

DEANMOOR_ISH1_SESSION1_111125

Tue, Nov 11, 2025 1:15PM • 51:33

00:06

Good morning, everybody. It's now 10am and it's time for me to open this issue specific hearing into the Dean Moore solar project. Before I go any further, can I just confirm that people can hear me clearly. If the applicant could just raise a hand or switch on a camera or something to give me an indication?

00:31

Yes, thank you so we can hear you loud and clear. Okay, thanks. There's a couple of hands gone up as well. Thank you for confirming. Can I just confirm as well with the case team ms Robbins that the live streaming has commenced and recording has started.

00:47

Yes, can confirm both of that has started. Okay, thank you. Yeah. My name is Matthew Woodward. I am a chartered town planner, and I have been appointed by the Secretary of State as a single examining inspector to examine this application. You will also hear me refer to as the examining authority.

01:07

So I'd just like to start the hearing today just by addressing where we're up to in terms of the examination so far. And I'm sure you will appreciate or have made communications on this matter in writing, but I would like to address verbally the recent disruption to the examination where hearings were canceled with very little notice to the applicant and interested parties. It's just to reiterate that this was this was a difficult decision for myself, but it was one I had to make due to personal medical circumstances. But I do recognize that this would have resulted in additional uncertainty and stress, and I just like to take this opportunity to thank all interested parties and the applicant for their patience and understanding in this matter. So for example, I recognize that a number of submissions have been made in response to the

02:01

hearing the council hearings, and the agendas and so for that, I'm extremely thankful.

02:08

So just moving to today, to today's event, as you will see, I have extended the issue specific hearing to cover two days, as opposed to a single day, as was scheduled in September. And this is simply to make sure that I have sufficient time to

02:27

raise any points that I wished to raise in September, plus any additional points that I need to raise as part of the examination of the application.

02:38

So as I say, we do have an additional day tomorrow, and we will use that day if we need to, but we'll have to see where we are, kind of this afternoon to see if we need the additional day. So I'm just going to now move on to the agenda and logistics, and then I will invite participants to introduce themselves.

02:55

So the the meeting today will follow the agenda that was published on the national infrastructure planning website on Tuesday, the fourth of November.

03:05

For those interested, that's examination Library Reference Number Eb, six, double 01, it will probably help if you had a copy of

03:16

of the agenda in front of you as we as we go through today,

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the agenda is for guidance only, and I may add other considerations or issues as we progress.

03:27

And so, for example, in addition to the topics and points highlighted on the agenda Under Item three, I have a number of general questions to ask under the topic specific discussion question to a now I appreciate that I've not provided you with details of these questions, and therefore I understand you may need some time to respond to those points, either in the hearing today or in writing only. So I'm aware of that

03:56

likewise, if you cannot answer any of the other questions or points that are raised by myself today,

04:03

or you require additional time during the examination during the hearing, then please do let me know, but there is the opportunity as well to respond to all the points in writing.

04:15

So I will conclude the hearing as soon as all relevant contributions have been made and all questions have been asked and appropriate, appropriately responded to.

04:26

It may be necessary I'll try and avoid this, but it may be necessary for me to cut short discussions if time is really being pressed and we're running out of time today and tomorrow, and I may defer to

some matters through further written questions. But as I say, we'll try and try and avoid that course of action.

04:46

So as you all appreciate, today's hearing has been undertaken virtually, and we are all using Microsoft Teams, and I'm sure over the last few years, we've become familiar with this format, you will be given a fair opportunity to Part.

05:00

Dissipate, and virtual events are treated in exactly the same way as in person events for the purposes of examination. So it makes no difference to the way that I consider the merits of the scheme.

05:12

A recording of today's hearing will be made available on the Dean Moore solar farm section of the national infrastructure planning website as soon as practicable after the hearing has concluded.

05:25

So with this in mind, please ensure that you speak clearly, stating your name and who you are representing each time before you speak. Now I understand that can become quite tiresome hearing the same person having to repeat their name over and over again, but that's so that we can pick that up on the microphone and then transcribe that because we do,

05:49

we do publish transcriptions of all hearings after the event,

05:54

a link to the planning inspectors, inspectorates privacy notice was provided in the notification for this hearing, and I assume that everybody here today has familiarized themselves with this document, and this just establishes how personal data of customers is handled in accordance with the principles set out in data protection laws. But if you do have any questions, please speak to Ms Robbins or the case team.

