



Hearing Transcript

Project:	Fosse Green Energy
Hearing:	Issue Specific Hearing 4 (ISH4) – Session 1
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_SESSION1

Fri, Mar 13, 2026 12:10PM • 1:25:43

00:00

Good

00:05

morning, everyone. It is now 10 o'clock. I'd like to welcome everybody to this issue specific hearing for which specifically, specifically concerns

00:18

draft development consent or order matters for the proposed FOSS Green energy project. Can I just check? Can everybody hear me in the room,

00:28

getting nods Thank you. And can I just check with those who are

00:32

attending online? You can both hear and see us? Can somebody please just indicate

00:40

yes, we can thank you,

00:43

and also check that the live stream and the recording, Yep, thank you.

00:49

My name is Graham Gould. I'm a charter town planner and and a planning inspector, and I've been appointed by the Secretary of State to be the lead member of the panel to examine this application.

01:01

I'm going to ask my colleague, Mrs. Wilkinson, to introduce herself. Good morning. My name is Frances Wilkinson. I'm also a chartered town planner and planning inspector, and have been appointed by the Secretary of State to be a panel member to examine this this application. Thank you. Thank you. Together, we constitute the examining authority for this application.

01:23

Also present from the planning inspector are the case manager, so Simon Ray wood and Jessica Dunlop, who is the case officer. You may well already have met both of them.

01:38

Also present are

01:41

members of the audio visual company that's providing support for this hearing. If for any reason you see us discussing anything with the

01:53

production 78 team, it will be because we've encountered some sort of technical issue, particularly with the live stream and or recording, and we're trying to resolve that before we continue some basic housekeeping matters. Can everybody please ensure that you've turned your devices and all phones to silent mode? The toilets for this venue are behind me in the corridor,

02:19

both gentlemen and ladies,

02:22

we aren't expecting a fire alarm today or a test, so if the fire alarm does sound, we'll need to evacuate the building, wait outside the

02:33

gates one to three and await instructions from a member of staff from the venue so that we can resume

02:43

today's hearing is being undertaken in a hybrid way, meaning that some are present in the room and others are online.

02:53

We will make sure that those who are online get the opportunity to participate in their fair way.

03:02

For those of you who are online, we'd ask that you keep your

03:09

mics muted and only switch them on when you are going to actively speak,

03:20

and if you wish to raise a point, if you can use the raise hand function in teams. And if you've if for any reason you can't get that to work, just physically raise your hand. And we'll bring you in at an appropriate time,

03:42

a recording of today's hearing will be available on the FOSS green energy section of the national infrastructure planning website as soon as practicable, following the conclusion of the hearing.

03:54

With that in mind, please ensure that you speak clearly into a microphone, stating your name and who you are representing each time you speak.

04:06

Can I just check has everybody who is participating this morning been present for at least one of these introductory briefings, and therefore is familiar with the GDPR? I think from the applicant side, looks like everyone

04:22

so certainly North kesterman, what Lincoln Chicago? Shall we shake the Lincolnshire county council, or we have one additional officer, but he's familiar with the GDPR, and those of you who are online, is

there anybody who's not familiar particularly with the GDPR, GDPR side of things, and how we handle the recordings as a piece of data,

04:45

not seeing anybody who's unfamiliar with the process.

04:50

I think we can continue on the basis, then that everybody does understand the process and the way the inspectorate keeps the material for five years post any decision made by the Secretary of State.

05:05

I also think this hearing is unlikely that any personal type information is likely to be raised anyway. So

05:12

again, I just give the general warning to avoid anything

05:15

being said that you wouldn't wish to be placed in the public record as part of a digital, digital recording.

05:23

The only official recording of today's event will be that that is on the website.

05:31

The hearing will follow the agenda that we published on the third of march under Library Reference, Ev, six, hyphen, 001, it would be helpful if people have got that in front of them, Could I also ask that the applicant arranges for that to be displayed on screen so

06:04

will conclude the hearing as soon as possible, having gone through the relevant contributions to be made by the parties.

06:13

But if for any reason, we can't conclude matters today,

06:19

we will indicate that certain masses can be dealt with in writing. A lot of our questions that are going to follow later are based on the written questions that we issued

06:31

in our second round.

06:34

We're not asking every question, but we chosen ones for oral

06:40

consideration today, because we think they perhaps need a little bit more discussion and can't necessarily just be relied on in writing.

06:49

Now going to hand over to Mrs. Wilkinson to do the

06:54

currencies. Thank you. Thank you, Mr. Gold.

06:58

So as Mr. Gould said, I'm going to now take us through the introductions when I state your name. Could you introduce yourself, stating your name, who you represent, and it would also be helpful for us, if you could indicate how you would like to be addressed. So for example, Mr. Ms doctor and so on. So I'll turn to the applicant first, please. Mr. Taylor.

07:24

Adam, thank you. It's Reuben. Taylor Casey for the the applicant

07:31

with me. To my right, I have Miss Redmond from wobble bond Dickinson, and to her right is Mr. Steddon. We've also got Mr. Titley online. I think he's less likely to speak, but he's available. Should we need him?

07:49

Thank you. Can I turn to the District Council please?

07:54

Thank you. My name's Mr. Ben hunt. I'm a charter town planner and sit consultants in North Kesteven District Council. And to my left is Mr. Nick Felpham, who Development Manager at the council. Nick

08:13

came to council, please. Thank you all. My name is Shamu Sheik. I'm of council instructed to act on behalf of Lincolnshire county council. To my left is Amy Charlesworth, who's a senior infrastructure officer at the council, and to her left is Mr. Andy Barton, who's a principal infrastructure officer.

08:33

Thank you.

08:36

I'll now turn to ms Grosvenor, please

08:42

Good morning. I'm Miss Brittany Grosvenor, representing national highways.

08:48

Thank you.

08:50

Thank you. And Mr. Hazel.

08:55

Morning, I'm Alex Hazel, representing the Environment Agency. You can address me as Mr. Hazel, please.

