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FULL TRANSCRIPT (with timecode)

00:00:05:26 - 00:00:38:03

It's now 9:30 a.m. and time for this hearing to begin. I'd like to welcome you all to this hearing. Uh, can I firstly check that everybody can hear me clearly. Yes. Okay, great. And can I confirm with Mr. Stevens that the live streaming of this event has commenced? Um, for those people watching the live stream. Can I advise you that? Should we at any point adjourn proceedings this morning, we will have to stop the live stream in order to give us clear recording files. As a result, at the point at which we recommence the hearing and restart the live stream.

00:00:38:05 - 00:01:19:07

You'll need to refresh your browser page to review the restarted stream. This. This hearing is an issue specific hearing in relation to the application made by RWA renewables UK and UK Solar and Storage Limited, who we will refer to as the applicant for an order granting development consent for the Pear Tree Hill solar farm. My name is Alex Hudson. I'm a chartered town planner and a chartered landscape planner. I'm a planning inspector employed by the Planning Inspectorate, and have been appointed by the Secretary of State for housing, Communities and Local Government to be the lead member of the panel to examine this application.

00:01:19:26 - 00:01:24:09

I'll now ask my colleague, who is joining us virtually today to introduce herself.

00:01:27:00 - 00:01:59:27

Thank you. My name is Mary Louise Milliken. I'm a chartered time planner and planning inspector. I have been appointed by the Secretary of State for housing, Communities and Local Government to be a member of the panel to examine this application. As you can see, I'm attending this hearing virtually this morning. So there may be times when I'll be looking at my second screen and not directly at the camera. This does not mean that I am disengaged in the event in any way. Similarly so as to not distract from the proceedings.

00:01:59:29 - 00:02:09:06

This morning I will only turn on my camera and microphone when I am addressed by Mr. Huston, Mr. Hudson, or when I am asking a question. Thank you.

00:02:13:15 - 00:02:26:26

Thank you. So together we come through the examining authority for this application. We'll be reporting to the Secretary of State for Energy Security, net zero, with recommendation as to whether the development consent order should be made.

00:02:29:20 - 00:02:37:04

For those joining online and those who are present in this room, you may already have spoken to Jake Stevens, who's the case manager for this project.

00:02:39:11 - 00:02:59:11

Um, he is supported here today by Harry Davies and Amina Khan, and Emma Smith and Rachel Burney are providing support remotely. If you have any questions or queries about the examination process or the technology we're using for blended or virtual events. Mr. Stevens should be your first point of contact.

00:03:01:07 - 00:03:26:24

This is a blended event comprising an in-person hearing, as well as being held on the Microsoft Teams platform. It has been both live streamed and recorded. For those people observing or participating through themes in order to minimize background noise, can you please make sure that you stay muted unless you are speaking? If you are participating virtually and you wish to speak at the relevant point in the proceedings, please use the Microsoft Teams Hands up function.

00:03:28:25 - 00:03:54:15

Alternatively, please send your camera on your camera so that we can see you. Will you wish to speak? Uh, can I also remind people that chat function on Microsoft Teams will not work? So please do not try to use this to ask any questions or post comments. If you don't manage to ask your questions or raise your points or the relevant points in time. There will be an opportunity at the end of the hearing for you to raise this under agenda item seven. Any the other matters.

00:03:57:02 - 00:04:28:24

Because the digital recordings that we make are retained and published. They form a public record that can contain your personal information and to which the General Data Protection Regulation applies. The Planning Inspectorate practice is to retain and publish recordings for a period of five years from the Secretary of State's decision. Consequently, if you participate in today's hearing, it's important that you understand that you'll be live streamed and recorded and that the digital recording will be published. If you don't want your image to be recorded, you can switch off your camera.

00:04:29:08 - 00:04:34:20

And for those in the room who don't want to be recorded, we'll find a place outside of camera shot.

00:04:37:00 - 00:05:01:10

We will only ever ask for information to be placed on the public record. That is important and relevant to the planning decision. Therefore, to avoid the need to edit the digital recordings, what we would ask is that you try your best not to add information to the public record. You would wish to be kept private or that is confidential. If you feel that personal information is necessary, please provide this in a written document that we can redact before publication.

00:05:03:09 - 00:05:18:24

I'll now deal with a few housekeeping matters. Firstly, can everyone please set all devices and phones to silent? We're not expecting any fire alarms today, so if one goes off, then the procedures to leave by the fire exits and congregate in the car park at the front of the hotel

00:05:20:17 - 00:05:33:03

and toilets located through the door at the back of the room and on the right. And we'll take a short break at around 11:00 if necessary, and I aim to finish no later than 1:00 today.

00:05:34:23 - 00:05:40:04

Uh, those of you who are participating virtually will need to ensure cameras and microphones are turned off during the break.

00:05:41:25 - 00:05:44:06

Uh, can I ask you, is anyone here from the press today?

00:05:49:25 - 00:06:21:13

Additional recording of today's meeting will be of. Today's hearing will be available on the project web page as soon as practicable after this hearing. With this in mind, please ensure you speak clearly into a table, microphone or, if necessary, a roving microphone. Please also first state your name and, if necessary, whom you represent. If any group or individual wishes to use social media, report, film or record today's hearing or any subsequent hearings. Please do so responsibly and with proper consideration for other parties.

00:06:23:18 - 00:06:43:22

This hearing will follow the agenda published on the 10th of October 2025 with examination library reference EB 4-001. I hope you have a copy of that to hand. You'll see we're currently on item one. Um, the agenda is for guidance only, and we may add other considerations or issues as we progress.

00:06:45:09 - 00:07:10:04

We'll conclude the hearing as soon as all relevant contributions have been made and all questions are asked and responded to. But if the discussions can't be concluded, then it may be necessary for us to prioritize matters and defer other matters to written questions. Likewise, if you cannot answer the questions being asked or require time to get the information requested, then please can you indicate this that you need to respond in writing?

00:07:12:10 - 00:07:18:00

Let me briefly explain the purpose of this hearing, which is into the draft Development Consent Order or draft DCO.

00:07:20:06 - 00:07:33:07

The draft DCO is an important document. It's a piece of draft is a draft piece of legislation which, if the Secretary of State decides to grant development consent, forms a legal basis for the delivery of the proposed development.

00:07:34:29 - 00:07:47:10

It sets and secures the standards to which the development must be constructed and secures the environmental performance of the development, ensuring that it does not exceed what is described as the Rochdale envelope assessed in the environmental statement.

00:07:53:12 - 00:08:13:19

This home is being held on a without prejudice basis. So in essence, even if your position is a development, consent should not be granted and therefore the Secretary of State should not make the draft DCO. You can make representations in this hearing on the drafting of the DCO, without conceding your wider position that it should not be made.

00:08:15:16 - 00:08:46:08

Those of you participating today can make comments that affect how the draft, how the DCO is drafted, for example, relating to requirements which are the equivalents of conditions to a planning permission. You can do this even if your position is that the DCO should not be granted. It's important for examining authority because we're under a duty to provide the Secretary of State with the best draft of DCO that we can. Even if we end up recommending that the That Secretary of State should not make the DCO.

