

AUDIO_DEANMOOR_ISH1_SESSION4_1111 25

Tue, Nov 11, 2025 3:58PM • 1:26:13

00:05

I will. I will reconvene the hearing now it's 25 past two, and I'll assume the applicant is back in the room.

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Thank you, Mr. Marsh, could I ask you to come back to me on the point that was raised in relation to alternative sites, please,

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Shamash, for the applicant. So we have had a discussion on this, on this point, and we do

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have a stance that, again, I think would be it's more appropriate, because it's relatively detailed, to put it in writing. But also,

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I think it would be, it'd be useful to undertake a comparison with other with other schemes,

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just to ensure this consistency with our approach.

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So I hope that's that's okay. That's fine. Mr. Marsh, thank you.

01:00

I just wanted to raise one point in relation to the bond that you mentioned on stone Street. I'm

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not sure whether you have it to hand, but we're sort of in the background trying to locate

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the relevant provision.

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We've located a bond in relation within the protected provisions in relation to grid works,

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but not in relation to a bond for the for the decommissioning of the site.

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Okay, thank you. I don't have it to hand, but I mean that may be that may well form your part of your response. So I will leave, leave that with you, if that's okay.

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Okay, thank you. And there was one other point, which is a hangover from this morning, and I

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completely forget the point that was raised now. It was in, I think, in relation to

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environmental statement, impact assessment, and possibly the preliminary works permitted. Preliminary works, I'm

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not sure if Miss Graham's on the call, and he could perhaps remind me what the question was, without going back through my notes. And the answer from the applicant was, you're going to come back to me this afternoon with a with an answer if you were able to do so.

02:26

Just Graham for the applicant. So I think the point was the extent to which those permittedly permitted preliminary works had been considered at all within the environmental statement. And if it's okay, I'm going to bring in Rob devas again to speak to this point. Okay, thank you.

02:46

Rob devas, on behalf of the applicant, so the assessments in the environmental statement, they haven't considered the primary work. Primary works because likely significant environmental effects in respect of those activities are not anticipated, and under the requirements of the infrastructure planning environmental impact assessment regulations, 2017, only likely significant environmental effects resulting from a proposed development are required to be considered rather than all possible environmental effects.

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Thank you. That's helpful. But is there any other, any other documents where this has been addressed? So for example, perhaps the planning statement, or another document which explains the extent of the permitted preliminary works? And

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I'm, I guess I'm looking for the applicant to try and as I've used this phrase before, but bridge the gap between what's proposed in its entirety and what's required in environmental impact assessment terms, and just after some kind of statement from the applicant to give me some assurance that it has been

considered, but effectively, it's been ruled out on the basis that it Wouldn't in combination results or cumulatively result in significant environmental effects.

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I should add that you are required. You are going to come back to me in deadline five anyway, in a response, as a response to this question. Anyway, so

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Robert of us, on behalf of the applicant, yes, we'll come back to you in writing in respect of that question. Okay, that's helpful. Thank you, in which case I'm happy to move on and we will move on to the agenda. That's okay.

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So this morning, I did indicate we may change

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the the agenda order. I think unless there are any objections, I think it's easier for my or myself, more than anyone, just to stick to the agenda as it stands at the moment, just to prevent any confusion or anything being missed if there are any immediate.

05:00

Concern, particularly from interested parties, including the National Park and Historic England. Then please do raise your hand now. Otherwise, I will proceed on the basis of the agenda as set out.

05:18

Okay, thank you. I will continue

05:22

with the agenda then. So the first item is going to be, oh, sorry I had missed something. Actually, just updates on statements of common ground. That's item number two. Could I ask the applicant just very briefly summarize the position? And I understand there has been an updated statement of common ground with Historic England.

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Can you remind me, has there been a further iteration of the statement of common ground in Natural England? Mr. Marsh? Are you able to just elaborate on the position

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Richard Marsh for the applicants we've heard in relation to the sscg with the Council

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and the National Park and Historic England, I'll pass over to Jonathan Legg, who's the lead on planning to give a more comprehensive update on on all the sscgs. Thank you.

06:21

And so yes, my name is Jonathan Legg. I'm representing the applicant.

06:28

So the I'm going to give a list of the socgs where we've agreed just before I sort of go on it, I'm pleased to say that we've made really good progress in this area, and all but one socg is, is now has all matters agreed. So I'll just summarize those that have all matters agreed, and then I will go on to those that

06:52

have the the remaining socg that has a couple of matters outstanding and under discussion.

07:00

So firstly, the mining remediation authority, we agreed that early on in the process, the Lake District National Park Authority, Cumbria Wildlife Trust, the Environment Agency, Natural England, national highways and Historic England. You mentioned Historic England?

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And yes, we've submitted an update to that

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this week, ahead of the hearings, thanks to Historic England, are on the line for confirming that. Essentially, it made an update to confirm a position which was in the socg,

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in the in the last iteration, which I think was submitted at deadline two. So yeah, it hasn't changed fundamentally, but it just confirms their position on certain matters. So yeah, that's good to good to have that one signed off ahead of the hearings.

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So in terms of the socgs, the socg that has matters outstanding that relates to Cumberland Council in general, the matters with the council are

08:05

agreed. Most of the agencies within the council have responded and agreed all matters, the matters that remain outstanding are with essentially between ourselves and planning and legal and kind of relate partly to those matters that have been discussed earlier on in these hearings on the drafting of the DCO. So the first item, though, relates to employment and skills provision. So we submitted some amendments to our construction our outline construction Environmental Management Plan at d4

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and we made those amendments available to the council just before d4 so the council didn't have time to consider them before, before the before the d4 so they're just taking a bit more time to do that. We're hoping to move the the sscg forward on that for d5

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the council may want to come in on those points

09:02

at a later date.

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So and the other matter which is outstanding relates to temporary possession and associated with the DCO street works provision. So the works to which temporary possession could relate have been informed by advice from the council, while the council has not specifically commented on the language of the drafting of the draft DCO articles. The works in question have been informed by engagement with the council as like local Highways

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Agency authority, sorry, who confirmed the measures are as discussed in various items within the

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in the in the draft socg and in the lha representation

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document reference as double oh four and the dsocg rep for 016,

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at CC lha nine, the.

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Socg provides additional reinforcement for the agreed position on the works, which are parallel and complemented by relevant articles and schedules in the DCO the wording within the final response is, we acknowledge the applicant acknowledges that the wording in the final, in the final dsocg could be clearer, and we're going to work with the council to to update that for deadline five.

