. Shapes Taylor.

10:31

Reuben Taylor, for the applicant, sir,

10:34

we will take those those comments away, I have to say, from from the applicant's perspective,

10:44

a mechanism that simply has a sort of arbitrary period within which effectively generation must recommend is not particularly attractive

10:57

because of issues that could arise, for example, if there's a catastrophic failure of a key piece of infrastructure that needs to be replaced, and the world is in a particular state where supply chains are

11:15

disrupted,

11:16

it may take longer than anticipated to get hold of that infrastructure. Or if it

11:24

might, it might mean that we missed the date by a week for the delivery of, I don't know, a new transformer or something, and suddenly we're decommissioning

11:34

a project which would otherwise be able to continue. So we'll look at the wording in spring. Well, we'll think about those sorts of issues. I'm sure that the local authority appreciate that sort of point, and hopefully we can identify a way forward that will satisfy everybody's concerns, but we understand precisely the concern that's being raised.

11:58

You and Sneddon on behalf of the applicant, just to support Mr. Taylor's response there, I believe, during the construction of Cleve Hill,

12:10

their two super grid Transformers were requisitioned to Ukraine to fix some critical infrastructure there, which then put a delay into their commissioning program. So that's kind of what we would like to avoid. If that was to suddenly happen to a replacement that we required, then suddenly we're decommissioning a working and still

12:40

viable plant earlier than would be expected.

12:47

So Sherman shake for Lincolnshire county council, can I perhaps just clarify? Obviously, that's not the sort of thing that we're trying to capture with this, with this early decommissioning trigger the grace periods that are referenced in the Springwell oemp also recognize that if the applicant is essentially taking steps to try and resolve the situation, there can be an element of agreement. It's really just to try and capture where there's been cessation of energy generation and no intention of recommissioning or trying to resolve the problem, so that the panels and the relevant infrastructure Don't just sit there

13:26

for the remainder of the consent period. So I think we're probably in agreement as to what the purpose of the mechanism is, and I'm sure we can agree some draft wording if the applicant is content to do so. Yeah.

14:11

Kim, and then I think that that takes us as far as we can go with with that

14:16

part of requirement, 20.

14:25

Thank you very much. Councilor, Mr. Silverton, Cliff villages solar Action Group and local councilor for this area.

14:33

The two questions, one is cessation for part of the site. So for example, if it were the batteries, and there are obviously harm caused by that, and it would need to be removed if it were not functioning. So are we talking about part of the site or the whole site? And secondly, the the other question is about the period?

15:00

And you know, three years is a long time. And if there is a condition that, you know, this has been mentioned, cessation, if it's

15:08

no apparent indication for getting it back online in three years, that's three years to get a repair is quite a long time. So I would have thought that that's very, very reasonable, more than reasonable for us, I would think, because we'd have the harm without the benefit for that period of time.

15:32

Thank you. I

15:43

that Mrs. Overson raises an interesting point about cessation and how that what it would actually mean, whether it is the development in its totality or an element of it. So I think that needs to be thought about in the discussion that applicant and the councils have in in trying to find

16:04

what they think is a mutually agreeable wording for the inclusion in the oemp

16:10

Ruben Taylor for The applicant. So, yes, we'll take that point away. I

16:45

so we're staying with decommissioning.

16:49

And this question is based on our second set of questions. Number 2.28,

16:56

of XQ two.

16:59

So we've obviously raised or touched on this matter previously, and we note the response that the applicant gave to the matter of funding for decommissioning in response to our first round of questions, and also the points raised by both councils during our second issue specific hearing back in January. However, we're also aware of the concerns expressed by several interested parties, and so we do consider that a further discussion around the funding of decommissioning would be helpful for us.

17:36

The applicants obviously made the point about the legally binding nature of complying with the requirements, and we also acknowledge that the applicant amended the funding statement at deadline two to clarify that the cost estimate for the proposed development included within that statement does include decommissioning costs

17:58

that was at rep 2009

18:01

however, we also note that the applicant is seeking the ability to transfer the benefit of any made development consent order authorizing the proposed development. And so what we'd be interested in hearing today

18:16

is the potential risks of relying solely on the enforcement of requirement 20 if there was no body with the funding sufficient to comprehensively undertake the decommissioning works 60 years into the future. And also what the advantages and disadvantages of some sort of decommissioning fund or restoration guarantee it would be just helpful to have the various parties views on those matters and turning to the applicant, please,

18:49

room and Taylor for the applicant, the

18:54

requirement 20 provides that decommissioning works are set out in the decommissioning Environmental Management Plan must commence

19:05

no later than 60 years following the date of the final commissioning,

19:10

and that prior to the commencement of those decommissioning works, there must be submission of a decommissioning Environmental Management Plan that substantially accords with the framework

19:23

that's at hyphen 191

19:26

and that has to be provided to the relevant planning authority for approval,

19:30

in consultation with Lincolnshire county council, national highways and the Environment Agency, and that requirements without prejudice to any other consents or permissions that might be required to decommission any part of the the development so the framework decommissioning Environmental Management Plan provides for how that decommissioning will take place,

19:52

and those requirements of the DCO are enforceable as criminal.

20:00

Offenses. Now, in addition to prosecution for breach of of requirement 20, there is an array of legal enforcement mechanisms available, not least the ability to seek injunctive relief. And injunctive relief can, and indeed often does, in these sorts of circumstances, include mandatory orders requiring steps to be taken,

20:30

and so in circumstances where injunctive relief is available, anybody who doesn't

20:39

comply with an injunction is facing a prison sentence,

20:47

and one without without limit, because the court has an entire discretion.

20:54

So the suggestion that that we're going to get to a situation where an operator doesn't have the funds to carry out decommissioning in submission of the applicant is entirely fanciful, because immediately, the directors of the company that would be operating would be facing imprisonment.

21:19

They would also obviously be facing

21:23

loss of other assets, personal and business as well.

21:29

And so the the the idea that we're going to be left in a situation where there isn't funding for these things, given the draconian nature of the enforcement provisions that are available is in the submission of the applicant passive form. But more importantly, in answer to a parliamentary question on the 16th of June, 2025

21:55

the government stated, and I quote, We do not currently have plans to require solar and battery projects to be covered by decommissioning bonds. Solar farms are normally temporary structures, and planning conditions can be used to ensure that the installations are removed when no longer in use, and the land is restored to its previous use. Solar panels can be decommissioned relatively easily and cheaply. It is a legal requirement for any company that imports, manufactures or rebrands solar products to join a producer compliance scheme, which then ensures their legal obligations are met most significantly, most significantly, for the collection and recycling of old PV panels. So that's the position that government set out in a parliamentary in response to a parliamentary written question of June of last year.