00:08:47:12 - 00:09:06:10

This is because we do not decide these applications. We make recommendations to the Secretary of State who then makes the ultimate decision. So even if our report were to recommend the development concept should not be granted, we would still append a draft DCO, ensuring that the Secretary of State can decide to make one if they wish.

00:09:08:05 - 00:09:22:27

Throughout this hearing, we'll be referring to the latest version of the draft DCO submitted by the applicant in clean and tracked change versions, and these have the examination library references of Rep 3005 and Rep 3006.

00:09:25:23 - 00:09:39:08

I've been provided by the case team with the list of those who have expressed a wish to speak today, and they are people representing the applicant. Um, East Riding Village Council and East Riding against solar expansion.

00:09:41:02 - 00:09:57:20

I'm now going to ask those of you who are participating in today's hearing to briefly introduce ourselves and to indicate which agenda items you wish to speak on, please state your name. Who you represent and how you wish to be addressed. Um, can we please start with the applicant and any of its advisors?

00:09:58:18 - 00:10:24:25

Good morning. My name is Mustafa Latif Ramesh. I'm a partner and parliamentary agent at TLT here on behalf of the applicant. I'll be joined today by two speakers. Um, and it might be appropriate to introduce them at the appropriate time. But to my right, Miss Laura Tinker, Associate director at DWP and virtually, Mr. Ben Twiss. I'm also joined by Jonathan Harris and Mike Breslow of RWA.

00:10:28:01 - 00:10:33:11

Okay. Thank you. Um, and East Riding of Yorkshire Council.

00:10:35:09 - 00:10:43:23

I'm Rachel Hodgson and principal planning officer at East Yorkshire Council, and I'm joined by Gemma Percy, council solicitor.

00:10:47:11 - 00:10:50:15

Thank you. And East riding against solar expansion.

00:11:13:05 - 00:11:24:26

Okay. I mean, there will be a time later in the hearing for any other matters. You know, should they wish to be something they want to raise at that point? Yeah, they're probably the best, best point to raise it. If so, thank you.

00:11:29:09 - 00:11:35:22

Um, is there anybody else here today who wishes to speak either in the room or virtually?

00:11:40:17 - 00:11:44:01

Okay. I can see no hands raised.

00:11:48:29 - 00:11:52:01

I believe there was a John Tate.

00:11:54:01 - 00:11:54:24

He's riding.

00:11:56:11 - 00:11:56:26

Yeah.

00:11:58:08 - 00:12:10:01

Yeah. Good morning. Sir. I was waiting for our camera to come on. Yeah. John Tate surrounding future council here to. Not necessarily to speak, but to answer any questions regarding local air quality and land contamination from the council's perspective.

00:12:12:14 - 00:12:29:18

Okay. Thank you, Mr. Tate. Um, can I just. Mr. Tate, before you go, can I just clarify a couple of points? Um, I think you just said in your correspondence you wanted to speak about a few documents. Um, one was. Yes. Chap six on air quality.

00:12:30:12 - 00:12:32:01

Um. It's not. Sorry.

00:12:32:26 - 00:12:35:05

That was okay.

00:12:36:28 - 00:12:37:13

Yeah.

00:12:37:15 - 00:12:46:14

There's nothing about the documents itself. It's to answer questions. If those matters came up as they're sort of. They're my area of expertise for the council.

00:12:47:02 - 00:12:54:05

Okay. Understand? Thank you. Thank you. Okay. And was there anybody else from East Riding of Yorkshire Council

00:12:56:03 - 00:12:57:29

who wanted to speak? No. Okay.

00:13:00:17 - 00:13:18:18

Thank you. Um, if you want to refer to something that you have submitted before. We'd be grateful if you could give the appropriate examination library reference so that we can all follow. In addition, when using an abbreviation or an acronym for the first time, it'd be really helpful if you give its full title first.

00:13:21:18 - 00:13:26:08

Um, are there any other comments anyone wishes to make under this particular agenda item?

00:13:30:16 - 00:13:37:11

Okay. In that case, that concludes this item on the agenda. Thank you. So move on to agenda item two,

00:13:38:29 - 00:14:12:15

which is, uh, to articles and schedules, including requirements of the draft development consent order. Um, I'd like to start this item as indicated by the first three bullet points of the agenda item. Um, by asking the applicant to provide a brief overview of each part of the draft DCO, and then highlight key changes which have been made since the original submission version. And if you could, within your brief overview, explain how the draft DCO would secure mitigation and the kind of broad areas such mitigation would cover.

00:14:12:17 - 00:14:13:09

Thank you.

00:14:14:18 - 00:14:49:15

Mr. Bility. Very much. On behalf of the applicant. Thank you sir. In order to ensure that we keep to the allotted time, it might be useful, just as a preliminary comment to note that the draft Development Consent order, the draft DCO can is explained in the explanatory memorandum, which I may refer to as the M, the most recent version of which is rep 2064. The drafter DCO has been put together having regard to guidance, including the Planning Inspectorate Advice Note 15, as well as precedence in relation to other made solar dsos.

00:14:50:10 - 00:15:03:01

There are 52 articles and six parts which I'll briefly summarize. The first part contains the definitions that are used throughout the draft DCO. The second part relates to the principal powers.

00:15:03:04 - 00:15:09:20

Sorry. Would it be worth putting it up on, like maybe putting the contents page up on the, um. Sharing it with everyone?

00:15:09:22 - 00:15:10:07

Of course.

00:15:10:09 - 00:15:10:24

Thank you.

00:15:12:19 - 00:15:57:09

The second part relates to the principal powers contained in the draft DCO, including article three, which grants consent for the authorised development. It also includes a number of provisions relating to the operation and maintenance of the authorised development. There are other provisions in there, such as article ten, which relate to defences on statutory nuisance, as well as provisions which relate to the control of highway works. Part three relates to streets, and this more particularly sets out the powers in relation to temporary restrictions for traffic purposes, as well as any other new rights of access or traffic regulation measures that could be included.

00:15:57:17 - 00:16:28:22

There is an associated schedule, which is schedule five and seven, which sets out the extent of those traffic regulation measures and restrictions. Part four contains the supplemental powers. These include protective works provisions as well as the authority to survey and investigate land parts. Five contains the powers of acquisition, and these are there to authorise the permanent acquisition of land as well as the temporary possession of land.

00:16:30:00 - 00:17:13:22

These articles are related to a number of schedules, including schedule ten, which sets out the purposes for which temporary possession may be taken, and they're closely related to the land plans. The most recent version of which is Rep 3004, will be returning to the provisions which relate to land acquisition and land use in the compulsory acquisition hearing. So I'll be brief on on these provisions. Part six contains various miscellaneous provisions as well as general provisions, including articles 44 and 45, which relate to felling or lopping of trees, as well as a provision which relates to trees which have a tree protection order.

00:17:13:24 - 00:17:47:27

And again, there is a related schedule, schedule 13, which sets out the hedgerows to be removed. In terms of the schedules, schedule one contains a description of the works which comprise the authorised development. Broadly speaking, Work number one comprises the Nationally Significant Infrastructure Project. The CIP and the other works relate to associated or ancillary development. Schedule two contains the requirements what you refer to as the equivalent of the planning conditions in a planning commission.