06:20

So with the event being virtual, I am going to be taking regular breaks throughout the day, and I do suggest probably every one and a half to two hours. If anybody feels a need to take a break earlier than that or at another time, then please do let me know. And I do also appreciate that today is there is a minute silence planned at 11am so I am intending to break at 1055, today, and then hoping to reconvene at approximately 1115,

06:50

and I think lunch will probably be between half past 12 and one o'clock.

06:57

So I do appreciate as well that virtual working does present its own challenges, not least because it is extremely difficult for me and other participants to read the room, and sometimes presentations can appear particularly stilted. And so for example, as you've probably already seen, I am occasionally looking down at pieces of paper, and I do have a second screen, so you may see me looking elsewhere, but that does not mean to say I'm not listening to conversations and presentations through the day,

07:29

but I would ask that we all exercise patience and courtesy when asking questions or waiting for responses. So in terms of the technology, if there is an issue with it, then

07:42

I will probably adjourn the hearing, and I would suggest that if people cannot connect, then they try and contact the case team. But it's one of we will just play that by ear. If anybody is aware of somebody disappearing offline throughout the hearing and I've not been made aware, then do raise your hand or let the case team know.

08:04

In terms of the cameras now, I have my camera on. I'm not going to insist that cameras are turned off because I don't want people to feel excluded from the event today, and however, at the same time, I do. I have no issue if people wish to turn their cameras off until they wish to speak. So I'll leave that up to you. If there is a problem where there are too many cameras on at once and there are issues with the bandwidth, then I may have to make a decision on that. But at the moment, the technology seems to be working fine, but I would ask that microphones are muted until you wish to speak, for obvious reasons. So

08:40

generally, I will try and engage with you today and invite you to speak at the appropriate time. If anybody does wish to raise a point at any time, then do use the raise hand function, and I will acknowledge and invite your comments when appropriate. Now, before I move on to

08:57

introducing interested parties and the applicant, does anybody have any questions, particularly about the virtual running of the event today?

09:11

Okay,

09:13

okay, so I'll move on now, and we'll get on to the introductions. So I'm going to be asking for all of those of you participating in today's meeting to introduce yourselves. So I will be asking the applicant first, followed by the organizations I think are present in the room, and then I will ask anyone else who wishes to make contributions today to put their hand

09:36

up. I'd just like to say, in terms of the applicant, I have a list

09:41

of the applicants team now, the applicant may find it easier just to introduce the primary advocate or advisor, and any witnesses they are fairly certain are going to make contributions today and then as and when, if there are other people on on the call who may or may not wish to come.

10:00

Later on, I'm happy for you to leave those participants to introduce themselves at the appropriate time later in today's hearing, because they may not be needed. It just depends.

10:13

And similarly, if you are presenting another organization, then obviously, state your name, please, and state who you're representing, and if you're an interested party, not part of an organization, if you could just let me know which item you wish to speak on and what your particular interest in the application is, and then it just helps me understand who may be participating in relation to the questions and topics that I've set out on the agenda.

10:45

So I'll start off. Can I ask the applicant first, just to introduce somebody from the applicant's team, just to introduce themselves first and then introduce anyone else they wish to introduce at this stage?

10:59

Morning, sir. My name is Richard Marsh. I'm a partner at TLT NLP solicitors,

11:07

advising the applicant.

11:10

I will be delivering advocacy in respect of the second part so environmental matters.

11:17

I will also so be or I am accompanied by a colleague of mine, Jessica Graham, who will be delivering the advocacy in respect of the DCA,

11:32

as Jess,

11:34

I wouldn't, I wasn't proposing to introduce the rest of the cast at present, but I was going to introduce them as and when they're needed, if that's some, if that's okay with you, sir. Thank you, Mr. Marsh and Miss Graham. How would you like to be addressed? Is it this is Miss? I was going to say Jess is fine, but otherwise miss, okay, I'll stick to I'll retain some formality, so I will call you miss. Thank you.

12:07

Okay, thank you, Mr. Marsh, so yeah, as we go through today, I'm sure other people from the applicants team will be introducing themselves. And can I ask Cumberland Council, I assume, are on the call as well. Could I ask a representative from Cumberland council to Mr. Hayhurst, thank you.