10:28

Thank you. So thank you, Mr. Lake. Could you remind me a couple of points of I'll deal with the employment skills provision. First is just

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remind me, is there a separate document or submission, or is your submission in response? Is a written response to questions or the local impact report in relation to employment and skills? Or is there a standalone document? I can't recall,

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so there's a so we've updated our ocamp, which includes section 3.8 and 13 point 15 include some provisions relating to employment and skills

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and our our outline, operational management plan, rep for over nine

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At section three point 10 and 5.4

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address the the is the

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similar matters relating to the operational phase.

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Thank you. And that that was submitted at a default we've agreed in sort of in principle, I suppose, with those you know the arrangements that we've included, but that is subject to further feedback from the council. Okay, thanks. Can I ask the council come back on that point. Where is the document? Have you had chance to look at the document? Do you intend to submit any written comments in response? Or are you intending to agree through the statement of common ground?

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Nick Hayhurst, Common Council, so we're still considering the information that's

12:08

seem to have lost your sorry.

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Nick Haggart, Common Council, so we're still considering the information that's been submitted with regards to employment skills. We're hoping that that will be agreed and submitted for day five. We're broadly agreed to the principle, but we just need to consider the detail a bit further,

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and then I think the draft

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standard Common Ground will be updated to reflect that.

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Okay, thanks. And just going back to Mr. Lake, so I'm clear on this, the DTO this is going to be secure. The mechanism for securing this is going to be through the Omp and through the CMP documents. Is that correct? Yes, that's correct. Thank you.

13:02

Okay, Mr. Lake, secondly, you. Thank you for summarizing the position on statements of common ground.

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Do I have you may well have submitted this, but can you remind me the latest

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Natural England statement of common ground is that? Is that from deadline two?

13:24

Deadline, four, we we updated it. Deadline for, yeah, sorry, thank you. Yes, I miss I haven't Absolutely, so that's rep 4011.

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Thank you. No, that's, that's great. I have just found that document now. So just to summarize the position in relation to this document.

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Are there any areas I'm just briefly looking through? I don't think there are any matters currently under discussion. That's correct. Okay, thank you.

14:01

And so Mr. Legg, by deadline five, is it fair to say that I may well have a complete set of statements of common ground where you've progressed things as far as possible and or there aren't any outstanding matters. There are matters have been agreed, but there aren't any points of disagreement. Is that? Is that correct? That's certainly our intention, although I would say that it's entirely possible that, you know, some new matters come out of the examination, which we haven't currently accounted for. But yes, that's that's our expectation and intention. Yeah, and on that point, that was my follow up question, are you intending to revisit where necessary, any out any fallout from today's hearings and the hearings this week, and then update accordingly for deadline five. Yes, we would do if, if necessary. I haven't. I don't believe there are any matters at the moment that require that. But yes, obviously we've got to go through the.

15:00

Remaining part of the hearing. So no, that's helpful. Thank you.

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Okay, and I will. I'm not going to spend any time on the Historic England statement of common ground, because I will revisit that later on on the agenda. So I am unless there are any other comments I would like to move on now to talk about the design topic.

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Thank you.

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Okay, so can we it would help, I think, to open up a couple of documents.

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Firstly, app 029, which is a design approach. Document,

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apologies. I'm also opening various documents on my screen, so be a short pause.

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And I think we will also need app zero to eight as well, which is the design parameters document.

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And I'm also going to refer to a paragraph in

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NPS, em, one

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which I don't have to hand in, able to, you know, in order to display on the screen, but I will, I will reference the relevant paragraph,

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later on in this discussion.

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Thank you. That's helpful for putting that on the screen as well.

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So this is an agenda item or topic where there has been fairly extensive submissions made by the applicant on this point, and I'm going to try not to repeat the questions I've already asked, although it's inevitable that I'm going to do so, because some of the points that I've been responses I've been provided with are, in my view, satisfactory to resolve the question that I originally asked, But there remain some residual or outstanding issues I need to explore.

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So in general, and I think if we can go to table 4.1 of app 029, so that's a design approach document.

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And so table 4.1 4.1

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it sets out the project design principles.

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And my general comments on this document are that it doesn't appear to include reference to a context led response, particularly in relation to the use of materials and good esthetics,

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and there's no mention of this in the vision, which is in paragraph 4.2, point two, either.

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Now I understand, I've read extensively, read the submissions that are being made, and I understand that the proposed layout and landscaping strategy is the applicant's primary means of achieving good design in this case. And I understand there are limitations in relation to the type of infrastructure that is before this examination, ie solar infrastructure scheme, but

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it doesn't seem to me that there is any detailed analysis of other options available to better integrate the development into the surroundings through use of suitable materials. And I did say I was just going to reference

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em one, I think paragraphs 4.7, point two does set out the design is a multi faceted, faceted, faceted, sorry, approach that goes beyond appearance, but it also states, and I will quote this, that design attributes should be matched by an appearance that demonstrates good esthetic as far as possible.

18:51

So I am going to ask you to respond on that point, but rather than likely receive a similar response to the ones I received in writing, I was just going to try and go through the design parameters document and just outline areas where I think you could perhaps be more specific, or even consider design esthetics in a bit more detail. So perhaps if we open up app zero to eight,

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and if we go down to The Works, which are

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under

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bear with me a second,

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I lost my place in there.

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Sorry, yes, so

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within the design parameters document under the.

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Relevant works, which is in section two. So each of the tables corresponds with different works numbers. So numbers one, two through two, number five or six. I think it goes up to six.

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And so if I can just go through very briefly without spending too much time on this, but in works number two, for example.

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So that's again within, and I'm on page number six at the moment. Within works number two. It does state that substation buildings will either will either be GRP metal or brick, which indicates to me that there's an element of customization available.

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And I think I'd be looking for you to have regard to the comments I've made in relation to materials, not just in this hearing, but in previous submissions as well. And simply ask, you know, is GRP or metal an appropriate design choice in this context? Could you consider using bricks or a suitable Are there any suitable bricks? Or should you be using a different material that has more regard to local context and the local natural environment?

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And then I think some of your responses in writing have been, for example,

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there may be a bespoke, sorry, there may be an off the shelf response to some of these points, or some of these structures or buildings. I'm not sure whether it's a you're able to liaise with the manufacturer over some of these design options, but if you're not able to do that, you need to explain that in written submissions.