00:17:48:04 - 00:18:30:06

The most important points to summarize here are. Requirement two, which secures that the DCO is time limited. Requirement three, which requires detailed design approval. And then there are a series of requirements 4 to 15 which relate to management plans, which I will return to very shortly. And then requirements 14 to 17 relate to various procedures in relation to the discharge of those requirements. The remaining schedules we I think we cover in later agenda items, so I won't propose to cover them here in any great detail in terms of the changes that have been made throughout the examination.

00:18:31:08 - 00:19:08:15

The key changes are the deletion of what was article seven, which related to the limits of deviation. This was removed on the basis that it was duplicative of requirement three. The addition of various bodies to the requirements for the purposes of making sure that they were consulted as part of the discharge of those requirements. We've also amended schedule three, which relates to the misapplication of local legislation. Will be returning to that because there's a specific question, I believe, that will be raised on that schedule, various changes to give effect to the change requests which have been made.

00:19:09:08 - 00:19:47:16

Amendments to schedules eight and ten to address inconsistencies between the land plans and the book of reference. And then turning to how mitigation is secured. In general, the applicant has followed the approach of identifying the relevant impact as part of its environmental and traffic assessments, and then sought to secure a commitment which reflects the mitigation identified under a relevant requirement contained in schedule two. The overall framework is to include commitments in outline management plans and in turn require post DCO approval of a final management plan document which reflects that outline.

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Document. The consent which the applicant is seeking in this case relates to a preliminary scheme design and not the detailed design, and so it is appropriate for the applicant to secure further approvals in secondary processes in relation to those details when they become available. To ensure that the applicant is not constrained in delivering the authorised development in an environmentally sensitive and cost effective way, there is a proportionate need for flexibility which the applicant has sought to reflect in the drafting of schedule two.

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the applicant can confirm, as well as securing those outline management documents through schedule two. There are two related processes relevant to the securing management plans. The first I've already mentioned, which is consultation, which is required under the requirements with various bodies. And the second is that a number of outline management plans themselves contain a requirement for working groups or further community engagement. So just as an example, there is a community liaison group referred to in two of the outline management plans.

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And then just in case it's helpful. Uh, if I'm still within my 15 minute allotted time for this. Um, more particularly just in terms of some of the outline management plans and how we've secured the mitigation, there is the design parameters document, um, the reference of which I will give you in just

one second, which, uh, controls various, um, parameters on heights and widths of the physical infrastructure. These.

00:21:29:23 - 00:21:58:03

This ensures that at the detailed design stage, those parameters are secured. I've mentioned that there are a number of environmental management plans, and each requirement relates to a particular management plan. By way of example, the construction environmental management plan is secured under requirement for whereas the Construction Traffic Management Plan is secured under requirement five. The design parameters. References. Rep 3019. And.

00:22:02:29 - 00:22:43:01

As a as a final point, I think to note on the securing of the mitigation, it's worth noting that paragraph 19 of schedule two of the draft Eco sets that sets out that where consultation is required under a particular um requirement. Due consideration would be given to any responses that are provided as part of that consultation, and the applicant would, in its application to the local planning authority for approval, need to include copies of any representations made so that if a comment was raised by a consultees, uh, the local planning authority who discharges the requirement would have full sight of that response.

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Thank you.

00:22:47:01 - 00:23:02:23

Okay. Thank you very much. And a lot of those changes came about because of consultation with interested parties and written questions from the examining authority over the last, well, first half of the examination period.

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Mr. Latif, for the applicant. That's correct. Yes.

00:23:07:07 - 00:23:15:27

Okay. Thank you. Um, does anybody wish to make any comments for anything which you just heard in general terms?

00:23:19:21 - 00:23:44:09

Okay, so as indicated, the agenda. Um, we're now going to ask some questions on some of the articles, schedules and requirements. Uh, these are mainly directed to the applicant. There were the parties will have an opportunity to make comments on the specific areas covered before we move on to the next agenda item. We may also ask questions of the parties as we go along as necessary.

00:23:46:10 - 00:24:02:16

It's worth reiterating here, um, as the applicant has just set out, that the WSA has already asked numerous written questions on the draft DCO. Um, and the applicant was liaise with many interested parties, which is the result of many of its changes up to this point.

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Um, so if we just look at article three,

00:24:11:08 - 00:24:49:12

which relates to development consent and article five maintenance of the Authorized Development. Um. This relates to matters around excluding the the phrase within the order limits, and also associated consideration of article 20 and 21, which relates to protected works to buildings and surveying land, um, as well as article 44 to do with tree works and trees and hedgerows. Um, so I note that there's only one other example provided where the words within the order limits are not included in such an article.

00:24:50:00 - 00:25:21:04

And that relates to highways DCO. Uh, which, as I think you mentioned, is no longer to be implemented at the moment, but there's no other examples of those words being excluded from the DCO in this article. So I think it would be firstly helpful, perhaps expanding on previous responses to our written questions. If you could just explain your reasoning behind the exclusion of these words from the article, you know, noting that there are not.

00:25:21:06 - 00:25:24:24

Well, there's one other example out of many. Thank you.

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Mr.. Ramesh, for the applicant, I think we've got three submissions to make on this question. So the first is the starting point is the definition of authorized development. And the definition contained within article two relates not just to the works that are listed out in schedule one, but also any activity which is authorized under the order. And the reason that's important is because whilst schedule one contains works which are contained within the order limits, as you've noted, a number of provisions authorize activities which are adjacent to the order limits, and there are particular reasons for for each one of those which I can get on to if that would be helpful.

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But the starting point is that definition relates to both land within and outside the order limits.

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But I'm sorry.

00:26:17:08 - 00:26:21:28

Sorry. Are you able to provide like an example? So, for example,

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why might it be necessary to have protected works for buildings outside of the order limits? In what situation might that arise?

00:26:31:16 - 00:26:54:16

Mr. Latif Ramesh for the applicant. So as an example, the protective works article, it might be necessary if there was something that happened during construction which meant that there would be

some emergency situation. And so that provision has been included in a number of orders on the basis that it is helpful to authorise an emergency activities in case they are required.

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Such as such as though like in this solar farm development, if there's what, say, a house on a street outside the old limits, in what situation would you need to carry out protective works to that building?

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So because it's an emergency power, I'll try my best to give a specific example, but let's say during construction there was a delivery, which then led to some of the panels that were being delivered to fall off onto some other land. Under the strict terms of every other article of the DCO, we would be confined in terms of what we could do under the protective works provision. We would be able to go on to that land, retrieve the panels, carry out any repairs that were caused as a result of the damage as part of that activity.

00:27:41:08 - 00:27:58:02

But the fundamental basis is that there are a number of different things that could happen which, if we could not remedy, would cause damage and be detrimental to landowners. That is just one example, but it's effectively anything that might cause damage during the construction of the authorized development.

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Similarly with surveying investigating land, what would you need to do that outside of the order limit?

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So in relation to the authority to survey and investigate land, there are a number of requirements for pre-construction surveys which are secured under schedule two of the draft Development Consent Order that would relate to land in the order limits. But there may be circumstances where, for example, if there are ecological features or assets which slightly traverse the order limits that it would be useful to investigate. In order to make sure that we have a complete set of pre-construction surveys, um, as part of the discharge of the requirements.