09:04

Thank you. And

09:06

Marianne Overton, please. Thank you, Councilor, Mrs. Marianne Overton MBE, representing the community as a district and county councilor and chair of the cliff villages solar Action Group, not represent, although a councilor. I'm not actually representing the councils, because they're very ably represented themselves. Thank you very much. Thank you. We obviously

09:30

don't have anybody else in the room, and I'm think I'm right in saying there's nobody else online. I think we've covered everybody. So in that case,

09:41

I'll take us through agenda item two,

09:46

which is the purpose of the hearing.

09:50

So the purpose of today's hearing is for us to hear evidence concerning the applicant's approach to drafting the development consent order and the accompanying explanatory memorandum.

10:00

Them submitted with the application, and any observations that interested parties with us today may wish to raise the develop the draft development consent order is obviously an important document, and I do want to stress that this hearing is being held on a without prejudice basis. So that means that even if your position is that the development consent should not be granted, and therefore that the Secretary of State should not make the draft development consent order. You can still make representations in this hearing on its drafting without conceding your wider position that the draft development consent order should not be made.

10:40

Importantly, this also applies to us. The X is holding of this issue specific hearing shouldn't be taken as us, having already decided what recommendation we will be making to the Secretary of State following the examinations conclusion,

10:59

Turning now to the questions. I mean, when we do ask questions, please ensure that you provide succinct answers where the question is deserving of a yes or no answer. Please provide

11:12

a response accordingly, followed by any application as you think necessary.

11:18

We will be taking a break this morning for around 15 minutes at an opportune time, depending on where we are up to in the discussion.

11:29

So before I hand back to Mr. Gold to take us through item agenda. Item three, is there any comments or questions that people have on the procedural matters this morning in the room

11:42
or online.

11:45
I'm not seeing any hands.

11:50
I'll pass back to Mr. Gold then to take us through at the start of Agenda Item three, thank you.

11:57
Thank you. Yep, this session is very much going to be a bit of a ping pong between Mrs. Wilkinson and I,

12:04
and

12:06
for the most part, we're either going to direct a question to the applicant or the councils. But if it's focused in that way, the other side will get the opportunity to respond.

12:20
That will equally apply when we've got discussion going with either national highways or the Environment Agency.

12:35
I'd like first to turn to Article Two and interpretation, and particularly

12:43
the definitions for commence and permitted preliminary works.

12:49
You'll have seen from our second written question, DCO to

12:56
09 that we've got some concerns about the quite extensive list of preliminary works,

13:07
and really as to whether all of those works need to be listed

13:13
in the permitted preliminary works definition.

13:17
And we have suggested that potentially, there seem to be three options. One is to have no preliminary works defined,

13:27

and the second one is to shorten the list to what the applicant thinks is the absolute minimum and to provide

13:36

clear definitions as to why you think those preliminary works are required in the explanatory memorandum,

13:44

or another option that might be to use exceptions within the relevant requirements, so that a requirement might start with the exception of work ABC,

13:56

and then carry on with the general text. So starting with the applicant. Have you got any general observations to make?

14:13

Reuben Taylor for the applicant, say yes in the light of

14:18

the agenda item and indeed the written question that you just referred us to,

14:26

we have reviewed much more carefully

14:31

the interrelationship between

14:35

the drafting In relation to preliminary works, and we recognize that

14:43

there is some, some, some work to be done to improve

14:48

the the mechanisms we are currently working on, a mechanism that effectively

14:57

identifies more precisely.

15:00

The relationship between permitted preliminary works, and by that, I mean the specific items and

15:11

when they're allowed to come forward and to ensure that appropriate mitigation is provided in relation to those works, the solution that we're working on,

15:23

I think probably

15:26

best can be, best be described as falling into the third of the categories that you've identified in DCO, point 2.09, In the second written questions.

15:39

And we intend to produce a

15:44

reworked draft to address those issues in the in the next draft for the DCO. Yeah,

16:04

thank you, Mr. Taylor. In light of what the applicant has said, Do either North Keston or Lincolnshire county council want to make any comments on this particular point, or do you want to hold off and see what the revised drafting in the order shows

16:25

council. So I think we're happy to review the updated draft in due course. I won't repeat the points we've already made in writing, but of course, we have referenced the extent of the definition in our response to the first round of written questions, and also reference which, again, is set out in detail to why we say a requirement, or some other mechanism that secures the nav and B substation being granted permission first should be secured. But again, I won't, I won't repeat those, but just to give you those references in writing, do

17:08

Mr. Hunt, yes. Mr. Hunt, yes. Duncan, North Caden District Council, yeah. We would take a very similar approach. We look forward to seeing the applicants proposals for amending the DCO in that way.

17:20

And I think we can contribute one extra point here, which relates to the action points from yesterday, but we can confirm, because a lot of our concerns around this relate to the the

17:35

navel be substation, its delivery, and our requests for an additional requirement and the effects of preliminary works around that, we can clarify that the

17:47

National Grid have indicated the application should be expected on the 27th of April,

17:54

so perhaps A little later than I may have

18:00

suggested yesterday.

18:22

It's you, Mr. I don't think anybody will hold you to the 27th of April as being a definite. Certainly, when we're expecting applications for acceptance, timelines often slip a bit,

18:35

which means daily inspectors that have been lined up to do the process have to be stood down to do something else. So yes, it can be a bit of a moving feast if the

18:46

applicant want to respond on anything that you've just heard from the councils.

18:51

Reuben Taylor, for the applicant attempted to get into nathanby, but you've got our position in writing that I think we understand the respective parties views on, even me.

19:04

Uh, remaining with Article Two,

19:10

there seem to be definitions for holding company and subsidiary.

19:16

They're referred to in Article Two, then those two phrases are not referred to anywhere else in the order.

19:26

Is there any particular reason why those two phrases are there

19:30

room and tailor for the applicant? We've

19:34

We've reviewed the DCO in the light of the question,

19:39

neither of those phrases are used anywhere else than the order we propose to delete them in the next draft.

19:50

So hands up, we made a mistake

19:54

on that point. Has a general review been undertaken to make sure that there is no other errand?

20:00

That definition. Those were two that I spotted, but there could be other bits and pieces. So Reuben Taylor for the mine structures, are the general reviews underway. I mean, it can work, because the opposite that there may be some definitions that are missing, and in that regard have, particularly the council's perhaps spotted anything that they think

20:22

isn't defined that ought to be defined,

20:26

anything from Lincoln, no,

20:29

nothing from the Council at the moment, but I think I'd say it should be worked both ways in terms of a review.