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And so, for example, again, I'm not going to spend too long on this, but in works number three, number three, you talk about, or you've mentioned CCT CCTV camera poles.

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I mean, could they be wooden, for example, or a more appropriate material?

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I know also that the permissive path in works three and six, there is simply no detail provided on the design approach having regard to the other things you've responded on. So for example, in other documents in the ES, it's clear that the ancient woodland and the buffer

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has had an influence on the location of potential of the permissive paths, but it's not being translated into the design parameters document to explain how, in design terms, you've responded to that constraint, or even opportunity to try and improve, for example, the materials used.

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Also any changes to the design response as a result of the Heritage asset, the stone circle, which will come on to come on to later, which you have addressed in separate, separate submissions. But again, any design parameters that have come out of other documents or considerations or analysis doesn't appear to have been encompassed into the design parameters document. And I don't think the permissive paths just going back to that point, I'm not sure they're discussed in any of the tables, or in terms of components or anything. I can't see any reference to those in

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in the tables.

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And just some very brief other points are the shipping container style operation and maintenance units, the only design response available.

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You have in works number six. And don't worry about, I appreciate

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Mr. Cobb, you are trying to keep up with this, but don't worry too much about

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moving to the correct page, because I am moving backwards and forwards. But in works number six, you do reference the option of dry stone walling and along perimeters. Again,

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are there any documents or other analysis which dictate or give a really strong steer as to which should be used in which location

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Could you identify in more detail the circumstances where you may prioritize dry stone wall in over fencing. And so they're just a couple of observations I've made, but in essence, I just, I would like you to revisit the design parameters document and the overall design vision, and just have a think about esthetics and local context and notwithstanding the written submissions you've made.

24:19

So I know I've come back with a few points there and not necessarily asked a definitive question, but I mean, I would ask the applicant, do you have any comments to make on that before you do make your response to deadline? Five?

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Richard Marsh for the for the applicant, I'll pass over to Jonathan legged to

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make some brief overarching comments. Hi.

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I.

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Mr. Lake,

25:02

so thanks.

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So,

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as Richard's saying, I think we'll just make some overarching points about what can be achieved

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given the nature of the development,

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I think, in terms of the individual components that you raise there, and how those are addressed in the DPD, we'd need to the design parameters document. We need to come back on that in writing.

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But just referring to en one, I'd highlight that paragraph four, 711, says that the Secretary State will consider both functionality, including fitness of purpose and sustainability and esthetics, including its contribution to the quality of the area in which it would be located, in any potential amenity benefits and visual impacts on the landscape and seascape.

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But in terms of solar development, there's limited opportunity for this. For

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esthetics,

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I suppose, in terms of the examples you gave, in terms of the substation materials and fence posts and matters like, there is some scope, and I think we've outlined the options within, broadly within the BPD, and you touched on some of those options in terms of wood and brick and GRP and other materials

that might be being considered. But in general, sort of, the main the over, over whelming mass of the development is going to be solar infrastructure, which will

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will be a certain type of equipment, and there are limited options for affecting how that appears, other than through layout and landscaping.

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So but,

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and that's, that's principally our strategy is to, you know, address the impacts of of the solar arrays and through the and the substation, through through layout and landscaping.

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The DCO does secure some of the sort of landscape mitigation

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by setting limits on site and size and heights of buildings and structures and specifying colors that can be used kind of help it help them blend in with the landscape.

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But

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some of the you are asking questions about whether you know we would use GRP or brick for substation buildings. Essentially, that is a matter for the DNO. So the substation would be constructed and specified by

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the distribution network operator, and

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would be the

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materials would be

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set by the necessary safety standards. And of a substation, obviously, these things are industrial, and they they have a, you know, a the type of equipment and how that looks is, you know, a feature of their function. I suppose, rather than necessarily something, the applicant has a huge amount of flexibility over.

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But yes, in terms of the sort of other points around consideration of

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fencing and dry stone walling, we can, we can come back in, in writing on those points, but largely those are matters for the detailed design. So we, the applicant hasn't was broadly set out what its strategy is for those things and

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but essentially we're leaving the the exactly what,

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what fencing and what landscaping goes where, until the detailed design.

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Okay, thank you, Mr. Lake, that that is helpful, and if you could come back to me in writing, but could I ask the council? Cumberland Council, sorry, would you like to come in on this point at all? Or do you have any comments on the design? It's not an area that's in dispute at all, but if you do have any any input at this stage, then that would be appreciated.

28:59

For example, are you happy to leave these matters for determination through various control documents, so to be agreed at a later stage. Do you have any views on some of the points that have been raised in relation to dry stone walling, etc? Mr. Hayhurst.

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Hayhurst, come with council. I think generally the council is happy for these detailed matters to be agreed under the control documents.

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I think until we've got a final design layout, some of the matters are difficult to define, but I do take your point about

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the consideration of options for materials, for certain structures or boundary treatments. So I think, I think that's something that the council would be keen to have discussion with the applicant on as part of any update to the design parameters document.

29:58

Okay, thank you.

30:02

So I think an action point, I would like the applicant to review the design parameters, documents, not withstanding, I take the point that your response largely is going to be similar to before, that this is really a landscape and layout led response.

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But I would ask you to look at some of the particular matters I've raised. And I would also ask if you could have that discussion alongside, along with the council, and see if there's any further changes can be made to try and refine the design in terms of esthetics.

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Would the applicant agree that's a suitable action point for deadline number five,

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Richard Marsh, for the applicant, thank you. We'll take that away.

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As you mentioned, we've responded

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multiple occasions in relation to detailed design,

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but we will will give consideration as to whether

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a further analysis

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is is required and confirmed either way.

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Okay, thank you. Do

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Are there any other points in relation to design?

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Okay, thank you.

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So we are going to move on now to discuss climate change. This, hopefully will be relatively short,

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and then we will move on to cultural heritage and the Historic Environment.

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So I'm going to just set out

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again there has been extensive exchange of well, questions from myself, examining authority, and then responses from the applicant on climate change as part of various deadline submissions.

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And in particular, I recognize that in the response to the second written questions, which is rep 4004,

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document reference

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that the applicant has confirmed that a supplementary technical note will be provided after deadline four. So before I go any further, and before I provide any more detail on what I may what I might expect from that document and how that fits into my consideration, could I ask Mr. Marsh or the applicant for an update on where that document is and what has been any progress on producing that document. That technical note,

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Richard Marsh for the applicant, thank you, sir.