22:53

Accordingly, it's not necessary to include a requirement to provide a bond for decommissioning.

23:01

Obviously, we're aware that a decommissioning Bond was included in the Helios renewable energy project order in 2025

23:12

but that requirement was a requirement agreed by the applicant for the Helios renewable energy product project. It wasn't

23:23

as a result of the determination of a contentious issue,

23:27

and indeed that was agreed at the first compulsory acquisition hearing in that examination, which predated the parliamentary response that I have just referred to.

23:45

It's also important to remember that as a generation license holder, The Undertaker will be subject to any requirements of OFGEM in relation to how its affairs are managed appropriately, and if it was felt

necessary that could extend to financial or decommissioning requirements, as it does for other energy sectors, for example, nuclear and offshore wind

24:08

and so on, on that basis.

24:15

Sorry, I just, I'll just deal with one other point. A number of interested parties have asked how decommissioning would be undertaken if the undertaker went into liquidation. In the event that that occurred, its assets would be sold off, effectively to fund decommissioning of the proposed development, which is required pursuant to the to the DCO.

24:37

And it's, it's,

24:41

as I've already noted, the DCO is different from a planning commission in terms of the way it's enforced directly any breach as a criminal offense. So a decommissioning bond is not routine for energy DCOs, and although similar arguments have been advanced, requesting bonds in other states.

25:00

Solar, DCS, the DCOs, the the only one that has a decommissioning bond is the Helius one that I've just already addressed, and that predated the written, the written response to Parliament that I've, I've referred to.

25:17

And so on that basis, we the

25:22

the applicant submits that there is no reasonable basis on which it can be concluded that a bond is necessary.

25:33

Thank you, Mr. Taylor, and yes, I suppose with my minerals hat on and Mr. Gold's minerals hat on, we've obviously had experience with minerals permissions, which have been subject to some form of financial restoration, bond or guarantee. And I'm certainly thinking of the situation in Scotland several years ago, where one of the surface coal mining companies went into liquidation, and there were many conditions on those planning permissions requiring restoration and aftercare, but there is nobody there for the councils to enforce against because the company gone out of business. But I take your point that that's obviously Town and Country Planning compared to what we've got here. Yes, Reuben Taylor, who's putting up again, yes, those are not similar examples in my submission, because the breach of condition isn't a criminal offense. A breach of condition can become a criminal offense when you've served a breach of condition notice, but in those circumstances, it's very different. The liability for the operator is very, very different, and that difference is essentially crucially important one when one's looking in the context of

26:49

a DCO, not least because of the availability of injunctive injunctive relief,

26:58

and in terms of off-gems involvement, in terms of the operating license.

27:06

Do they, in effect, undertake a fit and proper persons test on every occasion the operating license is handed to another party? Because, presumably, can the license be passed on, or does a, potentially, a new Undertaker, have to apply for its own license to take on a generating site. How does that mechanism work?

27:30

Reuben Taylor, for the applicant, my understanding is that that you have to apply each time.

27:36

You can't simply pass a generating license on from one individual to another, the individual it's passed to has also has to obtain their own license. In effect, the license is personal. I think it might help if we can have a note on off-gems role and precisely how the licensing regime works. Think that's getting written down on the list. Do

28:07

I'll turn to the Councils now, just to get some comments about

28:11

based on the question what you've heard from the applicant, can I turn to the District Council first? Please? If I can ask the Lincolnshire county council lead first on this, and we'll come in with any additional comments we might have. Yeah, of course, Mr. Sheik, for Lincolnshire county council. Mum, I think our position set out in writing on this point. There are references to Helios indicates that there is an example of where a bond has been sought. Understand that submissions made on behalf of the applicant,

28:43

the reference to the statement, the ministerial statement given in relation to conditions, perhaps may not represent the 60 year temporal period and the scale of DCOs, which is slightly different to that that may apply given this reference to planning conditions. So TCPA schemes,

29:02

excuse me, but perhaps if we can take it away and respond in writing, in reference to specific points we've got, obviously noting that the applicant has updated their funding statement, which addresses this to some extent, and we'll address that and give any other examples in writing. Do?

29:34

Singer, Mr. Hunt, thank you. Ben Hunt, for North East District Council would take a similar approach. And we'll take this way for further legal advice and respond in writing. The only thing I would add is that part of what we're seeking is a straightforward route to ensure that the site is decommissioned. And it may be seen as sort of fanciful, this wouldn't happen, but we're not really interested.

30:00

In sending people to prison prosecutions, see the site decommissioned, and if there is

30:07

a bond available that might provide more straightforward and speedy route to achieve that aim.

30:15

Thank you.

30:38

Taylor, thank you. Reuben Taylor, for the for the applicant, just to deal with that last point, first that we're not suggesting that people should be sent to prison. What we're suggesting is that the threat of being sent to prison is sufficient to ensure that the directors of the undertaker will make sure that there is sufficient funding available for decommissioning. It's as simple as that. In relation to my own friends, points about the

31:09

whether the answer

31:11

in the the parliamentary question relates to town entry planning regime,

31:16

the answer that is, in the question that was posed Lord Kirk hope of Harrogate posed the question, and he asks his magistrate, His Majesty's government, what assessment they have made of the need to require that solar farm and battery energy storage system, storage system developments are backed by sufficient performance or decommissioning bonds to guarantee The removal of infrastructure and the full reversal of land to its former use in the event of insolvency or or project failure. And then the answer was given that I read out before. So it is not specific to town, Country Planning. It is a general answer to the position in relation to solar farm and battery energy storage system development provided by the government, the bond should not be used,

32:06

and so we rely strongly on that statement from last year. And of course, it post states the Helios development that my learning friend referred to,

32:22

Mr. Feltham,

32:24

thank you. Nick Feltham, for North Cassidy and District Council, just just to summarize the council's overall position here is that the risk and the need to avoid the potentially significant cost falling on the public purse associated with the need to decommission the site in any of these

32:40

albeit unlikely eventualities, and I accept that the you know, the enforcement steps and stages and the risks of court procedures, injunctions, the practicalities of that don't actually deal with the risk to what would essentially be the taxpayer and the public purse to potentially cover significant financial sums of plant and equipment being left in the ground. And Mr. Taylor's point about

33:09

to paraphrase, the resale value of plant and equipment that could be used and requisitioned to use towards

33:17

the cost of that decommissioning. I mean, there isn't the certainty of what that value would be relative to those costs at that point in time, and there shouldn't be a risk and a potential obligation of those costs falling to the public purse to remedy that situation. In a nutshell, is is the District Council's position. We will take further advice on it. Thank you.