12:24

Monitor.

12:26

So my name is Nick Hayhurst. I'm representing the common council on planning matters. Do you want me to introduce other people that are representing the council, or do you want them to introduce themselves?

12:39

It's up to you. Either way is fine, just as long as I know I think you're the number of participants from the council side is probably less than the applicant, so I'm happy for you to either introduce them individually or you just state their names. It's entirely up to you. So in addition to myself, we've got Peter Barnard and Seamus Giles, who

12:59

are representing the council as the highway authority.

13:04

And I've got Stuart Galpin, who is representing the Council on landscape and visual matters.

13:14

Thank you. And

13:18

then Mr. Hayer, so you field in other inquiries, questions, etc, in general planning terms, yes, I'll try and help where I can. Okay, thank you.

13:36

And I think Historic England, they're on the list. Is there anybody here from Historic England?

13:43

Good morning. Mr. Woodward, yes. I'm Pete Owen, representing Historic England matters relating to the Historic Environment.

13:54

Okay, thank you, Mr. Owen, I will come back to you shortly. I'll just have

13:58

a discussion about the agenda. I'll do the presentations first, and introductions first, and I'll come back on that on, on your participation in today's event.

14:07

And finally, I think finally, from organizations, the late District National Park, I'm thinking there may be a representative from the National Park. Is that correct? Yes. My name is Ben long.

14:21

I'm an area planner representing the Lake District National Park

14:28

Authority. So area area planner was that area planner is my job title? Yes, sir, yes. Okay, thank you. That's that's helpful. Thanks.

14:39

Okay, and if Are there any other participants now who wish to make contributions to today's proceedings? So interested parties, members of the public residence, even other organizations I'm not aware of,

14:54

and I do appreciate we've got Miss Carling, I think is on the call. But.

15:00

Um, I

15:01

don't know if you do wish to participate today, or you're observing. If you do wish to participate, then raise your hand. Okay.

15:09

Your hands raised. Would you like to just come in and Mr. Barton, I'll come to you second. Miss Carlin, would you like to either turn on your camera, but particularly turn on your microphone and just let me know what your interest is today in terms of making verbal contributions.

15:26

Hi, I'm Susan Carling and my partner's Malcolm Fulton, and we are the nearest residential home to the proposed solar panel. Our end of our sort of land fence is right next to the actual fields that it's going into.

15:44

Yeah, so you're on the well, on the crossroads, near the crossroads, yes, yes.

15:49

Okay, more than welcome to participate today. And my question was going to be and I'll ask the question now, we have, we do have an open floor hearing on Thursday, so today we're going to stick fairly rigidly to the topics on the agenda.

16:06

So hopefully

16:09

I'll come on to the agenda shortly, but we are going to be sticking rigidly to those topics. If you wanted to raise anything outside those topics, general comments on the scheme, then Thursday would be the most appropriate forum to do that however, we are going to be discussing certain matters, I think that you've raised in your written representations, but that's just to make you aware of how the week's going to pan out.

16:34

Thank you. Okay. Thank you.

16:37

And now, Mr. Barton, Good

16:41

morning, sir, hi, Mr. Barton.

16:45

Tom Barton, partner at Keystone law, acting for 12 property Fe Limited.

16:53

I'm not sure or certain that I will need to make or wish to make any verbal submissions today, but if you don't mind. I'd like to keep that option available, and I'd raise my hand if I had anything to submit. Okay, thank you, Mr. Barton. And I'm sure you're aware, we do have a compulsory acquisition hearing as well, which is also on Thursday, and I think your name, your name is down on on the list as well. So, yeah, okay, that's fine.

17:17

Thank you. Is there anybody else in the room who wishes to raise their hand at this stage because they may wish to make submissions.

17:28

Okay, thank you.

17:32

So I'm going to now. I'll move on now, and I'll just revisit some of the items I've alluded to when we've come on to the agenda

17:42

I've already suggested there are two hearings now. They are on Thursday. They were some included as part of the letters that were sent out to interested parties.