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So we have

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produced a document, and we'll go into consideration whether that should have been submitted prior to the hearing.

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And the the view conclusion we came to

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is that it was, it's actually useful to discuss some of the methodology used,

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just in case the discussion led us to a different approach.

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Obviously, we didn't want a position where we had to resubmit a document following discussion during the hearing. So

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I think what would be

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appropriate is if I pass over to the carbon carbon our carbon export expert who's been responsible for producing the document, to discuss the methodology, and then hopefully we can have a discussion about that methodology,

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and then all Being Well, we'll be able to finalize the document prior to submission within the coming days.

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Thank you. I mean, is it helpful if I just set out the context? That would be very helpful, sir, yes. Okay, so I'll just set out the context that the document you refer to is not before me. I haven't seen the document that's not been submitted. It would have to be an additional submission that I would have to take a view on whether to accept.

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But clearly that's something you've committed to providing. So I would expect you submit it after this hearing and before deadline number five, for example.

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But I'll just kind of set out without trying, without going through the material we've already had an exchange of correspondence on.

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Essentially, when I make my recommendation, I will have to take into account any impacts arising from the proposal set against the benefits and the requirements under Section 104 of the Planning Act, which includes any other relevant and important matters and.

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And essentially this involves balancing different weights, for example, detailing any climate change benefits put forward, assessed against any policy or environmental harms,

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also having regard to the scale and the nature of the development

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proposed. So there is some nuance there in terms of how I carry out my balancing exercise, and what I'm simply trying to do is calibrate the proposed climate change benefits and greenhouse gas savings relative to the scheme that's before me.

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And so my question so far, and hopefully the technical note will provide a bit more assurance to myself in relation to potential greenhouse gas savings, and giving more detail on how that will be realized in reality in relation to the project,

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because I need to be satisfied essentially that the figures I've been provided with, which are figures that you're asking me to report on to the Secretary of State can be relied upon because they are effectively supporting the conclusions of the environmental statement and the planning balance considerations which were also set out in your planning statement.

36:20

So I completely understand that the technical note is likely to have limitations based on the things that you already told me about. That is essentially the information that's available to you at this time.

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But I don't see any reason why those limitations can't simply be reported as they would in any other technical analysis, or in the environmental statement, where the limitations are clearly set out, and so it gives transparency to the process.

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And also, I would expect

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that the technical note to be produced having regard to the overarching principles of the ES, which is relating to a parameter based worst case approach.

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And so some of the things

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I will leave you to come back on the technical note shortly, but some of the other things that I've asked about, which I was hoping you can either respond to today or in the technical note, is it's not clear to me

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how the analysis that you've provided in the environmental statement in terms of carbon emission savings and the the

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relative merits of the scheme in terms of greenhouse gasses, etc, how they specifically relate to the proposal in this location. So I just like to understand firstly, from the applicant, before they explain the technical

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note is, is the analysis in any way location specific, or is it a matter of you've used various different documents and guidance notes which have provided you with a formula or a calculation which you've included,

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but that doesn't appear to be location specific. In other words, if this scheme was elsewhere in the country, would the overall carbon calculation savings be exactly the same. Is there any element of specificity in term locational or geographical

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uniqueness to the calculations you've you've included in the environmental statement? So if you could answer that point, and then perhaps if you could just explain the technical no and the findings of the technical know, based on what I've just kind of set out that would, that would help. So, Mr. Marsh, I'll come to you first, but I appreciate you probably need to bring other people in.

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Thank you, sir. Thanks for that summary.

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So I will now introduce Caroline dinnage,

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who's responsible for the production of the technical notes, first of all, to deal with that location

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point, and then to provide a summary of the basis of the technical note and the methodology used.

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Thank you. On behalf of the applicant, yes, so we have responded previously on the point around location based assessment. So the assessment in the ES chapter nine assessed the

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megawatt hour for the proposed development, which is project specific, but then using a national load factor, which is accounting for various efficiencies and efficiency losses and solar coverage, and pieces like that, which is also.

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Not location specific. This is a standard approach used across multiple solar projects from DCO sites.

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So in short, the answer is,

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in theory, yes, the carbon savings would be the same if reported from a different site on the basis that it's a simple calculation based off the megawatt hour of the project produced compared to the

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UK grid carbon factor, which, again, is a national figure, not applied on a local basis.

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Thank you. That's really helpful. That's, that's effectively the question you've answered the question there. So that's, that's fine. Thank you. Would you like to go on to the just explain the technical note then and exactly what, without going into too much detail, just summarize what the technical note sets out to achieve the objectives and the overall kind of findings and how that will assist in answering previous questions on climate Change

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on behalf of the applicant, yes. So the technical note will assess the construction emissions, that includes embodied carbon, transport of products, materials, worker, transport, fuel use, waste and water use. Will also assess the operational stage, which is mainly focused around maintenance and repair, as well as transport, energy use within that as well, and the decommissioning stage, again, that's that's transport, mainly waste processing and on site fuel use. So the note will set out to achieve the sort of more granular approach on the proposed developments, emissions themselves, and then it will use the same approach as set out in ES chapter nine, which refers to, as I just mentioned, a comparison against the the UK grid, average carbon intensity as that's been used as the, ultimately the baseline For contextualization, so that has been used to inform a

42:03

through a life cycle approach, accounting for all emissions across the proposed development life cycle stages, then considering the energy generation of the project and its own carbon intensity against carbon intensity of the UK grid.

42:17

So by doing that approach, we're then providing additional information that supports

42:24

and enables sort of further clarification on significance within the EIA and these definitions within that were all set out by institute of sustainability and environmental professional guidance from 2022 assessing greenhouse gas emissions and evaluating their significance applies that as the main methodology for those calculations. Thank you. That's helpful. And you have referred, again in written submissions to other projects. And I understand the limitations in the exercise that's been carried out, but I assume you've looked at the other projects where this type of exercise has been implemented or carried out, and

43:03

is there a consistency there between the other the approaches taken elsewhere

43:09

on behalf of the applicant? Yes. As part of the technical note, we have included

43:16

an outcome of a review of a number of different solar DCOs.

43:21

We have set this out. We will set this out in the submission of the technical note, because there is inconsistency across multiple DCOs around how some of the assumptions are applied. So rather than us just simply taking from one project, for example, buyers Gil, we wanted to make sure that any assumptions where we couldn't apply something that was available for the proposed development, that we were able to

43:48

review different data sets and provide a professional judgment to what best applied to our project.