20:36

I mean, if, if we spot anything between now, particularly and US issuing our schedule of changes, we will highlight it in the schedule. But

20:45

it can happen that things get missed,

20:50

and generally in terms of, I know we haven't got to protective provisions yet. Are you trying to internalize any definitions that relate specifically to protective provisions to those rather than having a general definition

21:06

Ruben table for that. Again, I'm instructed that yes, that is exactly the approach that's being taken. Seems generally easier for all parties involved in that process.

21:20

Thank

21:26

you. I'm going to hand over to Mrs. Wilkinson for the next question. Thank you. So we have a number of questions around Article Five and the power to maintain the authorized development.

21:39

So firstly, for the applicant, and if you just bear with me, I've got a little bit of a preamble to go through, just to context setting. So paragraph 351,

21:50

of ES, chapter three, which is the proposed development, provides, provides a general description of the operational activities.

21:59

This includes the statement that a full panel and phase replacement is required at some point during the lifetime of the proposed development. Activity would be phased and would therefore be considerably less intensive than during construction. And then it goes on to give some indication of the vehicle numbers that are anticipated. Can the applicant explain what assumptions fed into the maintenance activities, why these represent the worst case scenario, and how this has informed the various other es chapters, such as traffic and transport, noise and vibration, waste management and so on. Thank you. Do

22:43

Hello, Euan Sneddon, on behalf of the applicant.

22:47

So to start with say the transport chapter, how we assessed the

22:54

replacement of the modules was to look at what would be a likely scenario that an operator would do for the face replacement.

23:06

The focus idea of a face replacement is to have continued generation from the site during those works. So hence the note that we wouldn't replace all of work number one at the same time,

23:20

because that, in effect, would stop the development from generating income for the Undertaker, and therefore, you know, add cost to that process.

23:33

And then for the actual transport numbers and how we worked them out, we looked at the materials that would be required for that replacement split across a number of years, and we assess that as part of the environmental statement.

23:47

From that basis, we then applied the same principles to the other

23:54

environmental disciplines in terms of their response to noise and traffic all came from that basis.

24:08

Reuben Taylor, for the applicant,

24:11

the assessment that you've got in the environmental statement for this replacement work

24:19

identifies that there's expected to be a peak of around 20 HGVs, or 42 way HGV movements per day, and around 20 staff car parking ships, that car, staff car trips, that's 42 way movements per day.

24:38

And but in reality, those the activities will be spread over a longer period and so likely to be less. No abnormal

24:49

indivisible loads are anticipated to be required, and those

24:57

vehicle movements represent around about 40%

25:00

Of the HGV activity and 10% of the car LGV movements generated during the peak construction of the proposed development, just to place it in context what we're proposing. Having looked at this issue since it's been raised in more detail, we've recognized that there needs to be a

25:21

little bit more detail in the framework, Operational Environmental Management Plan to to address this issue,

25:31

as is currently set out in paragraph two, point 3.3,

25:36

of the framework, Operational Environmental Management Plan. That's rep two, hyphen 015,

25:45

every 12 months from the date of final commissioning before undertaking maintenance for the year ahead, the applicants will submit a planned maintenance schedule to the relevant authorities,

26:03

and effectively what that needs to

26:08

that address is that excluding unforeseen emergencies, and unless otherwise agreed with the relevant planning authorities, the applicant will not undertake maintenance activities outside of the planned maintenance schedule and the maintenance schedule will reduce the monitoring responsibilities being assumed by the local authorities in terms of the effects that might otherwise occur.

26:31

In essence, what we're seeking to do is to use the OM to then tie

26:40

or provide rather parameters, particularly in relation to the vehicular movements as a maximum

26:49

parameter, or the maintenance schedules that are provided,

26:56

and in that way by by effectively using a Rochdale type envelope for that replacement activity, we ensure that what is done a isn't a wholesale replacement all at the same time, which is not intended, as Mr. Stead has explained, but B falls within that which has been assessed in the environmental impact assessment, and so we will be producing changes to the to the framework, operational, environmental management plan, to to reflect that we think that with that change,

27:33

the DCO itself doesn't need any any further change, because, Because, effectively, requirement 13, which I think is the right requirement to tie to the DOM,

27:46

effectively ensures that that the impacts of the replacement

27:53

are as they've been assessed. I hope that that's clear.

28:01

Thank you.

28:03

So just to make sure that I'm understanding what's been said. So

28:08

the reference to the traffic numbers that is both in the ES chapter three and what you've mentioned there, that's based on not just the sort of,

28:19

I suppose, day to day type maintenance activities like hedge cutting or grass maintenance. Those traffic numbers are based on if you were doing some replacement of the panels and other equipment

28:35

you and on behalf of the applicant. Yes, that's correct. So those numbers are for effectively, the phased replacement that we're planning,

28:46

and in terms of

28:51

identifying parameters within the OM are you looking at potentially giving some sort of indication as to what a phase of replacement. Its scale would be, whether that might be, I don't know, 10% 20% or whatever, in any given year,

29:13

it's written Taylor for the for the applicant here. I haven't got any instructions on that yet, because we are still looking at how the mechanism will work, but whatever we come forward with will be

29:28

a set of parameters that tie precisely to what's been assessed that that's we see. That's the key point here.

29:38

But it may be that we can go further and give more information along the lines of what you've just suggested,

29:45

I think that might the system almost certainly give the council's more comfort in understanding what would happen.

29:54

It might also give greater clarity about the replacement phase, just how long.

30:00

Problem, whether it's

30:03

all I'm taking in, say, a two year window, or whether it's a five year window,

30:09

because I think that, from what we've been reading from

30:13

both the councils and, for that matter, other interested parties, is perhaps of concern just Understanding the quantum in 2933

30:24

years, whatever it might be,

30:50

just going to jump ahead a little bit in our sort of list of questions, just while we're

30:56

on the the maintenance schedule, it seems quite a Good opportunity to ask this question of the applicant.