17:56

So just to give a bit more indicate a bit more detail in terms of what those hearings entail. The open floor hearing, as I've suggested, is where anybody can make any comments on the application at

18:07

all, and those are typically to cover matters that I'm not going to cover today. The compulsory acquisition hearing, also on Thursday, on Thursday morning,

18:18

is where the applicant's case to compulsory, compulsorily acquire land, or rights over land, or for temporary possession of land, will be discussed, and that will involve the applicant and any affected persons who wish to make submissions or contributions in that hearing.

18:37

So just returning to today's events, I'm going to be referring to various documents as we go through today. And it would be really helpful if people familiarize themselves where the examination library is, because I certainly will be referring to document reference numbers which are contained within the examination library. I imagine the applicant will be doing the same,

19:01

and just to assist with the smooth running of the event,

19:06

I will be making specific comments on the issue, specific hearing, agenda item comments from the applicant now. So in essence, though, that is the applicant's response to the issue, specific hearing which was subsequently canceled, and that's contained within rep 3015,

19:30

in addition, I will be referring to the applicant response to the second written questions. So those are the examining authorities or my written questions and the applicant response. They're contained within rep four, double 04, so we are likely to be coming back to those documents, but I would suspect there'll be other documents as well, which we do refer to commonly through the day.

19:54

So I'm going to now just speak briefly on the purpose of today's issue, specific.

20:00

Hearing, and I'll split this generally into two sections. The first one is we're going to discuss, we're going to cover issues relating to the draft development consent order. And just to point out here, this is an

important document, and the hearing is being held on a without that prejudice basis. So in essence, even if your position is that development consent should not be granted,

20:25

and therefore that the Secretary of State should not make the DCO, you can still make representations in this hearing on the drafting of the draft, of the draft DCO, without conceding your wider position that the draft DCO should not be made.

20:42

And I would like to highlight here that it is important for me as the examining authority, because I am under a duty, irrespective of whether I recommend that the order be made or not, I'm under a duty to provide the Secretary of State with the best drafted development consent order that I can.

21:01

And this is because I do not decide the outcome of this application. I simply make the recommendation to the Secretary of State and he will make the final decision.

21:10

Hence why we do have a number of points and questions on the draft development consent order. This this morning and probably this afternoon as well,

21:19

and then the second half part of the hearing is to explore some environmental matters in more detail.

21:29

And as per section 91 of the Planning Act, I'm holding hearing into these matters because I deem it necessary to hear oral representations to to enable adequate examination of an issue, or to ensure that an interested party has had a fair chance to put their case. Now you all be aware that I have already asked two rounds of written questions about these various topics, and the applicant and other interested parties have provided responses at various deadlines through this examination. However, I do feel that verbal questions are needed on some of the topic areas to provide clarity.

22:07

And even if you understand something, it is really to help me as well understand the differences between the parties and how or whether or not there is a resolution to various points.

22:18

So just to kind of summarize the two halves of of the hearings

22:25

I am going to be asking, or I'm hoping that I'll be making notes anyway on particular action points, so where we discuss a particular topic, what may follow from that is a certain action point. So I would ask the applicant to make a note of action points, and I will do the same, and we will revisit the action points when the meeting ends. And that gives us a clear way forwards. Secondly, the written submissions,

written summaries of all oral submissions to this hearing should be provided by all parties by deadline, five which, as you will see from the examination timetable is the 25th of November,

23:09

as I have previously alluded to. It would help me if you could answer questions verbally during this meeting. But I also appreciate on various technical matters, you may need to consider your response and provide responses either later in the hearing or in writing,

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but it's just a plea, really, just to try and respond as best you can in today's meeting.

23:35

Finally, the hearing does not override the primarily written process of examination, and if I need to, I do have the power to seek further information or written comments under Rule 17 of the examination procedure rules 2010

23:48

obviously, I'm keen at this stage in the examination to try and keep any such requests to a minimum.

23:56

So in terms of how the hearing is to be conducted, do we have a copy of

24:05

the agenda at all that we could put on the screen?

24:13

Thank you. That's Yes. That's really helpful. If we could just scroll down to the

24:19

agenda items, particularly the questions, yeah, that's great, and thank you. And I'll kind of guide you on that as we go through my opening.