43:55

So yes, we have done a comparison to make sure that we are assessing an appropriate scope compared to other projects,

44:02

while also making sure that it is site specific and relevant to what is being proposed on our site.

44:11

Thank you.

44:19

I don't have any further questions on that, I think the best thing to do is it's your submission. So I'm not going to ask you to make a submission, necessarily, but if you do wish to make provide the document to the examination, I suspect that if it's provided before deadline five is something I'm more likely to accept. It will give me a chance to make any comments on it if I need to do so and provide a response in writing. But in essence, if you'd like to provide it before deadline five, I don't see being any issue with that.

44:55

Thank you. Okay. Thank you.

44:59

Miss.

45:00

You want for the for the applicant?

45:03

Yes, thank you for that. In the light of,

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I think the request for for the document and your review, it's

45:12

certainly our intention to submit it before deadline file. Yeah, okay, that's fine. Thank you, and

45:21

that's fine, and

45:23

obviously I will then I won't respond to the document unless I need to, and that will be done under Rule 17. But if we can get that into the examination sooner rather than later, that will assist. Thank you.

45:38

So perhaps if we can move on now to Historic Environment

45:44

and this cultural heritage.

45:56

Firstly, I'm going to ask the applicant to summarize, and maybe Mr. Legg, or perhaps someone else from the Heritage team or discipline can just explain to me the progress that's been made in relation to the statement of common ground with Historic England. What's the difference between the version I was provided with much earlier in the examination and the one that was submitted on Monday of this week. Hi there.

46:30

This is Jonathan Legg from the applicant.

46:34

So the socg has been updated between d2 and d4

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Well, rather

46:43

interim update before d5

46:47

and that addresses H is consideration historic England's consideration of the additional visualizations which we provided in response to the X, A, your input. So

47:01

additional visualizations of the stone circle, and also to address some methodological points which Historic England had raised with us, and Historic England have confirmed the updates we made to the Historic

47:20

Environment desk based assessment accepted basically within the socg.

47:27

Okay, thank you. So I will ask the question now, and you probably answered the question already, but if I can absolutely clarify the position,

47:35

so I was going to ask the applicant just or Historic England as well, in the initial relevant representation, which was made by Historic England, which is RR, 016,

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concerns were raised that grading list of buildings should be placed in the high category. And I don't know whether that's been resolved. If it has, can you just explain or clarify that's the case,

48:03

and also there is reference to a five point scale

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in relation to

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identifying levels of harm. And I wondered whether the methodology that's been proposed by the applicant is ultimately the one that's been agreed, notwithstanding earlier comments from Historic England. So whether Mr. Owen, I think it's Mr. Owen from Historic England,

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and and or the African would like to come, come in on this point,

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Peter Owen for Historic England, I will address it from our perspective.

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I

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with regards to our issues or concerns around the ascribing of value

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to grade two listed buildings, which this was the particular kind of issue

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the applicant had used a four point scale with scheduled monuments and world heritage sites as high and grade two listed buildings and some other designated assets as

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being of medium value. Now I had admitted to raise this in the original scoping opinions,

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so the applicant was very good to basically take on board our comments and

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draw up

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an assessment of the impacts to some of the designated assets based on what we would have preferred, which was a five point scale with international assets, like World Heritage Sites at very high schedule monuments at high with grade two and grade one listed buildings and grade two last listed buildings, all nationally significant heritage assets. And what the applicants suggested alternative methodology has done is.

50:00

Shown that regardless of the actual number of points in that scale, the

50:06

predicted

50:08

significance of effect for the relevant designated assets has remained the same, and Historic England are in agreement with the methodology that has been used using the four point scale.

50:24

Thank you, Mr. Owen. So just so I completely understand this. I think the four points, sorry,

50:32

the the categorization of levels of significance as I understand it, is taken from dm dmr, which is design manual for roads and bridges. I think that's right. That's right. In the original version of that, a superseded version that we were never particularly happy with, utilized a four point scale, whereas the current version utilizes a five point scale, but it doesn't specifically refer to

51:00

designated heritage assets. It refers to

51:05

receptors on a national scale and receptors on a regional scale. And our argument is that as nationally significant buildings, grade two listed buildings, should be considered to be on a national scale.

51:20

Okay. Thank you. So my understanding, therefore, following on from that, is the

51:26

residual harm in this case, in relation to

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grade two list of buildings is

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there is one building in particular or near to the site. There's one building near the site,

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which the the

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overall effect is considered to be moderate, which is significant environmental impact assessment terms.

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I think that's correct, correct me. If I'm wrong, please, either that is correct and it comes out as moderate adverse, regardless of the four or five point scale being used, and that was the piece of work that the applicant did, was to demonstrate that the use of the four point scale hadn't skewed the findings of the assessment, and the assessment could be considered to be robust. Okay, I'm sorry, it is wife, more with more sow. Please correct the terminology. The pronunciation, is it with more or wife more? Sound? Not 100% sure. I think it's with more

52:29

wife. Okay, it's wide more. I'll go with widemore Unless a local resident in the room corrects me. And adjoining bond that. That's a great two assets. So my follow on question, Miss Owen, and this may be something that you may not wish to comment on this, I'm not sure, because the Cumberland council have assessed also the impact on heritage from a local perspective. Does that change? So we have the EIA environmental impact assessment significance element, which you've talked about on a 5.4 point scale. Does that change the because I'm going to follow up a question later on, asking for views on where does the harm fall in terms of the spectrum of less than substantial, so the impact on

53:21

wife more Sal and adjoining barn grade two. There's a moderate effect in environmental impact assessment terms, but when we look at the spectrum of less than substantial harm from a policy perspective,

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where does that fall on that spectrum, and does your comment on the four or five point

53:42

grading system have any impact on the assessment of where it falls on the spectrum. And I say this because I have I've got two things that I need to do. I need to work, I need to report on environmental impacts and significance particularly but then I'll need to follow that up in order to comply with legislative requirements and assess what the harm is to heritage assets, try and again, calibrate or quantify that harm, and then, if there is any harm, offset that against any public benefits and determine whether, in that sense, The proposal is acceptable.

54:19

Pete Owen for Historic England. That's a very difficult question for me to answer, because within our role as a statutory advisor on this project, we are looking at the documentation that is provided, that's produced and submitted,

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and we're assessing it using the kind of mechanistic

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way that the impact is assessed within that so we don't at any particular point form our own view about.