33:39

Thank you.

33:42

Thank you very much. Councilor, Mrs. Marianne Overton, cafe, Duncan, local member,

33:49

this is really important,

33:52

because the sums of money are large. We have investigated the costs,

33:59

and they are significant

34:03

in some industries, the industry is required to put aside a percentage of money each year to cover the cost of decommissioning,

34:16

and that would be one way of helping A bond is much more straightforward, as has been mentioned. But even if it were not the full amount at the outset, it could be that it came out of the profits as the company was operating.

34:33

Secondly, we, as I think you heard at the open, as you did here at the open hearing, one of our members, Mike Campbell has investigated these companies at length and in depth and presented that publicly. So I think we all know the situation, and I think he has submitted that, or will be, if he hasn't already

34:57

the protections mentioned.

35:00

And by the applicant, sound straightforward, where you have

35:05

an English company or a British company

35:09

with directors who live in the country and have assets in the country that can be identified,

35:18

this is not the world we're in.

35:22

This world is one where you have temporary companies set up specifically to do part of the work, sold on quickly to another with subsidiaries. Tracing who is actually responsible is not going to be that easy.

35:42

And what if they are in China,

35:46

which is perfectly possible, as many of the companies do demonstrate they have directors in those countries and elsewhere.

35:55

It's not a straightforward business at all, holding these people to account. So it's vital that we have either a bond up front. I would suggest a bond up front, plus a percentage, which is coming out of the profits, so that they there is definitely going to be sufficient funding by the time decommissioning occurs.

36:20

It also worries me about the timing of the decommissioning, because, as we've discussed so for example, if the,

36:30

if the grid is said, they don't need this electricity after all, and they want it switched off,

36:36

and then the then the company, whoever owns that, is left with it, and I know they have contracts for a set period of time, is it 15 or 20 years?

36:47

So we're not necessarily talking 60 years.

36:50

Maybe that country won't cut that contract won't be renewed.

36:55

So that makes it all the more important, why the money is upfront as maximum as possible. Thank you.

37:05

Thank you.

37:07

Mr. Taylor. Reuben Taylor, for the applicant, and just would ask you to note that

37:17

the submissions that you've just heard on behalf of the North seven District Council and indeed from councilor Overton, don't address what I've just read out in terms of the government position in the parliamentary question. Indeed, their position is directly contrary to it. And will we would submit that in effect, to go with what they're suggesting would be to go against the policy approach in that written question.

37:47

But secondly, neither of their positions addresses the crucial point that any person operating the solar farm has to have a generating license, and the implications of that licensing regime in terms of regulating the operator and ensuring that they're fit and proper,

38:10

that is a key aspect that we simply can't overlook, and in my submission undermines pretty much everything that was said. I'll leave it at that. Thank you.

38:31

Thank you. Mr. Taylor, yes, it will be interesting to see the note that you're going to provide for us on the role of ocom and their licensing agreements.

38:42

Yeah, I suppose, yes. With my murals hat, it's something that I'm very conscious of. And I certainly note that you know, the minerals Products Association, for example, who are the body for aggregate companies. They obviously operate a restoration guarantee fund, specifically because they recognize the difficulties for planning authorities and enforcing restoration conditions when there isn't a company or a body that they can actually get to do the works because they've gone into liquidation. So it Yes, is something I'm quite mindful of.

39:16

Thank you,

39:18

Mrs. Overton, sorry. I appreciate the point, and I think there will be more coming out of this, but I live in the world of politics, and it can change on a sixpence, and I think the pressure is building significantly, so a statement made can easily be changed at simply answering a question. We all know that these things can change very quickly. We are talking 60 years, we have to make a strong case to defend the public purse, or indeed the and indeed the local people. So I think statements can change. And does the any need for the operator to be in this country? They don't have when we have an waste site, the operator does have to be on site.

40:00

It. You know, a responsible person has to be on site. I'm not sure if this applies here, because I understand. Well certainly we've got bio digesters that are run from from Denmark off the chap's front desk. He tells me he runs it. So it's they don't I'm not sure that they have to be in this country at all, and therefore not easily accessible. Thank you.

40:22

Thank you.

40:28

Think we've we've heard as much as we need to hear. On that point, the respective parties will make submissions

40:35

post hearing which we we will take on board. We may have further questions relating to it, or may take the view that

40:45

parties have set out their positions and

40:49

they are entrenched, and there's nothing further that we can

40:53

do in that regard, and we'll just take a view ultimately In our recommendation with respect to that particular point.

41:04

Now going to take quite, quite a jump, but it does relate to the discharging requirement. Going to go to schedule 15, which is the procedure for the discharge of requirements.

41:18

And this question is for both the applicant and the Councils

41:30

within schedule 15, paragraphs, two, point, sorry. Two, three and two, four appear to allow for a situation where an application to discharge requirement could give rise to materially or new,

41:47

sorry, to materially new or materially different environmental effects compared to those

41:55

considered in the environmental statement. Under what circumstances could such a situation arise, given that the environmental statement adopts Rochdale envelope approach,

42:08

which as paragraph 3.3, point two of the environmental statement in chapter three i, the proposed development, which is Rep one, hyphen 015,

42:20

advises that the likely significant effects of the proposed development would not exceed the reasonable worst case presented in the environmental statement.

42:30

So would paragraph two,

42:34

paragraph two three, serve a useful purpose, or should it be for the relevant planning authority when considering the discharge of an application or applications to determine whether or not an application was in scope of the yes, because if the if at the point of discharge, the local authority takes the view that an application actually fell out of scope, well, it's either got the opportunity to Turn it away or to refuse it on the basis that it wasn't on within scope. It just seems that that provision

43:10

doesn't really take you anywhere, because it's got to be ultimately, for the sector, for the

43:16

discharging authority, to decide whether or not it's got something in front of it, which it thinks is within the ambit of the mantle statement,

43:26

Mr. Taylor for the applicant.

43:29

So Reuben Taylor for the applicant. So the reason for all this provision relates to the deeming mechanism.