31:03

So in terms of what's currently written in the operational management plan in Section 2.3 which talks about the maintenance schedule that would be submitted,

31:13

it doesn't seem to require the approval of the relevant authorities. It would just be submitted for information. Am I right in my understanding of that.

31:23

Reuben Taylor, for the applicant, yes,

31:32

and through the review that you're doing now, you're not proposing to add that in room. Taylor, the applicant, no, we're not. What we're going to do is to create a framework om which ties what can come forward to what's been assessed in the environmental impact assessment. And so the logic is that no approval is going to be required for something which has effectively already been approved.

32:15

Okay, thank you.

32:17

Do the Councils want to come back on any other thing that applicant said, I'll turn to Mr. Hunt, Ben hunt, for North custody and District Council.

32:27

I think largely, we're happy to wait for the applicant's information and see how it all fits together. I think the examining authority is quite ahead of us in that when you say that an indication of timescales, scale of it would be helpful in our understanding of how the scheme will progress. Will be very useful. And given that the applicant has assessed something which includes a broad phasing

32:54

plan and replacement level, which is not entirely clear to us, it would seem a reasonable thing to do so, we look forward to seeing what comes forward. Thank you. County council. Shimmy shape for links to county council. Mum, I think our position is largely the same. We'll obviously review. I think our primary concern is that the definition of maintain is obviously very broad, and so we need something either within the face of the draft DCA or within one of the outline or framework plans that secure some sort of parameter. So we're quite happy that if the applicant is going to revise the framework om

33:27

and address some sort of maximum parameter, either in percentage terms or some other way, we can then review whether we're content with that and that secures it adequately. I think the reference in that we've made to spring while adding it as a cap on the percentage was as a result of the examining authority in respect of that project, wanting to have some sort of precision and enforcement for the local authorities when it came to actually considering maintenance some of those compliance as long as there is some sort of mechanism, whether it's through the framework plan or on the face of the DCO that secures it. I think we're content, but we'll come back and review that and respond

34:10

in writing in due course. I mean, you've just touched on spring as we understand there's, there is a bit of a difference in the Springwell has a duration of operational life for 40 years, whereas we're looking at 60 years. So presumably any replacement for spring well would be of a different nature. It wouldn't mean that wholesale placement. It is where there's defective units that need replacing,

34:36

which perhaps might step up towards the end of their 40 year period, because

34:42

they're not looking at replacement in the same way that our

34:47

applicant for this project is doing. It also sounds, from what the applicant has been

34:53

talking about this morning, that with the amendments to the operational management plan, the.

35:00

Point that were submitted to the Council for discharge, you would have a better understanding

35:07

of what it all meant. And of course, if there were matters in in that plan that was submitted for approval that were of concern, you'd have the opportunity to raise up with the applicant and or potentially refuse what was put before you at that point, but we we were certainly struggling a little bit, and that's why we've also asked the question, in effect, to submit the draft dummy schedules so we could understand what was happening, particularly around the replacement period. I think

35:38

we might still like to see that

35:43

again, it just helps get a get a feel for what normal maintenance might be versus what is more heavy duty replacement

35:54

maintenance that's understood. I think, from what I've been hearing from across the other side of the room, we're on the same page in terms of what we'd like to achieve. Hopefully

36:06

our next version will will, if it doesn't get there entirely, Will, very nearly, but we understood the point. We've understood the problem to solve, and hopefully we'll be able to solve that very shortly. Yeah.

36:28

Supporting some of our rusting papers because we managed to do quite a few issues all in one hit with that little discussion. That's fine. No, we

36:40

possibly got more helpful answers sooner than we thought we were going to get, which is good. I mean, that's how it should work. Well, I

36:51

haven't yet managed to find a humdinger of a question for Mr. Steddon This morning, but we'll see what we can do. Do

38:17

thank you for being up.

38:20

This is over to echoes the Overton. Thank you. Thank you very much. Councilor Marion Overton, Cliff village of solar Action Group. I just wanted to

38:28

raise the points about the maintenance versus decommissioning, because there are big changes coming in technology. We're going to come to decommissioning later, right? I'm just concerned that there is a confusion between the maintenance and the decommissioning. I want to support the point made. We need to be clear what's involved with maintenance, because I can easily see that it might involve changing a few more panels this month and last and so on, and actually end up a changeover as more efficient panels come into production. So I'm concerned to separate out the maintenance from the I should say recommissioning is decommissioning of those panels because they've run out. They have a shorter lifetime, 10 years. Perhaps, if they have that shorter changeover, we haven't been calling it decommissioning, but actually removing all of those panels and replacing them with new ones feels very similar. So I appreciate the point we need to really clarify the difference, because it does if you decide, if a company decided to replace all the panels, because new technologies come out, say, in the next three years, you know, that would be quite a significant amount of maintenance. And I think

39:52

there is a confusion there as to what's required. So certainly a cap, but also

39:58

it would change. It would make.

40:00

Very difficult for the council to enforce things like noise, vibration and traffic. You know, is this vehicle carrying a decommissioned panel or a maintenance panel? I think it's really difficult to enforce that. And is it 40 vehicles today at this site? Or what about the other access. It's extremely difficult to enforce. Thank you.

40:28

Thank you,

40:30

Mr. Stanton. Do you have any comments to make in response to what Mrs. Overton has said,

40:39

my understanding of the annual schedule

40:43

would be that you would identify in the annual schedule. In effect, what were routine maintenance? Say, year 11. For arguments, say, that is likely to be a routine year,

40:55

but somewhere, as you get towards the midpoint of 60 years, that's when

41:01

large scale replacement takes place,

41:04

perhaps to give

41:08

Mrs. Overton more comfort

41:11

without booking in actual pounds, shillings and pence.

41:18

Are you able to give an indication of what the the capital value in percentage terms of the panels is relative to the

41:30

scheme

41:32

project value,

41:34

because that might help that if it's if the panels are, I don't know 20, 25% that's not Something you're going to suddenly start changing every three or four years,

41:45

because there's a payback period for that investment.

41:49

Yeah, you and Sneddon on behalf of the applicant.

41:53

So that percentage terms is you're probably about right. 25 to 30% of the value is in the panels. They do

42:02

there. Once you've bought them and installed them, if they're working and continuing to operate, obviously that's free. The sun is free. So there isn't really the incentive to constantly change the panels.