55:00

Where it might be on a spectrum of less than substantial harm. What we're kind of looking at is, do we think the value that's assigned to the receptor is okay? We had some issues over that, as we've just discussed. We're happy that that's been resolved. Do we think the magnitude of impact has been assessed correctly, and obviously does the right the right predicted effect come out of the table at the end? So our

55:32

input is restricted to that, so we don't at any point really come up on a view.

55:40

Thank you. That's helpful. Mr. Owen, I will come back to that question, but obviously I will include the council and the applicant in that question. But while you're kind of on the line, the second point I wanted to ask about, and it's been alluded to by Mr. Legg,

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the views are, well, your views are

55:59

historically further photographs provided by the applicant in relation to stem circle. So you may recall, this was a request that was made quite early on in the examination. And then some photographs were

commissioned and provided by the applicant. And you were, I assume, provided with a copy of the photographs. And I think what's culminated in the latest iteration of the statement of common ground, I think, well, correct me again. If I'm wrong, you've agreed on the views, ie the photographs that they're Representative

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Peter and for Historic England. Yes, that that is correct. We feel that those views do provide

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a representative illustration of the

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what basically is one of the key elements of the significance of the stone circle. You know, it's located on a piece of high ground. Have extensive views around it. Those submitted photographs do do that, and you can, then, you know, see from the photographs that the scheme will be visible within the kind of, not what we might call the kind of intermediate setting, not the sort of far or near setting, but the views won't be necessarily, in any ways, blocked from that particular asset, from the stone circle. It's just what will be in those views is what will be changed.

57:31

Okay, thank you.

57:34

Could I ask Mr. Lake just to come in on some of the points that have been discussed there with Mr. Owen? I'm not sure there's anything really to add, but it was the observations I've made in relation to the grading system, reference to DM design manual for roads and bridges and the photographs. Is there anything you'd like to say? Mr. Marsh, Mr. Legg.

57:54

At this point, this over Richard Marsh for the applicant. At this point, I was going to introduce the applicant's heritage. Expert Harry Clark,

58:06

rather than Mr. Lakeland. So here is Mr. Clark,

58:13

good afternoon. Yes on those, on those two questions, yes, I think those points have been spoken through with Historic England. I can expand on those points, should you wish? But other than that, I think that those matters have been agreed with Historic England. Thank you. Thank you, Mr. Clark, and welcome to the examination. I'm not sure on this particular point I've got any further questions. It seems to me that Historic England, there is a doesn't there are no residual or outstanding matters that require further agreement between between the two parties.

58:50

Situation, okay, thank you. So I'm happy to kind of move on from that point. And just to add,

58:57

I will be we have a site inspection, and accompanied site inspection on December the fifth. My dates Correct? Or is it the fourth? Maybe the fourth, actually, correspondence

59:07

has been sent, sent out in that regard, it's very likely that the itinerary will include views of from the stone circle, so I will be walking up there as well and having a look. And these photographs will obviously assist, particularly where there's agreement that they're representative between between the various parties.

59:34

Okay, I'm going to, I'm kind of going to go off, off the agenda slightly, and just make this more logical. So I'm going to continue talking about, particularly the

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widemore sow and the stone circle. And

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you probably know where the questions going, because I've asked the same question of Historic England. But I'd like the applicant to set out and then following the.

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Council,

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what their view is on a spectrum of less than substantial harm for both for the stone circle and uncairn and widemore So on the adjoining barn. Can you talk me through what the level within the spectrum of less than substantial would be? So, what the level of harm would be? So, for example, do you think that there will be a high level of harm within less than substantial, or would it be a low level? Could you do that for each asset, please? Mr. Clark, would you like me to speak through the the

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entire assessment process, or essentially just the

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conclusion? I think I'm comfortable with the process. It would help me to understand the conclusion. And if you could

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what I effectively want to understand, because I completely understand the position from an environmental in ES perspective, environmental statement perspective, I understand the significance in that regard. But I'm trying to understand, when I look at the policy test, where where this falls on the

spectrum of less than substantial, where the harm lies, both from an unmitigated perspective and from a kind of residual harm. And I say that because, as you've probably seen in the correspondence, I did refer to

1:01:21

Historic England, guidance on effecting impacts on setting. And the four or five stage process, which involves looking at the significance of an asset, identifying what the impact would be on the significance, sorry, looking at the setting of the asset, what contribution the setting makes. The significance, looking at the impact of the proposal on the setting and therefore significance, and then looking at ways you can potentially mitigate that harm, and then concluding on what the residual harm is. So I'm effectively asking you to do that through the lens of policy and the less than substantial harm, the spectrum, the invisible spectrum within less than substantial harm. So hopefully you understand the basis of the question, yeah, I think your question kind of gets to the heart of the differences between a EIA

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assessment and perhaps a, you know, NPPF, or an EN one assessment, which is reflected from the NPPF. So if I take these two particular assets in turn,

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the stone circle, first of all, and then we'll follow with the farmhouse. It should be

1:02:36

noted that there is no direct impact on scheduled monument, nor a change to its immediate setting arising from the proposed development. The introduction of the infrastructure would evidently change the real character of the wider setting of the receptor. However, the new built elements would be set that a distance from the receptor and long distance sight lines from the point of high elevation not be impacted by the proposed development. So we are dealing with areas of only setting, and due to its prominent position on the top of

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the the

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hill, essentially,

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we

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there is a moderate adverse in significance of effect in EIA terms translates to less than substantial harm in NPS terms. Now there hasn't been a gradation of that less than substantial harm, simply because that would

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muddy the waters between the moderate, adverse significant effect and the less than substantial harm brackets between those two assessment methodologies. So we are left with a moderate adverse impact and a less than substantial harm in regards to the NPS.

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I think what your question refers to is that you'd like us to give a

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view on where it sits within that less than substantial harm bracket.

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Yeah, Mr. Clark, that is my question. But at the same time, you may, you may be your view that I shouldn't. I don't need to do that. That might be an alternative response, and that's a completely valid response, which I'll obviously take into account, but that was effectively my question, yes, yeah. So you've kind of asked for a where it sits on that scale. Now really that that scale in in regards to the NPPF,

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is whether it sits in no harm, less than substantial or substantial harm, and total loss of effect. So that's, that's essentially how, like how we've undertaken that assessment

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in regards to the stone circle.