00:28:41:29 - 00:29:06:27

Um, I think it is worth saying that in both of these contexts, the Secretary of State has authorized the use of both provisions in in various fairly DCS. And we accept that in this in this case, we need to justify why we need them. But what we what the applicant would stress is that there are no different circumstances for those schemes that exist for this scheme.

00:29:08:22 - 00:29:40:21

Okay. And in those schemes it's always outside. It's not just within the order limits. It's even if, uh, article three says within the order limits, there's still works that can keep an outside of the order limits. So by how, how how are those dsos like implementable if it's only allowing works in the order limits that works can be carried out outside the order limits for, you know, very small matters such as what you've just said.

00:29:40:24 - 00:30:14:29

So most ability for the applicant. So it's right to say that as, as you said at the start that there is one example that we refer to. This brings me on to the second and third submission I was going to make, which is it is correct that the A303, uh, Stonehenge example is what we refer to for excluding the phrase within the order limits. That's not to do with the particular circumstances of that scheme. It's to do with the principle, and it's the principle that we're referring to, rather than a comparison between this scheme and the A303.

00:30:15:01 - 00:30:48:15

Stonehenge. If if other dsos have included that phrase, the reason we are not doing so is merely to be very clear and upfront about the definition of authorised development and about the scope of the DCO. It's it's, um, something that we want to make sure it's very clear so that there's no dispute about it. You're right to say that other dsos in the equivalent of article three do refer to within the order limits. And what we want to do is to be consistent with the principle that was established in that case.

00:30:48:17 - 00:30:59:05

And also to be very clear, that article, the protected works article that you've referred to, as well as the authority to survey and investigate land, do authorise works outside of the order limits.

00:31:00:29 - 00:31:02:14

Okay. And you refer to.

00:31:04:21 - 00:31:11:09

Development in you know, under the definition of the section 55 of the Town and Country Planning Act.

00:31:13:03 - 00:31:26:03

Does surveying land, carrying out protected works, picking up solar panels if they fell off a truck and taking some tree work? Do they? Does that fall under the definition of development

00:31:28:00 - 00:31:32:14

that you refer to in your measures in response to executed to.

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Mr. Finnerty for the applicant? Uh, that's a very case by case consideration. And so there are circumstances where some of those activities would constitute development if it was, you know, pruning a tree or, uh, merely going on to the land and doing a walkover survey that wouldn't constitute development. But if one of those surveys related to one of the activities authorized under the surveying article, which includes, for example, um, boreholes or something taking samples that may constitute development. And so I think the principle which is that development is authorized outside of the order limits is, is the key one.

00:32:09:22 - 00:32:27:18

And that is something that would, um, uh, be treated on a case by case basis in the case of the Protective Works article that you referred to, it is likely that repairs, depending on their scale, would constitute, uh, development within the definition that you've referred to.

00:32:29:24 - 00:33:04:09

Okay. Thank you. Um, in that case, let's move on to the next bullet point, which is part three streets and associated articles. Um, this concern matters around East Riding of Yorkshire Council's concerns. In its local impact report 1a. Um which raised concerns particularly with regard to the need for section two, seven, eight and section 184 agreements, and also some matters around the new Road to the Street Works Act.

00:33:05:00 - 00:33:30:03

The applicant responded to this and subsequent to one of our written questions on the matter. Eric indicated. East Riding of Yorkshire Council indicated that the applicant's response was acceptable in principle, but it leaves me a bit unclear from the response whether you are actually seeking any further amendments to the DCO in this regard, and if so, what these are. Um, I was just hoping you could clarify your position, please.

00:33:32:14 - 00:34:05:05

Rachel Hodgson, East Riding Council um, unfortunately, our highway officer can't be here today, but he has provided me a response, um, to say that the concerns were raised by the council's highway officer. The applicants did respond to this in their response to the local impact Report, which was Rep 2037. The highway officer, however, continued to raise concerns as highlighted in our response to the examination. Examining Authority questions to rep 355, mainly in regards to the maintenance period.

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So that's the outstanding issue with the maintenance period. Following the second set of questions, the local highway authority was satisfied that one of the requirements set out requires full details to be submitted and construction to accord with those details. However, in terms of the guaranteed maintenance period of 12 months, that's not always accepted, particularly within the 278 agreements, as it would be determined on the local highway network and the proposed use of the works within the highway. Sometimes that can expand, um, the period to five years.

00:34:37:25 - 00:34:47:14

It's acknowledged that the DCO states that there would be a 12 month maintenance period, but our highway officer doesn't consider that to be long enough. Um, and that's because the,

00:34:49:08 - 00:35:07:29

um, the intensity of the highways would go beyond that 12 months. Um. As such, they suggest that the time frame, given the time frame of the development, the number of HGVs that are likely to use the work, the maintenance period should be at a minimum for the duration of the works.

00:35:10:17 - 00:35:11:20

Of the construction work.

00:35:11:22 - 00:35:19:10

The construction worker rather than just 12 months because obviously there could be further damage to the highways beyond about 12 months.

00:35:19:24 - 00:35:27:06

Okay. And have you had any further meetings or discussions with the applicant over this matter?

00:35:27:08 - 00:35:36:18

Unfortunately not. Um, this was provided by the highway officer on my return to work this morning. So we've not had the opportunity to discuss it with the applicant.

00:35:36:20 - 00:35:50:08

Okay. And is there something that you think can be resolved? Um, you know, if this is something the council providing reasons behind it in terms of works continuing further than 12 month period.

00:35:51:01 - 00:36:07:12

Mr. Gulati, very much with the applicant. We're very happy to have the discussion with the highway officer. We would just make two submissions in response to this. So article 14 of the Draft Development Consent Order is the relevant provision here, which contains the maintenance period that has been referred to.

00:36:09:25 - 00:36:57:00

What that requires is the completion of the relevant works. And then the maintenance period begins at 12 months. So the if the if the concern is around the construction period or making sure that it's there for the duration of the works, this is for the construction of the relevant parts of the highway. And it's only at that point that the 12 month period begins in terms of whether that period should be longer. You'll note that article 14, in each one of these sub paragraphs, refers to completing the relevant work to the reasonable satisfaction of the street authority, and so the 12 months Maintenance period follows that point where we've handed back, and they are reasonably satisfied that we've completed the works.

00:36:57:12 - 00:37:02:01

That 12 month period, in our view, is proportionate in light of those controls.

00:37:02:05 - 00:37:12:29

Okay, so the 12 month period comes after any HGVs would be using that piece of road anyway. It's it's after the construction facsimiles.

00:37:13:04 - 00:37:39:17

The. So the construction aspects are also separately controlled under requirement five which relates to the construction traffic management plan. What this refers to is the completion of the highway works themselves, which are specified in the schedule. I think the applicant can discuss this in a bit of detail with the council to see if we can reach a resolution and explain how the period works for any specific highways that they're concerned about.

00:37:39:19 - 00:37:41:05

Okay. Was that your understanding?

00:37:41:07 - 00:37:57:02

And no, I don't I don't think it was I think there might have been a bit of misunderstanding from our side. Okay. Um, so that does seem more appropriate and likely to address the concerns. Um. So if we can have a discussion with the highways officer. But it looks as though that could be addressed.

00:37:57:04 - 00:38:01:14

Could we, um, make that an action point? Yeah. Just so. Okay. Thank you.