43:39

Because, as currently drafted, the the

43:45

approach is that an application could be made, and if it's not determined within a specified time, it's deemed approved.

43:54

Now you might remember a case. It's quite an obscure one, but given your minerals background, you might know it called Brown, and the Secretary of State that related to the approval of old mining permissions after the government enacted legislation to try and clear up the raft of old mining provisions that was were left lying around

44:16

post the 50s And 60s and in brown. What happened was the legislation allowed for an application to be made effectively, to have conditions imposed upon an old permission to bring the conditions up to to the modern era, and you made your application, and if the if the council didn't determine it within a specified time you were deemed granted a consent. And the Brown case turned upon the EIA implications of that sort of mechanism, because in brown, what happened was that the the argument was raised that effectively, the development can.

45:00

Consent that was granted was one that fell within the ambit of the environmental impact assessment regulations, and that because there wasn't an EIA process that examined the likely significant effects,

45:14

in effect, the deemed consent the Dean consent process was unlawful, and indeed, that is precisely what the I think it was the House of Lords. It's so long ago, but it might be the Supreme Court

45:28

determined in that particular case. And there were a number of other follow up cases to a case called Huddleston, which I was actually in and won on the same point, which is one of the reasons I know about it, and so the reason for the mechanism in the DCO

45:48

is that when the application is submitted, it is submitted with an appraisal of whether there are any new or different,

46:01

likely significant effects, so that where that is, where that appraisal identifies that there are no new

46:12

or previously unidentified, likely significant effects, you can deem the grant of permission on a basis which which doesn't offend against the principle established in brown.

46:26

That's why it's there. It's complicated. I hope I've explained it in a way that makes sense, but that that is the reason for it. And so the the

46:38

effectively, the mechanism requires there to be an assessment of whether what is being proposed has already been assessed and and

46:49

within the scope of the EIA, processes are already undertaken where it where it has and where the the local authority misses The date for determination. Then, as a matter of law, one can have a consent granted without offending against the EIA regulations.

47:12

So that's that's the reason for it.

47:17

I hope that helps.

47:46

Anything from the council, Mr. Shake? Shall we shake for Lincoln County Council? So yes, I don't think there's any dispute between us that it's for the applicant to provide at the time of their discharge application a statement to confirm

48:00

in relation to whether it would or would not give rise to any materially new or different effects, I think there is, there are other made DCAs which simply require a statement that indicates there will not be any materially new or different effects. Because I think the point is So, if I understand your question correctly,

48:22

there that the local authority, on discharging a requirement, can't obviously approve something that goes beyond what's been assessed in the ES.

48:31

So if that's right, there's no need for the applicant to say, for example, as part of the discharge application that something new has arisen that's not already been assessed because the local authority simply wouldn't be able to discharge to discharge that.

48:45

So perhaps the drafting might reflect other DCAs that have been made, which simply require the applicant to confirm in a statement that there are no materially new or different effects. Because

obviously, if an application came in and it said there were materially new or different effects, that would be beyond the scope of what's actually been assessed so

49:35

anything from North Kesteven on this point before I ask the applicant to respond to Lincolnshire, Ben hunt for North Coast, even district. Okay, so no, Mr. Shake has got ahead of me, and I think the sort of riders on these subsections

49:51

in the paragraphs

49:54

may be unnecessary

49:57

regarding the additional effects the applicant may have identified.

50:00

It. Mr. Taylor.

50:02

Ruben Taylor, for the applicant, will will take it away and we'll review it. We think it works fine as it is, but if it can be simplified then and it makes it easier for everybody in the future, then it should be so we'll take that away and see, see where we get to. But we've understood the points that have been made. Thank you.

50:30

Certainly. I think the review of the wording may assist, because that's it was seeing slightly complicated wording which raised the concern my angle,

50:42

and in different contexts, I've been dealing with a case which has found its way to the court, and it's kind of related to this sort of issue, and that's going to the Court of Appeals shortly.

50:54

But it's not an end set. It's

50:57

another area of work.

51:13

This next question, I think I know what Mr. Taylor's answer might be to it, but with respect to the deeming provisions that are in schedule 15 for the non determination of discharge applications. Would it be more appropriate for there to be deemed refusals rather than deemed approvals?

51:33

Room and Taylor for the applicant? No

51:38

you did ask for a yes or no answer at the beginning. So

51:43

that's very true. You're not content for other colleagues within this picture to have more cases to look at

51:51

same questions to Lincolnshire county council and then the District Council. Please championship for Lincolnshire county council. Mom, that's not a point we're suggesting either Mr.

52:04

Hunt, Ben hunt from North Coast, even District Council. No, we have nothing to us on this matter.

52:14

Nice to think answers all around on that one. Thank you. Do

52:42

right then turning to

52:45

paragraph five, which deals with fees. And this is really a question for the Councils with respect to the application fees, what is the basis for your seeking higher levels than that are currently stated in paragraph five of the draft order, are the levels you you're seeking? Are they? Do they relate to

53:09

the extent town

53:11

of Country Planning Act fees, which I'm not familiar with because I haven't had to look at those for ages. Or are the fee levels that you're seeking relevant? Or do they relate to something else? It's not clear to us where those fee levels are coming from.

53:27

So starting with North Kesteven and then Lincolnshire,

53:34

Nick Felton from North Kesteven District Council, and the genesis of the discharge of requirement fees

53:42

were originally from the planning condition discharge equivalency for Town and Country Planning with then a multiplier added to them. So our experience was from heckington fen, where we first tackled this particular issue. So the current fee rate is obviously not a neat match for anything within

54:05

the fees

54:07

schedule. However, those rates have been taken forward for beacon fen and Springwell and Eckington Fen. The different rates across different requirements reflect the estimates of time which officers feel are necessary to devote to the discharge of those particular topic areas the

54:44

or Lincolnshire anything to add to what Mr. Pelton said, Shall we shake for Lincolnshire county council? No, no, sir. My understanding is that the fees set out in the current iteration of the draft DCA are perhaps the outdated ones, because the fees, planning fees regulations have been a.

55:00

And updated as of April last year. And that is the that is the figure that the local authorities seek, which is a marginal increase on that already set out. But otherwise that is, that is where the relevant figures come from. So

55:45

So turning to the applicant, I think what you said

55:49

in response to the point that's been raised,

55:53

Shall we wait and see what comes out of the Springwell

55:58

decision as to what is or is not included in any made order for that that development.

56:08

So yes, that Reuben Taylor, for the applicant, that that's one way of moving forward.