24:29

So the hearing is going to be led, led by me, and I will conduct control and conduct the timings as best I can, and really to ensure efficiency, but also to give people a fair chance to make make contributions. As

24:42

I've said, we may or may not finish today. I think it's fairly optimistic say we will finish today, but if we did, we would, we would not sit tomorrow. And as I say, I'll revisit where we're at, kind of sometime this afternoon.

24:56

And if we are to try and finish today, I would suggest.

25:00

Best we would not sit beyond five o'clock. If I make the decision that it's just not feasible to finish today, I suggest that we finish slightly earlier, maybe four o'clock, simply because it is extremely

25:11

tiring being on screen, on screen all day.

25:16

So just going back to a point I made earlier, Historic England are present in the room today, and I'm curious to understand. Well, did you understand that this covers two days of hearing? Are there any limitations on your time? Because I'm wondering whether we could just rearrange the agenda slightly to bring your contributions in slightly earlier.

25:36

Yeah. No, I don't. I basically put today and tomorrow aside, so I can be as flexible as you, as you require. Okay, thank you at the moment. So just looking through the if we scroll down the agenda, agenda item one is the these development consent order, and then if we scroll down, number two is environmental impact assessment and general matters. As I again, as I alluded to, there are a couple of points of clarification when I'm going to be asking, and I think that does need to go second on the agenda anyway, it was whether or not we could move cultural Heritage's Historic Environment from point number five to point number three. But Mr. O, it doesn't sound like you've you're particularly concerned, either way. No,

26:28

okay, I mean, I'm happy to leave the agenda as it is, just to reduce any potential confusion.

26:35

If that's okay. Okay, yeah, no, that's fine. Yeah, okay, no, thank you. Yeah.

26:47

And similarly, the Lake District National Park. Well, are you here for the duration? I imagine your contributions are mainly going to be on landscape and visual potentially cultural heritage as well.

27:01

That's correct, certainly in terms of the questions that remain on the current agenda. It appears to me that it's only section five, cultural heritage, the World Heritage element. But if I'm if it would help for me to contribute to the landscape of visual questions I'm also happy to do. So,

27:26

okay, and have you got any issue with it just thinking aloud, thinking out loud? It's it's possible that those items will be discussed tomorrow, depending how we progress today.

27:39

Yes, it would. It would. It would help me if they were today, but if it needs to be tomorrow, it needs to be tomorrow. Okay, well, let's I'll proceed this morning. I'll see where, kind of how far we've progressed at lunchtime, and I'll take a view as to whether we need to rearrange the agenda. And does the applicant have any any comments, without spending too long on this.

28:01

Richard Marsh, on behalf of the applicant,

28:04

all our

28:06

experts are available today and tomorrow. So whatever works for the

28:12

National Park and Historic England and yourself. Okay, now that's that's helpful. Thank you. As I say, I will revisit this later on in the day.

28:24

And so before we move on to kind of discussing the main points in terms of the draft eco draft development consent order, I'll raise a couple of other points and issues in terms of process.

28:38

I did carry out an unaccompanied site inspection last week as just to raise your awareness of this information is available as part of on the headline to the dean Moore section of the website, but also under examination Library Reference, EV eight, double 01,

28:58

yesterday, on a separate point, yesterday, I received a draft statement of common ground on behalf of the applicant and Historic England. There is a clean and attract changed version. Both are available to view on the website under as 021 and as zero to two respectively. I'm not going to spend time discussing the document at this stage, because I think we will get on to

29:22

addressing the document later on in today's hearing or tomorrow, under the appropriate item.

29:31

Is there anything the applicant would like to add in terms of submissions or procedure, or anybody else indeed,

29:38

on how the hearing is going to be conducted on documents that are before us today and the agenda

29:47

Richard Marsh for the applicant, and I think further from from us for the typing. Okay, thank you.

29:55

Okay, so I'm ready to move on then to the draft development consent order.

30:00

Yeah, I have a paper copy.

30:05

And I did refer to the document and reference number, which is rep 2004,

30:11

so either electronically or paper copy is fine, but I think it would help to have copies in front of us as we go along today.

30:22

And just to point out, I've said this already, but I'm going to highlight again that I have already asked written questions on the development consent order.