00:38:11:27 - 00:38:20:06

Okay. So moving that on to article 31, which is a modification of the 2017 regulations. Um.

00:38:23:03 - 00:38:50:27

So I know your response. The applicant's response to XQ 1.2.25 on the matter. Um, however, as I'm unaware of such an article and any other made. So please go. I was hoping you could just explain a bit more detail, the necessity for the article, and also confirm whether it would be only for the purposes of transferring and cable route rights to the distribution network operator. Is that correct.

00:38:51:25 - 00:38:57:19

Mr. Latif, for the applicant. I'll take those two points in turn, if that's right. Yeah.

00:38:57:21 - 00:39:00:00

It might be worth bringing up the, um.

00:39:00:18 - 00:39:01:13

Provision itself.

00:39:01:21 - 00:39:06:01

Yeah. On the, in the DCO, just so you can see what we're talking about. Yes. Thank you.

00:39:06:04 - 00:39:40:09

Of course. So on on the justification for this, a number of works, as you've noted, relate to not just carrying out works for a statutory undertaker, but also ensuring that they have the relevant rights. Uh, once the infrastructure itself is constructed. So just just as an example works, number four, A, B and six relate to assets for Northern Power Grid. Whilst it's possible to transfer the ability to carry out the works and the powers under the DCO to Northern Power Grid.

00:39:40:15 - 00:40:21:04

There are a number of different permutations which may take place. For example, the applicant could carry out those works and then it would have to acquire the relevant rights for NLS and power grid. One of the issues that has come up in the implementation of a number of dsos has been, if that latter route is taken, the Land Registry finds it difficult to register transfers or vesting in a third party. In part, that's because of the drafting of the Compulsory Purchase Vesting Declarations Act 1981, which was addressed in article 30, but it also relates to the drafting that's contained in the 2017 regulations themselves.

00:40:21:06 - 00:40:34:28

So in terms of the need, we can see that we are going to have works which offer the benefit of third party statutory undertakers and to confirm that's the circumstance in which we would use these.

00:40:35:06 - 00:40:36:14

Making it a single stage.

00:40:37:06 - 00:40:38:22

Rather than a two stage process.

00:40:38:24 - 00:40:46:27

Okay. So wouldn't article 25 one Article 28 five already provide for this.

00:40:46:29 - 00:41:21:28

On Mustafa Latif for the applicant. Unfortunately not. And when I refer to the implementation of a number of DCS coming across these issues, a number of orders have contained the wording that you've just referred to. But the Land Registry still finds it difficult because there is no explicit amendment of the 1981 act or the 2017 regulations. And so this is this is effectively trying to learn the lessons from those previous projects, which did not include the drafting that we have in article 31, in article 30, and address it very directly.

00:41:22:00 - 00:41:27:05

And I think you also raised the point about precedent. And.

00:41:29:16 - 00:42:23:07

You're correct to note that these provisions have not been included in a solar DCO. That is partially because they are relying on a model where they transfer the powers to carry out the relevant works. We don't have the certainty that that's how this authorised development will be delivered, and that's something that we'll need to engage with the likes of Northern Power Grid and National Grid on. In this case, we have a very specific need because of the works that I prefer to. And again, the principle, um, notwithstanding, it's not in a solar DCO has been consented in the lower Thames Crossing consent order, and I would just stress that that scheme, um, even though it's primarily a road scheme, comprises of four utilities and SIPs and those powers were justified because of the very same works that are carried out for and on behalf of statutory undertakers in relation to utility assets.

00:42:25:08 - 00:42:36:01

Okay. So it's kind of trying to speed up things where blockages may happen. Um, if you just read, if you just go back to the 31, please.

00:42:41:15 - 00:42:47:20

I've read that a few times. And the the comma there doesn't seem to me to be in the right place. Am I reading it incorrectly?

00:42:48:04 - 00:42:51:12

Mr.. You very much. You're completely correct. We'll we'll move that comma.

00:42:51:14 - 00:42:52:14

What should it be?

00:42:52:16 - 00:42:57:10

What's it should be? The comma should follow. Um.

00:42:57:20 - 00:42:58:29

Should it be a full stop?

00:42:59:08 - 00:43:08:22

It shouldn't be a full stop. I believe I think it's, uh, after the article, there should be a comma. Uh, and then after the.

00:43:14:02 - 00:43:14:17

It's like the.

00:43:15:00 - 00:43:15:15

Word.

00:43:15:17 - 00:43:17:22

Ah, it's like there's some words missing, or.

00:43:17:29 - 00:43:27:28

We can we stop. We can we can double check it. But essentially, I think the comma should also fall after the word. Ah. So that you're reading it as, as a.

00:43:30:26 - 00:43:36:20

Pause within the provision. But we might just take that away. And if it's clearer to separate out the provisions we'll do that.

00:43:37:00 - 00:43:41:14

Okay. Can I put that as an actual please? Thank you.

00:43:49:24 - 00:43:59:07

Okay. Moving on to article 33, which is temporary use of the land. Um, I was just hoping to clarify what carrying out means. Does that mean

00:44:00:23 - 00:44:05:14

the construction of the authorized element? Does it mean the

00:44:07:03 - 00:44:23:07

operation as well? Because I think the term carrying out is carrying out operation is referred to elsewhere in the DCO. So I wasn't sure whether because the temporary position is mainly for the construction of the development, isn't it. I think, Mr. Latif.

00:44:23:19 - 00:44:46:03

For the applicant, the phrase carrying out in article 33 is a reference to executing, i.e. the construction of the authorized development. It's not a reference to, Carrying out the operation. The phrasing itself is, is, um, taken from the old Transport and Works Act orders, and it's a reference to executing and construction.

00:44:46:27 - 00:45:13:17

Okay. And I suppose I was going to say would using that phrase, would it allow the temporary possession of land during the operation of the proposed development, or would this be restricted by article 33 four of the DCO, which has a. If you just could scroll down to 33 for it's got like a time limit restriction.

00:45:22:23 - 00:45:26:21

For the applicant. So there is that restriction that you referred to in article 33 four.

00:45:26:28 - 00:45:37:01

So once the development's commissioned, which is actually when it starts producing electricity, you could only take temporary possession for a year beyond that anyway.

00:45:37:21 - 00:46:20:24

That. That. That's correct. But if you also look at article 24, and I wonder if the screen sharer could just move to article 24, subparagraph two of article 24 is a more express limitation on the time limit for temporary possession. And just to draw a distinction. Article 24, subparagraph two confirms that the time period which applies to the compulsory acquisition also applies to temporary possession. The article you reference, so that's article 33 for, is a reference to the period in which you remain in possession, which means you should give up possession once you've completed the works, whereas this is just a more expressed limitation.

00:46:20:26 - 00:46:25:00

So no, it can't extend 3040 years into the operational period.

00:46:27:05 - 00:46:28:05

Okay. Thank you.

00:46:30:07 - 00:47:09:03

Um, article 37 which is acquisition of way leaves, easements and other rights. Um, I think we probably take this bullet point along with one further on the agenda relating to schedule 11. Um, given they're related, and I know your response to ask 1.2.71 on the matter, and you made some amendments to the explanatory memorandum as a result. Again, though, I'm unaware of such an article in any other made solar DCO, and I was hoping you could just explain in a bit more detail than necessity for this article and the associated schedule.