56:16

I mean, from the applicant's perspective,

56:21

would make the point that

56:23

effectively adopting an uplift on

56:28

TCPA

56:30

fee levels is seems to be difficult to justify.

56:38

In essence,

56:40

what one would have to establish is that the workload associated with

56:46

a DCO solar farm discharging these sorts of matters is somehow materially different from the workload associated with discharging a condition under a solar farm That is regulated within the Town and Country Planning regime. Certainly, that's not a position we've seen justified yet.

57:10

So we have concerns about the levels that are being suggested, significant concerns,

57:18

but we were quite happy to to have further discussions and to to see we can bottom out a position in relation to

57:29

to that particular issue.

57:31

Thank you, Mr. Turning to the council. As far as Springwell was concerned, was this a matter of contention during the examination, and therefore something that the examining authority is likely to have to have had to address, and therefore the Secretary of State will have to address

57:46

in making

57:49

their decision,

57:51

or was it something that was agreed? The reason I ask is we, if it was a matter of contention, we'll get a clearer idea as to ultimately, how the Secretary State may handle it if the order is made.

58:05

Nick Feltham for northcast, Steve Industry Council, from memory, it was not a matter of contention. I think the fee schedule was agreed relatively early. If I could just come back on the point made by Mr. Taylor. I mean that the when we're thinking about the scales and multiplying up the scales, the footprints, the size area sizes, the expectation that discharge of requirement applications could, in their own right, be akin to 13 or 16 week major TCPA scaled submissions.

58:37

That is why we are thinking about the material difference between the discharge of a planning condition on a TCPA planning application versus the resourcing, the potential need for external advice, and the timescale involved in looking at materially significantly greater scales of development, but potentially also technical matters that need the requirement of

59:06

outside bodies, potentially and that needs to be reflected in a fair and reasonable and proportionate fee schedule.

59:22

So if I can just add to that, Shom shape for Lincolnshire county council,

59:26

I think that the origin of the requested fees on behalf of both of the Councils has been a matter discussed at various previous examinations.

59:35

My recollection from a number of those is that fees has not been a matter primarily in dispute. There has been slight variations in the actual figures sought in respect of when those fees regulations have then been updated. But perhaps if we can revisit that and confirm as an action point in respect of the specific question so about spring, well, whether or not that.

1:00:00

Likely to be a matter that needs to be addressed either in the recommendation report or by the Secretary of

1:00:13

State and on spring well up. I'm not quite sure where

1:00:18

I know the examining authorities submitted their report, but what the deadline is for the Secretary of State to make a decision. Does anybody know offhand where we might be relative to where we sit with this examination?

1:00:34

Nick Feltham for North guest Council. I am I recall this early April, 1 few weeks of April,

1:00:40

not too far off them.

1:00:44

We think it's the eighth. Yeah,

1:01:07

I mean, all I would say is, it sounds like this is still a matter that the parties need to discuss. Having been involved

1:01:17

with the discharging of similar provisions. They weren't

1:01:23

for a linear railway line.

1:01:27

There was a significant amount of work involved which the fee that was agreed because it was based upon the TCPA regulations at the time, was nowhere near

1:01:40

the level that was required because of the amount of work that was was involved,

1:01:46

but

1:01:48

that that's from my experience of having been put in that position, and that's, that's 20 odd years ago.

1:02:14

The due date for spring. Well, in terms of its decision has been confirmed. I think

1:02:19

case team have been able to check in the background three

1:02:24

month period will expire on the eighth of April, as to whether or not the decision is made, because that's pretty close to Easter so that might affect things.

1:02:38

So if I might, should be able to add a point to my shape for Lincolnshire county council in respect to the fees. Provision is set out paragraph five.

1:02:46

You'll note, of course, that there is a fee set out in respect of the first application for the discharge of each requirement, and then a much lower fee for subsequent applications, obviously, given we'll review the work schedule in terms of how sub areas might be split up. There may be numerous discharge applications put in in respect of each requirement for each area. This any application after the first one would only incur that much lower fee. So it's also it's also important to note that we're not expecting necessarily one discharge application for each requirement. There might be multiple, the majority of which will trigger that much lower fee. But of course, we can address, we can address and put that point in writing too.

1:03:40

Thank you, Mr. Chair. And

1:03:51

then a slightly old chestnut, and I take the applicant's point that this, where this,

1:04:01

the mechanism for discharge sits. There's

1:04:04

quite a very lot of variation in maid orders as to whether or not it's a free standing schedule, or whether

1:04:12

the mechanism is included as the second part within schedule two do starting with North Kesteven And then thinking, sure, do you have any strong views as to whether

1:04:25

there should be a free standing schedule or a part within schedule two?

1:04:32

Ben Hunt for North Coast, even District Council? We will go away and think about that.

1:04:37

But currently we don't have any strong views on that. Do

1:04:47

sure shimmy shape for links for county council? No, so I don't think we have any strong opinion on it. I think we're quite content with the way in which it's been drafted in this DCA. I.

1:05:00

I

1:05:02

mean, certainly I think you see a variety of orders, and some have gone self contained and some have gone

1:05:11

free standing. Think cases I've worked on, they've all been self contained,

1:05:17

but that's only

1:05:20

a smattering of the others out there, Mr. Taylor, Reverend Taylor. We don't have strong views either, but we've, we've followed what has been done in in this within the solar DCO

1:05:37

precedence that we could identify so

1:05:41

but that's

1:05:43

like the other parties. We don't have strong views.

1:05:47

It doesn't seem to really matter if either one of the councils were taking a strong line on the point, then I think we would be saying

1:05:55

we'd rather see it in a second part. But it's neither the Councils seem particularly concerned about the issues and

1:06:04

to avoid

1:06:07

major changes

1:06:09

in the audit, only in terms of how you get things in in the template, which is not the easiest thing in the world to use, I think, with the examining authorities is content to let sleeping dogs lie then,

1:06:38

that that does take us to um, gender item three, three, which is other schedules. Primarily we're going to look at schedule one, but we did that in

1:06:52

is issue specific, hearing three, and the takeaway for the applicant was to go and have a look at

1:07:01

potentially tidying up the works listed within schedule one. So I think that's already something that's in hands. We need not explore that any further.

1:07:16

Schedule three is applied, yeah. So

1:07:22

turning to the applicant on schedule three, which is the legislation to be disapplied, can you explain for us the justification for the disapplication of the various pieces of legislation that's listed in schedule three to the draft order? We're just mindful that there's limited or no justification included within the explanatory memorandum. So for example, what's the reason for needing to disapply the two pieces of railway legislation that's identified in schedule three? Thank you.