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And you.

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And if I turn to with more sow again, due to position of the receptor, there was a visual

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interactivity between part of the site, although not all of it, and for areas of open views within,

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within the site itself,

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the view to the rear of the listed building looking over the site will be affected by the proposed development. And again, it is only ideas of

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only via way of setting that this asset will be affected. Again, we've gone for a moderate, adverse, significant effect here, following the EIA methodology, and less than substantial harm in regards to the NPS and NPPF. We think that is appropriate because further

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further,

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further assessment in regards to where that sits within the less than substantial harm bracket would again perhaps muddy the waters in regards to The moderate adverse effect in EIA terms.

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Yeah, understood. I understand your position, so I'm not sure whether your response really is, you don't need to go any further than

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clarifying the harm in ES terms, in regards to the less than substantial harm, it should be. It should be, you know, again, qualified that,

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you know, less than substantial harm can cover, you know, a wide range

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itself. But then that would perhaps, yeah, again, differ with the assessment in EIA terms.

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I think that, I think that's the point. I'm trying, I'm probably unsuccessfully trying, to raise that less than substantial as a spectrum can cover minor adverse, moderate adverse, probably significant adverse in some instances as well. Yeah, and without straying into substantial harm in terms of

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the definition provided within em one and also within the NPPF as well. So it was trying to break that down further and understand on that spectrum which doesn't align neatly with the environmental impact assessment methodology and process. Yes, correct. Is there additional detail you could provide, or would we even wish to provide in terms of the level of harm within that less than substantial spectrum? Or is it the case that there is moderate adverse impact in EIA terms, and therefore, similarly, it's the same level of harm in less than substantial terms? And yeah, these terms are very confusing when you're trying to articulate them in a hearing. I appreciate, but I think you understand the point I'm trying to make the lesson substantial. Spectrum doesn't neatly align with the EIA

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methodology and the way that adverse effects are quantified and but there is a requirement in policy em one for me to consider less than substantial harm to significance, and then obviously go through that process in from a policy perspective as well.

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Mr. Marsh, would you like to come in on this point?

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Richard Marsh, from the

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applicant, may I suggest that we come back in writing with a submission for deadline five on this, on this discrete point? Yeah, that's fine. Thank you. With any additional input from historical England under the council,

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that's fine, yeah, if you could, that would be helpful if you could have those conversations with Historic England and the council and reach some it might help formulate your response. I'm not making accusations that there's been any any mistakes in the submission so far. I'm just merely trying to understand in my own mind how I'm going to report this particular issue in to the Secretary of State. So clarity would be appreciated. Thank you. And it may maybe that we add an additional, additional line within the secg with each body.

1:09:33

Yeah, that would, that would help as well. Thank you. So that will be with Cumberland Council on Historic England. So Can that be an action point as well?

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Thank

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you.

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Mr. Clark, while you're online, another question related is, could you just talk me through

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I will go back to the environmental statement and the moderate, moderate adverse effects that have been identified.

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Side

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to the two assets, but I'm going to focus particularly on widemore sow and the adjoining barn. So the unmitigated effect is moderate adverse, and then the residual effect after mitigation is moderate adverse. So my question is, to what extent have you explored ways to reduce that significance to

nonsignificant? In other words, to reduce the level of overall effect and minor adverse Have you considered ways that that could be achieved, and are the reasons why

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the scheme proposed has achieved the maximum amount of mitigation? IE, you can't reduce the harm any further?

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Yes, that's correct. The views to the rear of the list, building overlooking the site will be affected by the scale of proposed development, although opposed. Development will be lower level infrastructure, which reduces long distance views. There will be a change to the characteristics of that receptor setting, changing the open, rural nature of the landscape,

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taking into account the mitigation. However, it's considered that work number six, along with the

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LSP planting and the olem could reduce adverse impact of the proposed development, but however, though that open, rural nature will remain changed, hence the overall assessment taking into account the mitigation.

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Okay. Thank you. So how,

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if I was to ask, how could you reduce the effects further,

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I assume that that would culminate in a change to the scheme, so you would have to do something to provide additional distance. For example, I don't know. Have you thought about ways you could reduce the overall impact on on that list of building while mitigation has been considered in the assessment, I think that is another one that we will consider more as well in writing. Okay, thank you.

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And could I ask Cumberland Council again coming on this point? If you would, I'm not going to ask you about the spectrum of less than substantial harm. Don't worry. But I am interested to understand

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what your views generally. This is not a point that's disagreed with the applicant. Do

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you have any views on

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on the mitigation provided Are you satisfied that it achieves the maximum amount of mitigation that's feasible.

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It's an opportunity, really, for you to provide any comments to the examination on the impact on and I'm particularly talking about wythmore sow and the adjoining barn. But it also applies to stem circle, where moderate adverse effects have been identified in terms of the impact on the asset through development, within the setting,

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it might be you have no comments at all, in which case, that's fine as well. It's just to give you an opportunity to feed, feed into this, into this particular question.

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Not Nick hay has come across. I'm not sure I can really add much to what's being discussed

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in terms of wide mirror. So

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the effects mainly relate to the setting. So we acknowledge that there was a setback to the proposed development site, and also that there was landscaping proposed as part of mitigation. But obviously we don't have final details of this final scheme. So it's difficult to go beyond, beyond that sort of level of detail, really

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terms of impact. That's helpful. Thank you.

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Okay, I don't have any further questions, so there are a couple of action points there. Hopefully they've been noted down. We will revisit the action points at the end. There is one more question I'd like to ask on heritage or a general topic.

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Bear with me a second while I find

1:14:20

so I have to revert to my screen and seem to have lost the page. Please bear with me.

1:14:38

Okay, thank you. This is a question, and I think we're on C, actually we are on

1:14:47

We're on Item C anyway, in relation to the World Heritage Site. And this is a question, really, to the applicant initially, but I'm happy for the Lake District National Park to make contributions. And.

1:15:00

Historic England, if they wish, and just trying to understand how the visual harms identified in the environmental statement as a result of the development in part of the setting of the World Heritage Site.

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The result is that there's overall harm, albeit less than substantial, to the world heritage site as a whole.

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And I'm just questioning

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if the applicant could talk me through how that conclusion has been arrived at. And I say this because

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it isn't just the visual impact that contributes or the visual aspects that contribute to the setting of the World Heritage Site. And also I appreciate the world heritage site is an expansive area which mimics the national park boundary. And so effectively, I'm just trying to understand whether the limited visual harm within the setting of the World Heritage Site therefore translates to harm

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and harm to the well lessen substantial harm overall. So in essence is, is this level of harm sufficient to trigger harm in relation to,

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again, the spectrum is a lesson substantial harm overall.