00:47:10:03 - 00:47:19:07

Um, and it would also be helpful to explain how its provisions differ from those provisions we just discussed in respect of article 31.

00:47:20:21 - 00:47:49:25

Most of the teeth mesh for the applicant. So together the article 37 and schedule 11 make provision for the applicant to act on behalf of statutory undertaker in acquiring way leaves easements under different respective enactments. So, for example, an electricity undertaker under the Electricity Act 1989. The Water Undertaker under the Water Act of 1991.

00:47:51:29 - 00:48:38:07

For context, under the protected provisions being negotiated with a number of statutory undertakers as well as protected provisions which are specifically included in part one of schedule 12, there are. There is a requirement that the applicant must, quote, afford the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker or some other land. So as a specific reference there. Paragraph six of schedule 14, which contains the protective provisions, has this requirement for us as part of the arrangements that we've agreed with statutory undertakers to to acquire them, acquire for them rights way leaves and easements that they need for any alternative apparatus.

00:48:38:19 - 00:49:08:26

The way that the protective provisions are drafted is that, as you'd expect, it requires a process for the submission of a plan, review of that plan. And then the statutory undertaker can say, okay, if you're moving my apparatus, apparatus, we want this alternative in place at this particular time. And so we would then construct that diversion or alternative apparatus. It's in association with that process where a further rights way leave or easement is required.

00:49:10:01 - 00:49:40:10

So the purpose of the proposed article 37 in schedule 11 would provide an option which may be useful in some circumstances where both the undertaker, which would be the applicant, and the relevant statutory undertaker, May trigger a process under one of the existing enactments that they can utilize as a result of their statutory functions, to acquire the rights necessary for that alternative apparatus, uh, or diversion

00:49:42:01 - 00:50:12:09

as it currently stands. The exercise of those powers is granted to licence, electricity licence holders or people who have statutory functions relating to water. The way that schedule 11 is drafted is that it allows the applicant to place themselves in the shoes of the relevant statutory undertaker with their consent, so that they can take the relevant process through to its conclusion. It's worth emphasising that those processes are standalone. They apply outside of the DCA.

00:50:12:11 - 00:50:23:00

There are relevant protections, including applications to the Secretary of State. There's a potential for further inquiries to be held effectively. All it's doing is allowing.

00:50:34:20 - 00:50:41:09

It's 1040. The hearing is resumed. Um, I just check that everything's good with. Yeah. Thank you.

00:50:42:25 - 00:51:05:18

So I think we're on article 37. Um, I think it would just be helpful, just so I understand fully how the provisions of article 37 differ from those provisions in article 31, because you're effectively, it sounds to me like you're

00:51:07:04 - 00:51:16:16

automatically giving rights to statutory undertakers in both articles. So I'm just a little bit, sorry, just a bit unclear as to what the actual difference is.

00:51:16:25 - 00:51:47:21

Most ability for the applicant. The key distinction is that under article 31 it would be the acquisition of the rights under the DCO, whereas schedule 11 authorizes the compulsory or enables a process to be used for the compulsory acquisition of rights, way leaves and easements outside of the DCO under the relevant enactment that applies to a particular statutory undertaker, so the Electricity Act, to the Gas Act, etc..

00:51:47:29 - 00:51:50:06

That's the key fundamental distinction.

00:51:50:10 - 00:52:00:00

Hmm. Okay. Um, why couldn't they just use those acts? Why couldn't those acts just be used? What what's the purpose of including them within the DCO?

00:52:00:10 - 00:52:15:28

The distinction relates to the provision I mentioned in the protected provision, which requires the acquisition of rights for alternative diversions and apparatus, which could fall outside of the scope of the power sought under the order.

00:52:17:00 - 00:52:19:22

Okay. So again, it's like a streamlining.

00:52:21:14 - 00:52:49:11

Miss Felicity very much for the applicant. That's entirely correct. And just the other point I was going to make, which you raised in your preliminary remarks related to precedent. So we have highlighted a precedent for this. It's also worth noting, and I know this is, um, slightly more complicated to refer to in this context, but a number of solar days which are currently going through, uh, examination or which are in the recommendation phase, have this schedule.

00:52:50:15 - 00:52:54:00

Hmm. Okay. What about toll bridge? Was that one recent one?

00:52:54:15 - 00:53:08:12

Uh, toll bridge, I would have to double check. I don't believe it's included in there, but. Okay. Um, some solar precedents, as I mentioned, have confirmed the route in which they're, uh, developing the works and acquiring the rights, which obviates the need for them.

00:53:09:25 - 00:53:43:21

Okay. Thank you. Um, we'll move on to the next bullet point, which was article 43. Planning permission. Um, again, a clarification of the need for this article. Um, could you just explain the necessity for the article to clarify the difference between article 4032 and article 43 three, and also given the provisions of article 43 one, why article 43 2 to 5 is needed? In any event, it might be worth again just to bring it up on the screen, please.

00:53:44:05 - 00:54:18:27

Thank you, Mustafa Latif Ramesh for the applicant. So if I could if I could just make a preliminary comment and then we can work through one, two, three and four as to why the distinct from one another. So the starting point for this relates to the Supreme Court's judgment in the Hillside Parks case. In that case, the Supreme Court determined that where you have a parcel of land which contains overlapping planning permissions, where one was implemented in a way that gave rise to a physical incompatibility with the other.

00:54:19:06 - 00:54:52:13

The other could then not be implemented. In effect, there is a risk that where you have a parcel of land with overlapping planning permissions, that one of the permissions is incapable of being implemented, or enforcement action may be taken if it has been implemented or will be implemented. So the fundamental reason where we've included these provisions is to ensure that there's no risk of enforcement action arising as a result of the works authorized under the DCO being carried out.

00:54:53:02 - 00:54:59:29

There are a couple of practical examples of this which underline the need for these particular provisions. So.

00:55:02:25 - 00:55:39:04

We have detailed agenda items relating to the urban Y site as part of the compulsory acquisition hearing. So I won't go into a huge amount of detail, but that is an example where there is a land parcel where there is an existing permission. The DCO authorizes works, and what we don't want to do is, is being in a position where we're causing an enforcement risk for either ourselves or the developers of that particular development. So to take each one of the paragraphs in in turn, and it might be worth going in in reverse order.

00:55:39:06 - 00:55:58:03

Um, but for reasons I can explain, three subparagraph three ensures that where a planning permission is implemented that does not cause the DCO to be the invalidated permission.

00:56:00:22 - 00:56:03:10

For example, the album wise development.

00:56:03:21 - 00:56:34:06

For example the album wise development, for example, the various planning permissions of the substation where uh, there are numerous permissions in place for the existing site. So what three years is ensuring that the DCO, if it's granted, is not invalidated? Two is the converse situation where we carry out works and we don't want an existing permission, or one that's been granted to be the subject of enforcement action.

00:56:34:08 - 00:57:04:25

So that's the key distinction between 2 and 3. One is to preserve the DCO. The other is to preserve an existing permission. The distinction with between those two provisions and one is that this relates to works which are outwith the DCO authorized under the Town and Country Planning Act. Prior to the Hillside Parks case. Subparagraph one was included as standard.