1:07:55

Reuben Taylor, for the for the applicant, yes, the

1:08:00

list of rather arcane legislation in that schedule is interesting. We, having seen it on the agenda, have refocused our mind on it, and we're currently

1:08:14

engaged in a quite detailed exploration of really whether

1:08:21

that legislation has to be supplied. The idea was to produce a list of local legislation on a precautionary basis, because in some cases, it can be difficult to conclusively determine whether or not the provisions of the legislation are, in fact, relevant to the order we're without doing a very detailed piece of work on on that. And I'm instructed that we will update that schedule in the light of that that work. So rather than take time now explaining to you about the the the

1:08:59

delights of the Lincolnshire courthouse act of 1809, which regulates the construction of judges houses and who pays for them.

1:09:08

I think we might defer that. We might be able to avoid it altogether.

1:09:15

And yes, and I'm reminded thank you that any that remain,

1:09:22

or those that do remain will be referred to explicitly in the explanatory memoranda, so that, so that the justification for their attention is there for you to see.

1:09:32

Yeah, I was that would be helpful. I think, as you say, rather than having a discussion about it. Now, if you're doing that piece of work, it makes sense to leave it until we see that and yes, obviously, if any is left in that you feel needs to be left in, it would be helpful for the explanatory memorandum to explain why.

1:09:53

Yes, and I suppose, tied into the other questions that I was going to ask about this, but won't.

1:10:00

Now, I suppose it would be helpful to also understand

1:10:07

if the legislation, no,

1:10:12

I think I'm getting myself tied in knots with the disapplication and application so and so. I'll leave it there. Thank you. Before I confuse everybody, even more than myself. I mean, for instance, the railway one, one was interesting. We had the discussion yesterday during compulsory acquisition, hearing two as

1:10:29

as to the point as to whether there is any operation railway land that would be affected within the order limits. And we generally, I think, reached a conclusion yesterday, having not heard anything contrary to Network Rail, or seen anything from them in writing as yet that there potentially isn't,

1:10:48

which would suggest that those two railway legislations, yes, do not need to be referred to Rubens over for the applicant. So I have to confess, I've not read the Great Northern Railway Spalding to Lincoln, act of 1878

1:11:03

I've read many statutes, but that's why I haven't looked at

1:11:07

but it may well be that it's simply not relevant, but there may be some residual rights or powers that we need to supply. I simply don't know at this stage, we are doing a very significantly detailed piece of work so that we can just get this right, and you've got, then got the explanations where we retain this application, and hopefully that will make your job easier and shorter. Any idea when that well, I'm just thinking in terms of whether we

1:11:37

will see it at, say, deadline three a or whether it's going to be later, just so we know what potentially you need to do on the schedule of changes. Ruben Taylor, for the applicant, I'm glad you brought that up, because one of the things on my I'm being urged very strongly on this side of the table is to clarify when

we provide the next version of the draft DCO, because technically, under the guidance you've already given, we'd have to produce one at three and at three a,

1:12:05

we're hoping that you might let us off the three and just let us produce one at three a, yeah, we certainly don't want a big collection of these things that rapidly come out of date.

1:12:15

Really, the draft order only needs to be submitted when substantive changes are being made. I mean, if, if at deadline three, you'd spotted a few typo type things, well, there's absolutely no point. So Reuben Taylor, for the for the we think it'll just become confusing if we do that. And we'd much prefer to just provide a single version of three A and we will do our best to deal with the disapplication issues in that trial. If this piece of work is going to take longer, well, it takes longer, it's unlikely to affect many interested parties. It certainly doesn't affect the local authorities.

1:12:52

It's just one of those oddities that we need to resolve, and I'm sorry that we haven't resolved it already. Yeah,

1:13:36

just conscious of time with we're going to have a quick look at protective provisions,

1:13:42

principally those that we didn't discuss yesterday, because that potentially involves national highways and the Environment Agency. Are people content that we

1:13:53

carry on sitting

1:13:57

it may well be that this won't take us very long,

1:14:01

and that we can conclude the hearing within the next 15 to 20 minutes. If it looks like it's going to take longer than that, then we may need to think about an adjournment.

1:14:14

So that's fine from from our side of the room. I've already taken care of the AOB point, which is the three a deadline

1:14:22

from our side. I don't know whether other parties have got many airb points.

1:14:29

Yeah, as we said earlier, we'll come back to the Councils as to whether they've got anything significant over and above what we've already discussed

1:14:38

as we're thinking about whether or not we need an adjournment North kestervan, Mr. Hunt, Mr. Feltham. Have you got many points to raise that we haven't addressed

1:14:50

this morning on the not a lot directly in relation to DCO. One minor point about requirement 17, which I might raise. Okay, and Lincolnshire.

1:15:00

Shape for linked county council? No so that there are a number of points which we set out in our LIR inspector of the draft DCA. I'm not intending to read them out, but simply, I'll do it now. Just point your attention to the fact that there are number of matters that haven't yet been addressed

1:15:15

that we say would be helpful in terms of updating the draft DCA. But otherwise, I'm not going to labor those points. I think we potentially then are in the position that we can continue sitting on

1:15:45

right? I think therefore we will take a look at schedule 14 protective provisions, and I think we'll, we'll start with

1:15:55

national highways and then the Environment Agency. Are there any points

1:16:02

that the sorry

1:16:04

national highways want to raise on position with protective provisions at the moment, and then I'll ask the applicant to respond to whatever we may hear from national highways.

1:16:16

Miss Brittany grave the national highways. Thank you, sir. Discussions with the applicant on the applicant on the protected provisions are progressing well, and we hope to reach agreement on an agreed form shortly, we'll update the examining authority at the next deadline in writing. Thank you. Thank

1:16:39

you. Ms grosser, I mean just that the examining authority is aware. Are there any particular areas that are perhaps more troublesome to you at the moment, or is everything generally okay?

1:16:54

Miss Brittany, Graham national highways, to my knowledge, yes, things are progressing well, but yes, we can give the update On that the next deadline.

1:17:20

Anything from the applicant, for the applicant? Yes, the position is that the protective provisions are substantially agreed, and we expect to be in a position to incorporate fully agreed protective provisions into the draft order at deadline, three a but

1:17:38

if that's not possible, then we'll take it as far as we can and identify what what

1:17:45

issues are outstanding, and we can hopefully deal with those in a future iteration of The draft order. But we're, we're essentially almost there. So

1:18:04

thank you. Then turning to the Environment Agency.