30:32

And this led, in part, this partly led to a second draft version of the development consent and consent order, which is the one that is before us today. So I'm not intending in the first hearing on the agenda. You You may recall I was going to ask the applicant to present,

30:50

present their proposal effectively, and prevent present the development consent or the or the draft version of it. But because I've had a written response from the applicant on that particular question. I don't feel that's particularly good use of time today. Nevertheless, if the applicant is to inform me now that they prepared a presentation, I'm not averse to them making a presentation on this. But Mr. Marsh, could you just confirm, are you happy for me to proceed on the basis of the agenda? Or would you are you intending to make, or would you like to make a presentation on the draft DCO

31:24

rich Marsh for the applicant? We're happy to proceed as per the agenda.

31:29

If that works for you. Yeah, that's fine. Thank you.

31:34

Okay, so we are moving now on to item through agenda, Item three, one, and I'm then going to work through the list in in order.

31:45

So we'll start off with a before I do that, I am actually going to raise a couple of general points in terms of the drafting of the development consent order.

31:55

So the applicant may well, you may have been made aware that there has been a recent made development consent order at Stone street. So stone street solar

32:05

and that was a decision by the Secretary of State. So as an action point, I'm going to ask the applicant to review their development consent order or draft development consent order and their explanatory memorandum having regard to the Secretary of State decision. Now you'll probably find today that I'm going to repeat this with various references to other articles, but I think it's important just to highlight as a general point, if you could review your your draft order in terms of consistency or precedence or anything else that may affect your draft. DCO, could I just ask the applicant to confirm that they're happy with the action point?

32:46

Richard Marsh for the applicant, that's absolutely fine. And noted, thank you.

32:57

Secondly, do we have a copy of on the screen, a timetable? Are we able to put the examination timetable on screen? I'm not sure whether that was something I requested from the applicant. If not, I wonder if the case team. There we are. Thank you. That's helpful.

33:15

So currently we are at number item number 10, and if you could just scroll down. You will note that deadline five is Tuesday, the 25th of November.

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Now if we go down slightly further to the fifth of December,

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that's an action point for myself or the examining authority to make comments or schedules of changes to the draft DCO

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at the moment. So at the moment, I have a second iteration of the development consent order, which is the one we're going to discuss today, but by the

33:54

fifth of December,

33:57

there isn't a further DCO timetable. There's no further draft required. However, I'm going to ask if the applicant is willing and able to provide a third iteration by deadline five, so that it gives me a chance to comment on the DCO. And I would say that really, this is more about ensuring all matters are properly concluded in the in the examination timeframe, and to, you know, to to reduce and limit outstanding issues that would need to be reported to the Secretary of State. I feel that that would be helpful to me and the examination, I don't know. Mr. Marsh, is that something that's feasible? Richard Marsh, for the applicant, that's absolutely fine. We're happy to submit a further version by ID five, so 25th of November. Okay, and again, can we make that an action point? Please?

34:56

Thank you.

35:03

Sorry, let me just find where I am on my on my agenda. Okay, that I think we've covered all the preliminary matters in terms of the draft DCO, and I'll move on now to the detailed items. So I will start off now with a series of questions and comments on the draft DCO, and specifically the articles, schedules and requirements therein. In

35:25

the main I'm going to direct these questions to the applicant, but, but all parties present may make comments on specific points, should they wish?

35:33

It's possible. I think a couple of the points I'm going to be asking also involve Cumberland Council.

35:41

Just looking down the list, item G, for example, I think H as well, but it's possible I may ask questions of interest to other interested parties as we go along.

35:52

So could we start with or question one, a of item three. So clarification over the definition of commencement, and I'll just explain specifically what the question I'm asking here.

36:08

So if we could go to the definition on page five of the DPO, which is a definition of commencement,

36:22

hopefully it's on page five.

36:29

Thank you. That's helpful. It's been highlighted as well. Thanks.

36:33

So it states there that it means to carry out a material operation as defined in the act, but it excludes permitted preliminary works, and in brackets, it's stated except where stated to the contrary. And the question really here is, I can't see where it is stated to the contrary, and I wondered if the applicant could explain to me

36:56

where it's stated to the contrary within the draft order,

37:02

do Jess Graham, for the applicant, yes. If we have a look at schedule two, which contains the requirements, and we go to requirement nine, which should be the archeological requirement, I'm just getting out myself, that might be, are we on page 41 think?