42:16

There is. There's

42:18

usually some

42:20

failures of modules, particularly over such a large number on site. And usually how that would be handled on site would be to have spares stored on site. So if it was, you know, half a dozen modules around the site that had been detected as having failed, you would replace them from the spares that were stored on site, and therefore sort of no vehicle movements other than the general like maintenance van that you would be able to fit those modules in going between accesses.

42:54

Obviously, once that stock depleted, you might bring in

42:59

one transport trip of an HGV to bring in another batch of modules that might last you another year, two years, depending on that failure rate that you have. And

43:11

then, as you said, that the you know, the modules do degrade over time,

43:17

the manufacturers, at the moment, give you a power performance warranty that for an installation like this, using this type of module is typically 30 years, so they guarantee the output of the module and its degradation over those 30 years. And that's why we would be looking to do a phased replacement of all of the modules. So after the 30 year mark, after or around the 30 year mark, depending on on how that module degradation has progressed.

43:51

A lot of the times, what we found in the last kind of 15 to 20 years that utility scale solar farms have been deployed in the UK

44:01

is that that warranty has been exceeded. Typically, the degradation is not as bad as the manufacturers have warranted for as you probably would expect, they don't want to be paying out on their

performance warranty constantly so that they warranty a lower level than they're actually expecting the degradation to be so that's why we would have flexibility in the time when we could do the phased replacement of the modules,

44:31

and unless there was

44:34

an almost unimaginable increase in the performance of a module, I don't, I really don't think we would see an early replacement of the whole scheme, earlier than the 30 year mark, because you've already paid that capital to build it once, you know you don't necessarily replace your phone every time you wait until it's failed.

45:00

Go on his last legs before you buy a new one, because you've already bought it once, you don't need to do it

45:07

again. Obviously, we would be required to anticipate that a year in advance under these plans, to give the council notice.

45:18

Thank you customer note and thank you. That's helpful. I think it does highlight the significance of a annual plan being submitted to the council that they could review. And actually, it would be good if they could say that that's feasible and fits within the plan. You know, I think they need to be able to sign it off. Thank you.

45:42

And

45:51

so we're moving on to Article Six now, which is application and modification of statutory provisions.

46:05

I'll turn to the applicant. Can you provide us with an update on discussions with the Environment Agency with regard to the disapplication of the Water Resources act 1991

46:18

which is referenced in the Environment Agency is relevant. Rep, at EA, oh, five, and whether agreement with respect to this matter is unlikely or likely. Thank you.

46:32

Reuben Taylor, for the for the applicant, my instructions are that agreement has been reached, and the Environment Agency has confirmed that it's content to agree to the disapplication of bylaws made under schedule 25 of the Water Resources act, 1991

46:53

Thank you. Mr. Hazel from the Environment Agency. Do you want to

46:58

comment? Yes. Alex Hazel from the Environment Agency, that is correct. We have reviewed the applicant's response to the written representations, revision one, which is examination, library, reference, R, E, p2, Dash 030,

47:13

and we're satisfied with the applicant's response to this issue. In table two, dash two, the applicant's legal representatives have also been in touch with our solicitors to discuss this, and we're content to agree to the disapplication of these bylaws in this particular case, so issue EA oh five is now resolved.

47:36

Thank you for confirming. Thank you. Thank

47:43

I'll pass over to

47:46

Mr. Gould now for as part of our double act. Thank you.

47:50

Unfortunately, not as good as Two Ronnies, though, sure.

48:06

I'm jumping some way on then to article 38 which is the

48:12

interrelationship with planning permissions.

48:15

And again, this, this builds on

48:19

our second round question, DCO 2.04,

48:27

and the need for this article, given the way the Secretary of State is currently dealing with this type of article,

48:36

Basically deleting it every time it is seen.

48:40

Mr. Taylor.

48:46

Reuben Taylor, for the applicant, the the applicant continues to pursue this article, and notwithstanding the that It notes the position that the Secretary of State has been taking

49:04

it's it's really in in two parts.

49:09

So the first part of the article is sub paragraph one, and then the remaining parts of the article deal with what I'm going to call hillside issues, if I may.

49:24

The purpose behind the first part

49:29

is to deal with the risk

49:33

that a further related application under the Town and Country Planning Act may be required to

49:45

enable complete the use of parts of the development

49:50

without this particular

49:55

provision.

49:58

Then

49:59

there is.

50:00

A potential difficulty in terms of conflict between

50:05

what I might call a drop in Town and Country Planning application and the order itself.

50:13

And so what this provision is intended to do is to allow drop in TCPA applications.

50:22

So in our particular case, for example,

50:26

we are concerned to deal with risks arising in the future that we can't foresee now, which might affect the implementability of the scheme. For example, if fire regulations were to change. This is just a hypothetical example.

50:43

If our eggs were to change to suddenly require a fixed mains water supply to be provided.

50:52

Then in order to deal with that, we would need to make a an application for permission under the Town and Country Planning

51:05

Act, and so that it's to deal with that sort of

51:10

unknown that this provision is included.

51:15

The

51:16

the remainder of the of article 38

51:21

is essentially to deal with the

51:24

then

51:27

risks associated with hillside that arise. So once you, once you accept that there's a possibility for a drop in under one, you've then got to think through what the potential consequences are if that,

51:43

if,

51:45

if that drop in application is implemented.

51:49

And so in order to address the risks associated with implementing a subsequent permission

51:58

and its potential impact on

52:00

a an original permission that hasn't been fully built out. That's why we've included the second part of of article 38

52:12

and so I mean that in a nutshell, is the justification for it. I'm sure we can provide a much more eloquent version of that explanation than the one I've just presented, but that's why it's there.

52:32

The important part in terms of explanation is actually it finds its way into the explanatory memorandum,

52:40

because that's probably where the Secretary of State, Secretary of State would go, irrespective of what we might put down in writing,

52:48

to see the justification

52:54

in terms of

52:56

Sub paragraph one and the example you gave of I um,

53:03

needing to provide us water supply for firefighting purposes. Would it be the undertaker that had to lay that supply, or would it be the water company who might have permitted development rights available to it,

53:19

which might get you around this issue.