1:18:12

Alex Hazel for the Environment Agency in relation to protective provisions, the Environment Agency does not require any to be incorporated into the draft order.

1:18:32

Thank you, Mr. Is there anything else within the draft order that we haven't discussed that is of concern to the agency at the moment, or are you generally content? Alex Hazel for the Environment Agency, we're generally content with the draft order, but we'll respond to the examining authorities questions for deadline three relation to the DCO matters. Do

1:19:17

Thank you, Mr. Hazel,

1:19:19

anything from the applicant in respect of

1:19:24

any matters related to the environment agencies. No. Reuben Taylor for the applicant, no, sir. Thank you very

1:19:36

much. We've got all the protective provisions covered in terms of the update that we had yesterday

1:19:42

and that that we've received on national highways behalf today.

1:19:55

I think

1:19:58

this is over to.

1:20:00

Thank you very much, inspector. I just like to pick up the issue of the environment agency's requirements, protective requirements, and I understand that. I think what they're probably getting at is that they already have sufficient powers, but I am wondering if it's properly considered about the impact of

1:20:24

PFA's if there was a battery explosion and the amount of water was not available, because, although they have tanks on site, you've also got to try and get water from the Trent and we did run out this year, and three villages were without water for three days. I think it was because the water in the Trent was so low that it burnt out the pumps,

1:20:54

and therefore, you know, we were all out for a long period of time. So you can't rely on the ability to obtain water, and also once it's

1:21:06

contaminated by being used to cool nearby

1:21:11

battery storage, battery storage units containing the amount of water. We didn't feel that the calculations were sufficient to contain the amount of water that would be required if you had to cool those batteries for more than the two hours, I think that they were calculating when we Our experience shows it could be a number of weeks. So I am concerned that it's very hard to see how that can be

1:21:40

put in place adequately. But I would like to be assured from the Environment Agency that they feel they have sufficient powers, bearing in mind they might have absent operators to make sure absent from the country, I mean, not absent altogether that they might need to be able to ensure compliance. Thank you,

1:22:07

Mr. Hazel, are you able to comment at all on what Mrs. Overton has just said in terms of the agency's position with respect to the availability of water? My reflection, sorry, my recollection from the first round of hearings was that the applicant had

1:22:26

arrived at agreement with the water company that facilities

1:22:32

would be in place to secure sufficient reserve for the purpose Mr.

1:22:38

Hazel.

1:22:40

Alex Hazel for the Environment Agency, just on the point in respect of the protective provisions we we only usually request them to be included in a draft order in relation to this application of legislation. So that would be for flood risk activity permits,

1:22:57

which are not being sought in this draft order. So that's the reason why we do. We do not seek those to be included on the water availability point we're satisfied in relation to the water demand, as you

1:23:14

alluded to earlier. But

1:23:16

we're going to have to take away the points that councilor Overton has made, because we might need to discuss that with internal technical consultees to provide a full answer to that so we can provide a response to that in writing. If that's helpful,

1:23:31

thank you. Yeah, I think it will. Thank you. Thank you, Hazel. If you can address that post, hearing that would be helpful,

1:24:15

then I think that does take us to

1:24:19

Any matters from either North Kesterman And then Lincolnshire. So

1:24:24

Mr. Hunt,

1:24:26

Thanks, Ben Hunt, North Steven District Council. Just one fairly minor point, but it's something we raised in our submissions at deadline. One rep, 1058 in relation to, again, my favorite topic, permissive pass requirement, 17. And it's possible to be fair to the applicant that it doesn't appear to have been addressed in redrafting, because our comment was fairly concise, and it might appear to have already been something that was included. But.

1:25:00

We don't feel it has so requirement 17 deals with the provision of permissive pass, but I'm advised that, in actual fact, it doesn't require the applicant to provide any permissive pass.

1:25:14

It might appear to

1:25:17

in

1:25:18

paragraph four. But the difficulty is

1:25:23

that the trigger for doing any of the works only starts with paragraph one, which is prior to construction of a permissive path. It must submit details and then implement the details. Of course, if the applicant decides not to construct any permissive paths, it doesn't trigger the remainder of the provision. That's how I'm advised. So we've just asked if the applicant could consider this sort of expanded explanation I've given today

1:25:54

and take that into account it

1:25:58

might not have been clear in our original comments.

1:26:06

Thank you.

1:26:22

Mr. Taylor, any observations from Reverend Taylor? We see the point. We're going to take that away and address it.

1:26:50

Or Lincolnshire county council, are you prepared to rest in effect on what you said in the LIR? So really it's the applicant to

1:26:59

review what was commented on in that and see whether or not further observations are required and or changes for Lincoln chair county council. Yes, sir. And our LIR IS rep 1053,

1:27:11

and our comments on the draft DCO, a number of which remain applicable, are at section 22 so

1:27:41

turn moving to Taylor for the applicant, so that there's we've got quite a lot to do in terms of the GCA drafting. We'll do what we can to address the points that have been raised by the county council, but we may not be able to deal with all of them by deadline. Three a

1:28:00

what we are keen to do, however, is to have a meeting to go through those points. And it may be that we can usefully do that after deadline three a to then bring some some clarity, and hopefully some agreement on on the drafting to deal with the points that have been raised in that sort of way,

1:28:22

we suspect that a meeting of that kind might be the most expeditious way of getting to to an agreed physician that will help you sooner rather than later.

1:28:59

It's the shape for Lincoln's account Council, because you'd be, you'd be amenable to have a discussion with the

1:29:06

applicant to try and address those matters. I'm getting nods from those of you at your left Chevy shape for Lincolnshire county council, yes. So we're amenable to that. And I should also say, obviously not all of the points that we set out in ILO are remaining because some of them have now been addressed. There are probably six or seven outstanding points. There aren't, aren't loads to address, but it'd be helpful to have discussion, to consider which parts we agree on and our drafting points and which parts we perhaps aren't, aren't in agreement on. I think it might be helpful that within the statement of common ground that's coming at three a we at least get an indication that if there's

1:29:44

violent opposition to a point that's been raised by Lincolnshire, that's at least identified, so that we know that there is potentially an area that we need to particularly address. Whereas if there's there are points where it's just

1:29:58

a bit of drafting, then it's tweaked.