37:29

I think it's page 41 of the order. That's right. Yes. Thank you. So requirement nine deals with archeology, and if you look at sub paragraph four of that requirement. It says, For the purposes, sub paragraph one commence includes any intrusive archeological surveys, including trenching. And now, intrusive archeological surveys, including trenching are one of the permitted preliminary works that are defined in Article Two, and this is one of those. Well, it's the only, in fact, it's the only statement to the contrary. So this makes clear that, in fact, in undertaking intrusive archeological surveys there, there would need to be a WSI before that those surveys could commence.

38:18

Okay, that's, that's helpful. So that's the that's the so that's the only example in the draft PCO of the exemption, for want of a better phrase,

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just going for the applicant. That's correct. Okay, thank you.

38:38

And moving same similar question, really, or related to the permitted preliminary works, or the definition

38:46

of permitted preliminary works, which is

38:55

on page six of The Order, question

38:59

really, about how the

39:01

permitted preliminary works have been factored in to the wider scheme. So this is not purely a DCO question, but it's about there isn't, I can't see any reference to permitted preliminary works in the environmental statement and the type of activities that may entail.

39:19

So are they encompassed in the schedule of works or or in the requirements. And the question, really, what the question I'm leading to is, would it, could a paragraph in the methodology of the ES be added to bridge the permitted preliminary works with the project you were seeking consent for, and which has been set out in the ES. I don't know if the applicant understands the question, but it's obviously in the DCO, but I can't really see any reference in the planning statement, sorry, in the ES itself, to the type of works this may entail and

39:55

how that affects the likely significant effects in.

40:00

EIA terms,

40:04

Jessica, sorry,

40:06

I'm sorry I did cut you off there. If you'd like to continue, I was going to say, I really leave it to others to comment on the ES, but it might just help you to explain, from a sort of DCO perspective, the sort of the role the permitted preliminary works play. So these are obviously activities that are excluded from the definition of commence, and the reason for that is to enable the the applicant to undertake these works before the discharge of the pre commencement requirements in schedule two that we were just looking at, and that is really on the basis that these are, you know, the types of sort of preparatory works, such as surveys and monitoring investigations that,

40:53

due to their nature, would mean that they're not expected To give rise to significant environmental effects that require

41:02

mitigation

41:05

in terms of sort of reference to

41:09

those works within the ES,

41:12

I'd probably need to hand that over to someone else, or, if you like, we could come back in writing and sort of it set out

41:20

where we've dealt with that, yeah, that's

41:23

That's why Ms Graham, but there were a couple of options, another representative or witness can come, come in now and comment on that. Or we do have in question, two environmental impact assessment and general matters, so that will give you some time to consider that point. Or thirdly, if, if if you do need additional time, then again, in writing is an option as well

41:46

the applicant. Thank you. So that maybe we try and go for option two, as you say, we've got, we've got a bit of time before we get to the general EIA matters, and we will try and have a response for you. Then,

42:00

if not, we would take care of writing. So okay, that's fine. So just to reiterate, what the what the question is, is, is this? Has this been addressed in any any document, what the permitted preliminary works are potentially or they may include, and how they've been factored in to determining,

42:19

as I going to have a defect on the overall findings of the ES. I think the answer, your answer is, no,

42:26

it is, and I understand the rationale behind that, but I don't think there's anything in the in the documentation that explains how you've arrived at that position.

42:35

It may be in there. So you may be able to signpost me as well. So if we come back to that point in item under item two,

42:44

Make a note of that and

43:01

then again, linked to commencement, and we're going to have to page turn again, unfortunately, if we could go to page 39 of the DCO, which is Article Two, one

43:13

and

43:18

the commencement of the authorized development.

43:23

It was a question, really, in relation to the

43:28

consistency and the definition that's been provided already. Obviously, I can see what commence means.

43:36

But under two, you use the word begin.

43:41

Should I mean, should that be commenced? That's a simple question. Or is it, are you happy with it remaining as begin?