00:57:05:00 - 00:57:18:24

And it relates to, for example, if we in 1015 years applied for a planning permission to change an access road. It would ensure that there's no issue. And it very directly relates to, as it says.

00:57:23:03 - 00:58:00:26

The carrying out use operation, decommissioning of such development in accordance with the terms of the planning permission, i.e. it's it has some functional link to the authorised development. Two and three are not restricted in that way and respond very directly to the hillside park's case. And in terms of precedence, there are a number which we can put in our written submission, which not just reflects a paragraph one, but what you see, what you have seen in the last two years is a number of Dsos start to include these provisions because of the result in the Hillside Park's case.

00:58:04:11 - 00:58:11:10

Okay, so one that is totally separate. One relates to Planning permission that you would.

00:58:13:18 - 00:58:18:21

Secure those two and three could be any planning permission.

00:58:18:23 - 00:58:22:18

Mr. Willacy, for Mr. Parrish for the applicant. That's correct. Yes.

00:58:24:01 - 00:58:24:22

Okay.

00:58:32:27 - 00:58:33:24

And is that another?

00:58:36:22 - 00:59:10:16

Mr. Latif Ramesh with the applicant. Uh, all three of those paragraphs that we've we've discussed are in other dsos. Um, so just just as an example. So, so paragraph one is in the North Lincolnshire Green Energy Park order sub paragraph two, which is the hillside park's case is in the Bramford to twisted reinforcement order. It's in the uh Luton airport expansion order. Sub paragraph three is also in the Bramford to twin stead Said order, as well as the lower terms crossing order.

00:59:10:18 - 00:59:18:10

And again, um, the previous points I made, what you'll find is that the number of solar days is currently going through the system will have these provisions.

00:59:22:07 - 00:59:25:13

Okay. If we move on to article 44.

00:59:27:03 - 00:59:38:10

So article 44 relates to the article 44 four relates to the removal of hedgerows within the order limits and cross-references to article 4042.

00:59:39:26 - 01:00:00:22

However, article 44 two plates are not damaging trees and shrubs and compensation shall this occur? How then, can article 44 be subject to article 4042? If article 4042 does not refer to hedgerows? And what was the purpose of the of it anyway?

01:00:01:28 - 01:00:17:23

Mr. Felicity? Very much for the applicant. The thinking behind this drafting is that a hedgerows is effectively a line of trees and shrubs. But for the avoidance of doubt, we are going to amend subparagraph two to very expressly deal with the point that you've just raised.

01:00:19:01 - 01:00:22:15

Okay. We'll have that as an action point in that case. Thank you.

01:00:27:21 - 01:00:40:22

And I think that whole thing came out to a written question about, um, you know, there was previously quite a wide power to remove any hedgerows, but no, it's been limited by that provision. Is that right?

01:00:41:04 - 01:00:45:04

That must be very much for the applicant. That's. That's correct. Okay.

01:00:46:29 - 01:00:50:21

Um, in that case, hedgerow one works. Number one. Um.

01:00:52:27 - 01:01:08:27

This came out of another written question and and the DCO was amended, but not how I thought it was going to be amended. And it cites one be to one. F but should it be one? B21.

01:01:08:29 - 01:01:14:22

F civility furnish for the applicant. That's correct. And we'll update that the next deadline.

01:01:14:24 - 01:01:18:02

Okay, I'll we'll make an action point for that as well.

01:01:26:07 - 01:01:41:19

And then schedule two part one requirements for one which is the construction environmental management plan. And eight one which is the battery safety management plan. Um, whether to amend that, it's given the singular bodies.

01:01:42:22 - 01:01:56:21

Possibility very much for the applicant. So we'll make the amendment a requirement for. However, our take was that because requirement eight refers to multiple bodies that it's better to use the word.

01:01:57:02 - 01:02:01:19

Can we just have a look at article um, requirement eight please.

01:02:03:21 - 01:02:05:04

Maybe I put the wrong.

01:02:12:29 - 01:02:21:21

With the applicant because it refers to the Fire and Rescue Service and the Environment Agency. We were thinking it should say their respective functions.

01:02:24:09 - 01:02:29:00

If it said it, it would only be referring to the environmental agencies.

01:02:30:00 - 01:02:30:15

Mhm.

01:02:34:16 - 01:02:35:17

Yep. Okay.

01:02:43:03 - 01:02:49:13

Is there another requirement that only has one consulted. I might have put the wrong requirement number.

01:03:07:11 - 01:03:15:27

He furnished for the applicant. I believe the only one is the detailed design requirement, but that's drafted in a slightly different way. We can we can certainly double check that and make sure.

01:03:15:29 - 01:03:17:08

Okay. Thank you.

01:03:21:09 - 01:03:25:24

Um, so schedule two, part one, requirement 12 two operational noise.

01:03:27:12 - 01:03:48:11

Uh, noting that noise mitigation would need to be implemented for the whole of the operational period and noting similar wording for the requirements which relate to specific stages of the proposed development. Um, could you just provide your view on whether our 12 two should have the words and maintain throughout the operation of the authorized development, or something similar added.

01:03:48:26 - 01:04:03:12

Mr. Lateef, very much for the applicant. We will be amending it to include something similar. And specifically what we propose is and the maintenance and maintain for the period specified in that assessment, the assessment being the subject of subparagraph one.

01:04:03:24 - 01:04:10:04

Okay. Thank you. We'll make a we'll do an action point for that as well in that case.

01:04:15:17 - 01:04:58:21

Uh, schedule two, part one, requirement 15, which is the commissioning and restoration, um, consideration of our written question, 2.2 ten B and the applicant responded and subsequently updated the outline operational Environment environmental Management Plan. Um, so both the Xa and East Riding of Yorkshire Council raised the query relating to decommissioning and restoration works should a scenario arise where the proposed element or part of it ceased energy production before the end of a 40 year period from the date of commissioning and in response.

01:04:59:05 - 01:05:24:13

And rather than going down the route of making any alterations to the requirement, the applicant updated the Outline Operational Environmental Management Plan, which is Rep 3030, with the new section eight to address such a scenario. Um, can I just ask whether East Riding of Yorkshire Council has seen this amendment to the Outline Operational environmental Management plan?

01:05:26:03 - 01:05:30:03

Uh, and if so, are you satisfied with its this approach and the outcome?

01:05:30:11 - 01:05:33:11

We would need to take that away to look into if that's okay.

01:05:36:06 - 01:05:42:15

Okay. Is it is it worth just bringing that up now? Just have a look. Maybe on the track change version.

01:05:46:00 - 01:05:51:07

Which will be rep 302 9 or 0 three one maybe.

01:05:54:28 - 01:05:56:14

It's just been brought up.

01:06:11:18 - 01:06:19:23

I think by all means, take it away. But it'd just be worth just now. Just showing you what what it was that they they did what the applicant did with regard to that.

01:07:16:09 - 01:07:20:24

So perhaps you could run through it quickly. Just what the change involved. Please.

01:07:21:12 - 01:07:53:12

Mr. Philip Furnish for the applicant. Yes, of course. So you can see the relevant changes on the screen. Um, the applicant's amended the outline operational management plan to include a process where an

extended operational outage occurs and then requires specific activities to be undertaken. Um, in relation to decommissioning, but only in specified circumstances. So there is a very, uh, Prescriptive process which sets out what happens.