1:30:00

Being then we need not pay quite as much attention to that at this stage, retainer for the applicant, so that that's understood. What will, will flag any of those sorts of issues. Anything else will, will we can we can leave outside of the statement of common ground, but if there is anything of that nature, we'll be sure to flag it to you. Yeah.

1:30:32

Are there any other

1:30:37

business type matters that anybody wants to raise? Applicant indicating no, I think Yeah. Reuben Taylor for the applicant, none for us. So thank you very much councils.

1:30:47

This is Overton.

1:30:49

Thank you very much indeed. Marianne Overton Clifford is your solar Action Group. Like to thank you for everybody, for the work involved. And you in particular, both of you, I mean, both the inspectors in particular, thank you for that. And if I might just say a couple of things, if I might just in conclusion, is that we do remain concerned about the size and scale of this vast development in open countryside which has been so closely protected over many, many years, changing the very nature of the countryside. Sorry to and the other new point, we understand the point that's not really okay issue for this hearing, where this hearing is all it's DCO based, and it's all about mechanics of the DCO, irrespective of whatever recommendations Mrs. Wilkinson or I make

1:31:43

what what we are under a duty to do is try and make sure that, as I say, whatever recommendation we make, there is an order that the Secretary of State can consider

1:31:55

that is as full and fit for purpose as possible,

1:32:00

because once our recommendation goes That's it, and the Secretary of State has then got to try and deal with any outstanding matters, particularly with the mechanics of the order. So that's why this type of hearing is held.

1:32:15

But we don't, in this type of hearing deal with general matters of principle. We heard a lot about those during issue specific hearing two and at the open for hearing earlier on in the week. You did thank you, and I think that does demonstrate the importance of the matters that you are dealing with. And I appreciate the attention that you and colleagues are putting to try to get this in the best possible situation as possible, when really we think it should be refused entirely. Thank you very much indeed.

1:32:49

Thank you. Anybody online that has any

1:32:55

other matters they wish to raise, not

1:32:58

seeing anything okay, that then does take us.

1:33:04

Mrs. Wilkinson has appointment.

1:33:09

Thank you. I'm just conscious that at yesterday's issue specific hearing where we were talking about hours of construction,

1:33:18

we did touch on the enforcement point, and we said we would raise it today. So I'm conscious, obviously, that the Kemp, the construction Environmental Management Plan, which contains the hours of construction, would be secured through requirement 12. I think it is which would be subject to the council's approval. I think the point which we had been going to explore was about whether the wording that the Kemp, the framework Kemp currently has, is it sufficiently clear such that local residents would know what to expect, and indeed what not to expect, and also to allow for the council to monitor and force the activities.

1:34:02

However,

1:34:04

if you just bear with me,

1:34:15

sorry, I was just conscious of the time and whether it's best to ask the parties to put it in writing, but I don't think it will take too long. So if you're okay, just to sit for a few more minutes, and I'll turn first to the District Council, because I know that you were going to have a word with your environmental health colleague, being mindful that we might discuss it today, Mr. Hunt. Is there anything that you want to say on that point about about the enforceability? Really, I think of the framework Kemp in with relation to the operating hours. Thank you. Ben hunt, North Stephen, District Council, I'm afraid I can't give you an answer at the moment. I did have a brief initial discussion with Mr. David, who's taken it away as an action, and we've arranged to meet early next week to go over it so we can give you something in in writing.

1:35:00

Get deadline. Three,

1:35:02

that's fine. Thank you very much. Would the county council have anything that they want to see at this stage? Shall we shake for Lincolnshire county council? Not nothing at this stage. One, if we might also have the opportunities to put any points in writing.

1:35:16

Thank you. Does the applicant have anything that they want to see on that particular point?

1:35:21

Reuben Taylor for the applicant, we will have a review of the of the camp and see whether the wording does need tightening. We we

1:35:32

will obviously take on board comments once they're received as well. So it's a matter that we can take forward. It might take a few, a few iterations to get there, but we're alive to the point, and indeed, we have to remember that it's actually that this is just the framework, and the wording here simply provides the framework for what will actually be enforceable. Yeah,

1:36:03

thank you.

1:36:05

That covers the point. Then really thank you.

1:36:14

That then takes us to Agenda Item five, which is a quick review of

1:36:21

action points.

1:36:38

And again, I think what I'm going to suggest is, as we did with

1:36:42

issue specific hearing three, we'll have a quick cancer, but if your note can then be circulated to the council's and then once every content, it can be sent to the inspectorate, I think I've got about five on my list, but I suspect you might have a few more, because Some of Yours must have been break broken

1:37:03

broken

1:37:06

down room Taylor, for the for the applicant, I'm afraid I've got more than many, more than five.

1:37:14

Do you want to read them out just to Yeah, it will help. I think some of them possibly we're just taking as read you're going to do, yes, yeah, yeah, if you, if you read yours out, rather than me using my, my higher level one. So, to put it

1:37:33

that way, so, so the the

1:37:38

first action I've got is to update article 38

1:37:43

and the explanatory memorandum that goes with it.

1:37:47

The second is a note relating to

1:37:52

the interrelationship of of the project with the

1:37:57

regulation by of gem or of undertakers.

1:38:04

The third is to review schedule 15

1:38:11

in the last of the discussion we had.

1:38:16

The All is in

1:38:20

relation to the

1:38:23

spring Well,

1:38:27

recommendation or decision in relation to

1:38:31

to fees, I think that's a was an action on LCC rather than the applicant.

1:38:38

Fifth is to update

1:38:42

the DCO and the explanatory memorandum in relation to the disapplication of legislation.

1:38:50

The sixth was for the EA to provide a written response to councilor Overton's question regarding water and contamination.

1:39:01

And last is the

1:39:05

local the North custodian District Council and Lancashire county council to provide comments in writing on the

1:39:17

point about working hours for deadline three.

1:39:23

There were many other points I think we said we would do things.

1:39:27

We've got a list of those two, but those were the key actions do.

1:39:46

I've lost my chain of thought

1:39:49

in terms of seven the final action for North Kesteven and Lincolnshire county council was the comments on the working hours drafting in the camp.

1:40:00

I'm

1:40:15

just going to check my hieroglyphics.

1:40:49

Yet I've got nothing over and above what you had. Thank you.

1:41:08

Right? Well, then I think that does, then bring us to the close of the hearing. Like to thank everybody for your assistance this morning

1:41:17

and issues specific hearing four is therefore closed. Thank you.