53:24

The the other way that it could potentially be dealt with, of course, is that if consent is granted, and then a variation is required that is made as an application to the Secretary of State as a post consent change.

53:42

Um, ish so Reuben Taylor for the applicant, well, in relation to permitted development rights, one can get into quite complicated and deep water very quickly, where PD rights are relied upon in relation to an element of development that relates to

54:04

a wider project which is subject to via

54:08

So, for example, in article 38 one, part of the criteria is that the development to which the TCPA application relates has To be required to complete or enable the use or operation of any part of the development authorized by the order

54:27

it would thus, in our fixed mains water supply, example,

54:36

that would be required in order to effectively bring the development into operation. And so it would form part and parcel of that,

54:49

the wider development,

54:51

which of course, is EIA development and the permitted to the, I think it's article 311

54:59

from the.

55:00

Memory within the the the

55:03

gpdo,

55:06

which this applies the GP do in relation to EIA development. So that's why I say it gets complicated quite quickly in relation to your second point.

55:21

Whether it's a change that would be that would be permitted

55:27

again, because there is

55:30

a risk that it may not be, and thus, it's a matter that

55:39

would require a separate consent process. Again, that's why there's articles. There is to deal with risks, unknown risks at this stage,

55:50

so that once the the order is is granted, we have the ability to then address something surprising that happens by way of further TCPA application.

56:07

Thank you. While you've been giving that report, I've had a quick look at the expenditure memorandum and how article 38 is dealt. I think it does need expanding, and I think you're going to need to put in as much justification with examples of scenarios

56:28

so that the Secretary of State can take a view, because it may not matter what the examining authority recommends. It seems at the moment, wholesale, this type of article is being stripped back to the bare minimum, Reuben Taylor, the applicant. So that point is, if I may say, well, made we've noticed the need for additional work on the explanatory memorandum, and we'll make sure that's done.

56:58

It's probably our first action point of the morning,

57:11

in terms of the discussion we had earlier about the amendments being made to the operation management, and we've just taken that as granted, that you're almost certainly doing that in response to the written question, anyway,

57:31

did the councils have any observations to make about article 38

57:36

and the explanation that's just been given nothing from either of them? Thank you.

57:45

I think we're now heading for schedules. What, what we're going to suggest is if, if the parties agree, we'll go through our questions, then if there are any articles or schedules that we haven't addressed, and the councils in particular,

58:00

want to raise a point. We'll come back and do that once we've been through our list of questions, we are making quite good progress. It has to be

58:09

said.

58:11

Thank you.

58:13

Yes. So turning to the schedule, schedule two on the requirements, we'll start off with the meaning of part of the authorized development which appears in a number of the requirements. And so, for example, requirement six, which relates to the detailed design approval, states that no part of the authorized development may commence until the identified details relating to that part have been submitted and approved

58:45

to us, that seems to suggest that there may be more than one phase. It would be helpful for the applicant to explain how the discharge of such requirement can practice. For example, would it be an area based phase or a component based phase, and if you could just maybe talk us through what the implications would be of those wordings relating to that part, please.

59:13

Reuben Taylor, for the applicant, Mr. Stead is going to speak in a minute, but we we've recognized that issue about what is

59:22

a part and so what we are going to propose is a change to the DCO

59:29

that requires the applicant

59:33

to notify

59:36

the relevant planning authority

59:42

a effectively providing a list of what is a part and

59:51

so it sets out what the parts of the development

59:55

would be. We're just working that up, obviously, that that would need to come relative.

1:00:00

Early in the process,

1:00:04

and so we're working on a mechanism to do that,

1:00:08

recognizing the difficulty that you've alighted upon. But I'll turn to Mr. Steddon, who I think has got something to say about

1:00:18

it. You and Snedden for the applicant.

1:00:24

I think Ruben's summed this up quite well around the clarification required for part. Typically on these we see that more as a work number based part breakdown. So for example, you might get the agreement for the site accesses, which in this case is work number eight

1:00:47

a I think,

1:00:49

and have those discharged in advance of construction of them, whilst you're still working up the final details of the detailed design for the other components

1:01:02

and proving tailor for the applicant, just just to set that in the context of the impact assessment, the impact assessment that's been undertaken was not based on any particular phasing. Rather, it assumed that everything was done all at the same time, and so on that basis, a phasing requirement that, in other words, providing a phasing plan and getting approval for it is not justified or necessary, because the applicant's position is the construction of the whole at the same time is already acceptable and established to be so and so, that's why we propose the simple submission of a list, so that everybody knows what The parts are. But that list doesn't require approval. So

1:02:06

you indicated that the list would be submitted to the relevant authority. Of course, in this scenario, some of the requirements are going to apply to North Kesteven, and some of them will so that will need careful wording, or it'll lead to this standalone requirement that makes it clear that A, B, C, goes to whichever of the the authorities.

1:02:31

Indeed, it may be that I should have said authorities when I when I said that, but we, as I said, we're working on the mechanism, and then we're alive to that to that point as well. That then may also assist at the point that we've raised about tweaking the wording of varying requirements, the May to the must type scenario. There may be an easier solution to dealing with that point arising out of

1:02:59

what is now becoming clearer as to what part actually will mean.

1:03:05

Reuben Taylor, certainly, we hope so we'll work it through and and hopefully by by the time you get the next draft, you'll be pretty happy with the position we've reached,

1:03:18

shape the link to county council. So I think we're content with that approach, and we very much welcome it just in terms of who the list is going to probably be helpful that it comes to both of the relevant authorities. Obviously understand that there are different authorities are discharging different requirements, but equally, the county council is a consult it's a consultee for some of them that it's not discharging, and it's also helpful in any event, is to understand how the works all fit together, or the relevant parts before there's going to be discharge application. So certainly welcome that it's a it's helpful detail, but if it could come to both authorities, we'd be grateful.