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Because, as I've said, there are various different facets that contribute to the significance of the asset. So Mr. Clark, could you just talk me through how you've arrived at that conclusion? So is the question more along the lines of, why is there any harm at all? I think yes, to put it fairly bluntly, is there any harm to the World Heritage Site and why? I think that's putting the question back, back to front, if you like.

1:16:51

If I could ask you that way, is, why is there any harm to the World Heritage Site in the particular circumstances of this case?

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Yeah, of course. So again, sensitivity of the cultural heritage receptors in the whole is assigned on the basis, consistent of methodology as presented in the ES chapter six, which has been updated deadline to 21

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the world heritage site itself, being World Heritage site is right at the top of the Heritage tree, and therefore is an asset of highest significance.

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The authenticity and the integrity of the World Heritage site would be preserved. The proposed development would not affect the prominence of the elements which form the outstanding universal value of the World Heritage site itself and the property, as you mentioned, is of sufficient size to contain all the attributes of the outstanding universal value needed to demonstrate the processes which make it a unique and globally significant property

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within the outstanding universal value criterion Two, five and six set out the significance of the English Lake District into three elements, the beauty of its landscape, its actual use and development, and more, the esthetic ideas associated with the World Heritage Site, the archeological, Historic and Artistic interest defines the significance of these elements. And as we kind of hone in on the answer to this question, while there is no buffer zone, the World Heritage site does have a setting as it is a heritage asset in its own right,

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and so the development would be visible again, including mitigation from high areas within the world heritage site on views out towards the Irish Sea. You know, this is also reflected in landscape chapter.

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Therefore, the proposed development would result in a change to the wider landscape setting of the World Heritage Site, which will affect views looking out west from high points within the world heritage site against that backdrop of industrial development of workington, again, towards the Irish Sea. So in regards to those views, and this is picked up as well in the

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in in the socg with the Lake District National Park Authority,

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again, those kind of visual effects over 40 year period,

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and considering having regard to the NPPF, it translates to less than substantial harm to the World Heritage attribute of the kind of extraordinary beauty and esthetic harmony

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in regards to the actual asset itself, and those are including views out towards the sea. So it's these ideas of beauty and beauty of the landscape which inherently make up the Lake District National No.

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National Park, and the, as I've before mentioned, outstanding universal value. So in terms of people within those spots within the world territory site, there would be that marginal change. Again, we've assessed this as negligible, and it is, you know, right on the end of that EIA assessment scale, but there would be that kind of very marginal change in views out of the World Heritage site itself. And therefore we can say that there is at least a slight change to that setting of the World Heritage Site. And therefore, if you take that

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as a discrete conclusion, as it were, and then translate it through the EIA methodology and the NPPF methodology, you end up with at least a minor adverse impact. So

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thank you. That's helpful. That's understood, I think that is therefore, that is the agreed position with latest National Park. So in essence, the limited visual harm as a result of the development and the setting of the World Heritage site from and those are

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represented by several or two viewpoints within the Lvia that translates to limited, less than substantial harm overall. But the implication there is that there will be harm to the extraordinary beauty and harmony of the World Heritage Site. Only that characteristic and that, as you say, the conclusion is, there is harm, but it's the lowest end or a very low end level of harm. It's, yeah, it's distinctly marginal, simply because the development is present within that landscape as well.

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Again, it should be reiterated that this is only a very small part of the setting of the Lake District, the

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Lake District World Heritage site itself, and it is simply right to

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acknowledge that change to the landscape through this this assessment process.

1:22:20

Thank you, Mr. Paul, that's been really helpful, because you've properly gone through the process, and I completely understand how you've arrived at that conclusion. So I don't need to ask any further further questions on that. I mean, the Lake District National Park, and it is an agreed position in the statement of Common Ground. If there's anything you'd like to contribute to the hearing, by all means. Mr. Long, if you'd like to come in, you may not wish to say anything, but at the same time, you're more than welcome.

1:22:47

Yes, Ben long, for latest National Park Authority. Thank Mr. Clark. I think he set out the position very well, very eloquently. Yes, if you want, I would agree with with those assessments the point of the effect

on the setting is those views out from those few points where the views are available, the effect on the attribute of extraordinary beauty and harmony, in terms of your

1:23:15

invisible spectrum of less than substantial harm, I Think we have said very low, and we would stick by that. That picks up that point Mr. Clark made about marginal. So I would agree with the the assessment that Mr. Clark has made, right to record it as some effect, but a very low magnitude, a big thing a long way away.

1:23:40

Okay, thank you. Mr. Long.

1:23:53

Are there any other questions or points people wish to raise on the Historic Environment, cultural heritage?

1:24:05

Okay, I think that concludes this part of the hearing. Now, I was going to suggest we take a break, but it might be an opportune moment just to look at the timetable and the agenda and just decide how we're going to proceed, whether we attempt to finish today or we come back tomorrow.

1:24:25

Could the agenda be displayed on the screen? Please?

1:24:34

Thank you.

1:24:37

Okay, so we've got a couple of points in landscape and visual to discuss, and

1:24:44

then there is biodiversity, and I don't think there are any further questions after that.

1:24:51

We have been sat here a while, so we certainly need a break.

1:24:55

Are there any views from the room as to whether we should continue today or.

1:25:00

Come back tomorrow.

1:25:04

Mr. If I could ask Mr. Marsh perhaps to come in first.

1:25:10

This is without canvassing views, but I'm pretty sure the response would be to try and get things completed today. Today. Yeah, okay, that's fine.

1:25:22

I'm inclined to agree.

1:25:25

Cumberland Council. I'm not going to ask everyone in the room, but if anyone wishes to make any comments, but I will ask Mr. Hayers first, any any views.

1:25:36

I think we will concur with that. I think it would be sensible to try and complete today.

1:25:43

Okay, well, I'm not going to finish after five, because I think that is too long. So if we haven't finished by five, unfortunately, we will have to come back tomorrow, but I am let's continue. Let's have a 10 minute break, and we'll continue at four o'clock, and we'll see if we can conclude within within the hour.

1:26:01

Okay, so I'm going to adjourn now and we will return at four o'clock. Thank you. Bye.