43:50

Yes, Graham, for the applicant,

43:53

I think the use of the word begin there is intentional, and we're happy with it. You know, it's not

44:01

a pre commencement requirement in the way that some of the ones that follow are, but

44:07

we will consider that point when we update the DCO for d5 and if we think that an amendment is appropriate, we'll

44:16

consider it at that point. Okay, thanks. So yeah, if you consider that, and obviously, as you read, as you consider in the further iteration of the draft eco, if you could bear that in mind and decide whether that wording is appropriate in the circumstances or Not,

44:38

I think that may be it on one one a

44:44

time. We've got five more minutes until I intend to break it. In fact, no, we've got 10 more minutes. Think I said five. So we will continue. We'll go on to 1b

44:56

again. My agenda item here is fairly broad.

45:00

Definition of borderland, and I know you've made responses to this in written submissions in in response to my first written questions. So I will explain particularly what I'm asking here, if we could turn to page six of the draft BTO.

45:23

So the definition of order land,

45:27

the order land, which is towards the top of page six,

45:37

you have made submissions on this, but I'm going to ask the question again,

45:42

in essence, is this sufficiently clear? Should it not say within the order limits,

45:52

so within the definition of order land?

46:02

I just going for the applicant.

46:05

I think our position is that the definition is sufficiently clear as it is.

46:11

It does refer to the land shown on on the land plan. And for those listening, that's examination document reference as double 07, so the land plan is also defined

46:26

within the order. And when you go to that land plan,

46:30

the

46:32

order limits are clearly shown on that plan.

46:36

I know that others have taken approach where they sort of reference the coloring that is used on those land plans within the definition. And I think maybe that was the point you've raised previously. And

46:52

I think we feel that by referencing the land plans, you can go to the land plans and see the limits there,

46:59

and there are, I think, multiple other made DCOs, including solar DCOs, that have used this approach, and I will have to double check but I believe the three most recently made have a definition consistent with ours, but I will double check that. Okay, if you could come back on that point in terms of recent consistency, that that would assist as well. So if you again, if you can review that, that point, when you look at the draft DCO in time for deadline number five,

47:37

yes, going for the applicant, yes, sir. And just to clarify, clarify, if we do have a sort of definition that is consistent with the with the last three made solar DCOs, would that sort of be sufficient to sort

47:50

of deal with your concerns over the definition, or is there a sort of further point you'd like us to consider

47:57

on The basis of the wording that we've currently got? I what

48:03

I'm sure you appreciate. I won't nail my colors to the mast in in the hearing. However, I think really the the overall, the overarching point was about making sure that that's a clear definition of order land, and that it's been properly articulated, and it's clear to everybody what that actually means. So I think in response, if there's a press a recent precedence, then clearly that's going to have a significant amount of weight in terms of what the Secretary of State deems acceptable in relation to the definition. So if you could just have a look at those recent schemes and point me in the right direction, that would Be helpful. Thank you. I

48:54

Okay,

48:58

and in relation to

49:08

to come back to this point, actually, just come back to that point, probably after the break.

49:15

Okay, I'm going to move on to C.

49:21

Actually, we are on 10 to 11. The reason I'm not raising next point is because I think it might generate some discussion, as will item C. So I'm wondering now whether we should break if we break now and

come back at 10 past 11 as opposed to quarter past would that be acceptable to the applicant and anybody else who may be observing the minutes, the two minutes silence,

49:48

Mr. Marsh Richard

49:51

Marshall, the applicant, I wonder whether it would be worth

49:56

explaining the question before the break to potentially.

50:00

Allow some discussion during the break. Yeah, no problem. That's fine.

50:05

Thank

50:11

you. So in relation to Article 213,

50:16

and to help with matters, this is set out you set out your position. The applicant sets out their position in paragraph four, point 2.20,

50:26

of the explanatory memorandum, which is rep 2007,

50:33

and Put very simply, I just want to understand why it's needed for this particular project. So maybe if I leave that with you to think about over the break. So again, just to repeat, the EM explanatory memorandum sets out the applicant's position in relation to Article 213 that's contained in paragraph four, point 2.20,

50:54

of rep 2007,

50:57

it's not clear to me why it's needed for this particular project. Yes,

51:06

going for the applicant. Thank you, sir. We've, we've got a note of the point, and we'll consider during the break. Okay, so I'll break there and we'll come back at, I think we can still come back at 10 past, if that's okay with everybody.

51:22

Okay, so I'm going to adjourn, adjourn now, and we will reconvene at 1110,

51:28

thank you for.