1:03:59

Sorry. There is also potential further complication in that, in that national highways have requested that they be a discharging authority in respect of works that affect their part of the highway, which is the A 46 and I understand it, some of that goes into FOSS lane, just looking at the land plans. So potentially national highways would also, depending on how the applicant decides to address the national highways point about discharging. I think the examining authority thinks that national highways have a fair point in that regard,

1:04:36

they will also potentially need to be factored in into this list so they also understand what parts they are dealing with as and when

1:04:47

we're

1:04:49

room Taylor for the we are getting ahead in terms of the argument about whether national highway should be an approving authority or not, but, but plainly, if.

1:05:00

If the position were taken that they should be then, then you're right. It would follow that they would have to be notified as well.

1:05:08

While you may make issue with that, I think what we would suggest is that when we see the wording for what's sounding like a new requirement, there might have to be an either or option, one that does the local authorities only, and one that does local authorities plus national highways.

1:05:27

Reuben Taylor for the applicant. I'm sure that's right, and we can cater for that.

1:05:33

And I would also suggest that as we sounds like we're going to be adding a requirement to the draft order, although it might not fit sequentially, at least at this stage, number wise,

1:05:45

it follows 20 or you perhaps at this stage, use a letter for it so that there's consistency up to the point we get the final version.

1:05:57

Because when you start changing numbering midstream, it can, can cause a lot of confusion?

1:06:04

Reuben Taylor, for the applicant, will do our best not to change the numbering. We might just add it into an existing one already as a sub paragraph, but we take the point do

1:06:24

May I be able to add just a little comment, yes. Ben hunt from North esteem this accountable again. We look forward to seeing the applicants detail on this understand the principle.

1:06:38

Could I also ask and not wishing to jump ahead that

1:06:42

when the applicant prepares the list and the revision to the requirements that they consider what the other requirements require by way of things like approvals of management plans, because we don't want to be end up in a situation where we Have 34 parts and we have 34 construction environmental management plans for asking.

1:07:18

On that point, does the applicant have any views as to how they might manage.

1:07:27

Mr. Snedden gave the example that perhaps the construction accesses would come through as a parcel, and potentially would other early works go into that package. Reuben

1:07:40

Taylor for the applicant, I think we'll have to take that one away and think about it. Obviously, I think we'd be very keen as I mean, any developer would be keen to avoid a plethora of different

1:07:53

management plans, because it's as difficult for them as it would be for you.

1:07:58

So we take the point. It may be that the sort of approach that might operate well would be to have a

1:08:06

single plan with the ability to potentially provide

1:08:13

a plan for a particular work that derogates From that general the general plan in particular circumstances, if that's necessary. But we may not even have to go there. I'll have to take instructions, and we'll formulate the mechanism, and hopefully we can get somewhere that everybody's comfortable

1:08:41

with and turning to national highs, not about the general point as to whether or not you should be a consenting authority,

1:08:49

but if you are an approving authority for works affecting

1:08:57

your part of The highway network, are you content with this suggested mechanism in terms of being able to identify what the parts would be? Is that

1:09:08

something that you would also favor?

1:09:14

Ms Grosvenor. Ms Brittany. Grosvenor, national highways. Thank you, sir.

1:09:19

I think I'll take that question away and respond in writing, if that's okay. Yes, that's fine. Thank you.

1:09:40

And is this new requirement likely to find its way into the next iteration of the draft order?

1:09:47

Ruben Taylor, with the applicant, I've been instructed that we're going to make an attempt to

1:09:55

I think it would be welcomed by all parties as a.

1:10:00

Might stop us having to ask repeats of certain type of question that we've been asking that you've you've seen Mrs. Overton.

1:10:08

Thank you very much, Inspector, sir, the I just want to pick up the issue of whether there is a sign off by the councils or the various authorities, or whether it's just a notification. I take the point that was said that if the whole thing has permission anyway, it can just go ahead and so all at once. But we did talk about the cumulative impact engaging with other projects, so I think it needs to be signed off by the Council. This, this, literally, the the this requirement that we're talking about, which is a brand new requirement, it's just literally a management mechanism within what might be a made order, so that people understand what part means, or whatever new term that might be used instead of

1:10:55

so that there is clear as to what has to be done under each individual requirement

1:11:02

and what triggers the submission at what point?

1:11:08

And that's, I think, a slightly different point to the one that you're raising about other projects and coordination.

1:11:18

I mean, as currently drafted, the various requirements, for example, relating to the construction, all the management plans and so on would be submitted to the relevant authority for their approval. So

1:11:47

the next question is, of a general one, it's the substantially in accordance with phraseology

1:11:56

we've indicated. We've got concerns about that phrase and

1:12:02

think that it can be dealt with by taking out substantially. The secretary of state recently has been taking a different approach, and has been saying that

1:12:14

when the final management plan is submitted for approval, it must accord with the framework or the draft version,

1:12:25

which is potentially problematic, because why submit another document if you've already submitted something that you must accord with?

1:12:35

So that's something that is a bit worrying to the examining authority, and perhaps might be worrying to the applicant. For that matter, might be worrying to the local authorities.

1:12:47

But do you have any further views on

1:12:52

the point about including substantially in in the relevant

1:12:58

so thank you. Reuben Taylor, for the for the applicant, it's the applicants used the phrasing substantially in accordance with the

1:13:07

various management plans referenced in the requirements, in order to retain the necessary flexibility for the detailed design of the proposed development and thus the specific details of the mitigation accompanying it reflected in the final version so the management plans to be approved. That flexibility

1:13:28

is necessitated as the drafting of the DCO adopts the principle of using a design envelope, which has been recognized as appropriate for a wide range of NSIP development that approach ensures that the detailed design of proposed development is in accordance with the design commitments, the proposed development parameters and details listed in requirement six of schedule two to the DCO,

1:13:56

basically the Rochdale envelope approach that I've spoken about already that ensures suitable flexibility is incorporated into the design of the proposed development to allow new technology or different layouts to be utilized whilst remaining within the scope of the likely significant impacts assessed in the environmental statement

1:14:20

the applicant

1:14:22

submits that the flexibility is justified as just like any incident in the consenting process detailed designs yet to be undertaken, that design process will take place post consent, and at that time, it may be necessary for the applicant To carry out some detailed design related surveys or investigations. The findings from those surveys or investigations may mean that the measures outlined in the various framework management plans are no longer necessary or may require revision. Additionally, some measures may need to be made more specific in accordance with.

1:15:00

The detailed design of the proposed development in order to ensure that they effectively deliver the precise mitigation that is necessary, and such flexibility is required to allow for innovation in the provision of mitigation measures that may evolve prior to construction and which might provide a more effective method of delivering the management or mitigation measures to be provided than those suggested at the stage when the framework plan was drafted. So the use of the word substantially allows updates and amendments to be made as necessary

1:15:41

as following the detailed design phase of the development and the various management plans, of course, are essential to provide effective management of mitigation for the effects of the proposed development. So the use of that wording substantially in accordance with ensures that the management plans can be updated to accord with the detailed design whilst remaining predominantly consistent with the frameworks, and that the use of that wording has recent precedent in the Fennec solar order 2026 made in February of This year, as well as the tilbridge solar order 2025 the gate Burton energy Park order of 2024

1:16:26

the mallard pass solar farm order of 2024 and the hackington fen Solar Park order of 2025

1:16:35

and Indeed, as we understand it in rep one, hyphen, 085, nkdc has explained that it is content with the wording, and it identifies that the use of that phraseology is approved in case law, and it refers to the Swire case, and there is the protection that the council has to approve details anyway.

1:17:01

And so

1:17:04

the nKC nkdc suggests that the wording gives it desirable attitude to accept minor variations which may be better.

1:17:15

And so on that basis, the applicant says that the use of that phraseology is acceptable.

1:17:23

Thank you, Mr. Taylor,

1:17:27

I could refer to fairly recently made order that I'm was involved in, which is five estuaries offshore where we see the section eight went with must accord.

1:17:38

So I think we can go through various of orders, and there is

1:17:44

variation. I'm just going to use another word, but I won't use that word because I wouldn't be thanked for using that word. I think elsewhere,

1:17:55

do either North kestervan or Lincolnshire want to comment on this particular point

1:18:02

on North steam District Council, yes, Mr. Taylor's relayed our position accurately, and we haven't changed

1:18:20

it. Shall we shake for links your county council. So the county council position is the same as that of the District Council, which essentially is that we don't think it results in undue flexibilities the applicant, and indeed we welcome the flexibility because we think it's beneficial for the reasons that were already set out. So

1:18:48

could I ask that both councils, in whatever post hearing submissions you may address this point expressly

1:18:56

that you're supportive of that phraseology. That's something that we can put before the Secretary of State in that regard, I mean a possible other form of words that might work

1:19:12

would be something like in accordance with the principles set out in

1:19:19

whichever of the relevant document.

1:19:28

Applicant first, and I'll go to the Council on on that so Reuben Taylor for the applicant

1:19:36

that that is a form of words I've seen before, and indeed those instructions may have seen before.

1:19:44

We're not so keen on that phraseology, because it does raise issues as to what are the principles in the document,

1:19:54

but

1:19:56

it's certainly something that we can consider. I.

1:20:00

Um, our preference certainly strongly remains the phraseology that's already there. I mean, it might be that with the

1:20:09

principles term, it's better suited to some requirements than others, or some of the management plans than others. So perhaps if you could have a look and see whether or not that might fit some better than others. North kesterman terms of using in accordance with the principles set out in whatever framework, any any view.

1:20:33

So Well, I think we'll have to take this away and take advice. But our initial reaction is, we're concerned about that,

1:20:41

that it it might even offer a wider range of flexibility to the applicant than use the term substantially and for the general public looking in on a decision made on that basis, it might be more difficult for them to understand

1:20:58

how a particular item has been approved,

1:21:02

and using the word substantially, which is perhaps more easily recognized in a common sense,

1:21:08

way,

1:21:10

and to shape, shape of lingerie county councils, our positions probably the same,

1:21:16

which is, firstly, I agree with Mr. Taylor, insofar as it's not, perhaps not wholly clear what the principles of each framework plan might be. But secondly, in any event, is, is that the wording seems to be a

diluted version which allows more flexibility in comparison with substantially in accordance with. So our position would be that we still think substantially in accordance with is preferable. But we can, of course, set that out writing as well. I think that would be helpful. And actually,

1:21:49

I'll broaden that slightly and maybe suggest that you also address the must accord point, because that seems to be, in certain instances, flavor of the month.

1:22:08

So I think that is an action point I haven't noted down because I'm writing other stuff, but if you can pick that up later, I

1:22:43

Ruben Taylor, for the for the applicant, I think that's one of the points in one of your written questions. I think it might be DCO. Point two point 10, it is, yeah, so, but it's actually we've had a useful discussion of options which we have we don't necessarily get through just doing it, mighty Mrs. Overton

1:23:04

councilor, Mrs. Overton, to fill your sole Action Group and represent a local area. I really appreciate the discussion. I think we're all trying to get to the same point here. We want to try and make sure that nothing drastic and damaging comes out of it that wasn't expected. But I think, and I appreciate that the It might even be worth putting both faces together, I guess. But I think it is difficult, because if you, if you changed a whole field, say you move the battery into another field, the batteries into another field, and you might say, well, it's still substantially the same,

1:23:41

you know, because if you look at the overall project, is so huge that you can make significant changes within that, and it would still be substantially the same. So I think and that something like, you know, some of these changes could make a very significant difference to the locality, bearing in mind the road network, where people live, and so on. So I think I appreciate the discussion, and I think the stronger you can be on this point, the better. Thank you.

1:24:10

Yeah. But underpinning all of that is that whenever a required requirement was being submitted for discharge, whichever local authority would be responsible and which other one was the consultee would be looking back at what the environmental statement said about the point and what was shown on the various

1:24:29

drawings.

1:24:31

Design parameter type drawings, if there was a concern that the applicant had departed too far, they've always got the scope to say sorry

1:24:42

you've gone too far. Either amend or will refuse. Thank you.

1:25:11

I'm just wondering whether we might we're almost at half past 11 with this might be a convenient time to have a shorter German, if nothing else, to stretch legs, because these chairs a

1:25:22

little bit uncomfortable if you're sitting on the ring again at

1:25:25

the time. Are people content that we take an adjournment, say, 15 minutes and resume at 20 to 12?

1:25:33

The hearings there or journal until 20 to 12? Thank you so.