01:07:53:14 - 01:08:05:06

How long does the outage have to last? What do we then have to do by way of, um, uh, any evidence or engagement with the council? And then if it continues to be, uh.

01:08:07:18 - 01:08:46:26

If it continues not to have any operations, then there's a clear, a further clear process that would apply in those circumstances. And I think it is worth saying that what we've sought to do is very carefully balance the circumstances which are completely outside of our control or the applicant's control, and providing certainty ongoing engagement in circumstances where there is a lack of operational activity on the site. Um, and then, sir, if it's helpful just for your benefit, this this approach was, um, somewhat plagiarised from the Hechingen Fen solar project, which was granted consent earlier this year.

01:08:46:28 - 01:09:15:00

And if I could, we can put this in our written submission, but paragraph 7.4.1 of the examining Authorities recommendation report in that scheme specifically alludes to this approach and, um, endorses it. So we've, we've we've sought to provide the comfort and balance those circumstances which are outside of our control, um, and take from, uh, a precedent to, to help alleviate this issue.

01:09:17:10 - 01:09:25:06

Okay. Thank you for going through that. Does that make sense to you? Do you do you still need to take it away or are you content with that?

01:09:25:13 - 01:09:35:09

It looks like it could address our concerns. Um, we would like to take it away just to have a thorough read through and provide a written response. Of course. Thank you.

01:09:35:11 - 01:09:38:24

Okay, we'll note that as an action in that case as well.

01:09:45:25 - 01:09:52:24

Um, moving on then to schedule two, part one requirement 17 three, which is amendments to approve details.

01:09:54:25 - 01:09:55:13

So

01:09:57:13 - 01:10:24:10

any certified documents, including those in outline, would be listed in schedule 14 of the draft Eco and many requirements. For example, when many requirements, for example, make provision for detailed versions of outline documents which would have to be certified by the Secretary of State. So where provision where provision to is made to allow for changes to outline documents.

01:10:26:12 - 01:10:35:21

And they would be different from the certified documents. And this would not seem to then be the documents on which the requirements would need to be discharged against,

01:10:37:07 - 01:10:45:00

unless changes were subsequently made. Schedule 14 of the DCO is that. Am I correct in thinking that?

01:10:46:05 - 01:11:28:03

Stability for the applicant. The certified documents are the documents certified at the point that the order has been made? Yeah. Requirement 17 I should say paragraph 17 allows for the amendment, uh, of not just those some of those approved documents, but the the wider definition also includes any plans, details or schemes which have been approved under the requirement. So if I've understood your question correctly, does that then mean you're not referring to the relevant document? Well, it would be the updated document as interpreted through the prism of paragraph 17.

01:11:28:05 - 01:11:40:25

And it's worth saying that this provision, um, it is limited in the sense that we can't make amendments which would give rise to any materially new or materially different environmental effects. And

01:11:42:21 - 01:11:55:09

the provision itself is included in various solar dsos including Packington Fen Gate, Burton, East Yorkshire, as well as the the recently made Hill Bridge last week. Order.

01:11:55:11 - 01:12:20:25

So, so say for example, you've got the outline construction environmental management plan and it's outline and it's certified document with the reference number in the DCO schedule 14. Then the requirement is for a detailed version in accordance with that document. If that outline document has then been changed subsequently elsewhere through a different process.

01:12:23:09 - 01:12:32:21

How can the requirement then still link back to a document that's not certified in schedule 14? Because how how would anyone know about it?

01:12:33:15 - 01:13:02:03

Mr.. Phil very much for the applicant. So on the first question, um, does it not continue to refer to the certified document. You would interpret the reference as as amended or as given effect to by paragraph 17. So it would be the updated version that would be being referred to there. On the question of how does anyone know about it? So if I just take you to.

01:13:17:09 - 01:13:52:18

It in paragraph 17 itself, which says that those amendments are made with the local planning authority. So there would be a process to follow where you would give effect to what you would what was sought to be done under paragraph 17. And clearly in the discharge of any of the relevant requirements. There are further consultation requirements with particular bodies depending on the

particular requirement, and as part of that process you would have to evidence how, for example, a plan was, um, in alignment with an outline document.

01:13:52:20 - 01:14:03:13

And so it would it be very difficult to have that consultation without saying, oh, there is also, um, uh, an update here. This is what we've done and this is how we've done it.

01:14:04:01 - 01:14:12:15

Hmm. Okay I see. And is East Riding of Yorkshire Council satisfied with that approach? Is that normal way of doing things?

01:14:14:24 - 01:14:16:15

Yeah, yeah, we'd be satisfied with that.

01:14:16:17 - 01:14:49:09

Okay. So then how will this work in practice and how reasonable would it be when, for example, in the case of some requirements, other parties are cited as needing to be consulted on documents submitted for the discharge requirements or have had input on some of the outline Line documents. So I suppose the question is, say, don't I say Natural England? Then put it on into the outline landscape and ecological management plan.

01:14:50:11 - 01:14:58:08

If there is an update to the outline landscape and ecological management plan. Would East Riding consult

01:14:59:26 - 01:15:11:22

Natural England as a result of that, or would the applicant consult Natural England prior to submitting the new version? How would it work?

01:15:18:02 - 01:15:51:11

For the applicant. So in practice, it's likely to involve the same consultation that would be utilised under under the relevant requirement. Um, the other aspect of this is let's say, you know, worst case, we were being nefarious. Not that we would do that. It would. It would be the local planning authority. Who would refuse to give their approval under paragraph 17 until that consultation had been done? There's no intention here to to try to circumvent any control or commitment that we have provided.

01:15:51:15 - 01:15:57:24

And that's part of the reason why the limitation on no new material environmental effects is there.

01:15:58:03 - 01:16:17:18

Okay. But I suppose, you know, Natural England might have a view on whether something's material or not, but there's nothing in the requirement that says there's nothing in 17 that says anyone has to be consulted. As far as I can see.

01:16:18:12 - 01:16:40:22

Mr. Phil, for the applicant, there's nothing that expressly says it. I think the in practice you would end up having to do that because, um, of the way that the requirements as a whole are drafted. I think one of the things that we can take away and I'll need to take instructions on us whether we can have that express preference given in practice, that is, that is how it would work.

01:16:41:22 - 01:16:52:11

Okay. But um, East Riding of Yorkshire, you would consult relevant parties anyway, I guess when even if, if the applicant had or hadn't, you still would.

01:16:52:27 - 01:17:04:23

Rachel Hutchison, East Riding Council yes, as part of the process, we would consult any relevant parties, regardless as to whether the applicant had done so already, we would carry out our own consultation.

01:17:09:03 - 01:17:12:27

Okay. I suppose my only concern is it's not specified anywhere that that

01:17:14:17 - 01:17:16:02

would need to happen.

01:17:17:11 - 01:17:55:29

Most of the time for the applicant. I think part of the answer here is that the council, as a public authority, would have to act in accordance with the public law principles, and as part of that, they need reasons for any decision. And where there is a requirement for consultation that they consult appropriately and in line with the governing principles. And so it might not say it expressly, but it's clear that any good public authority, um, would follow particular procedures and rules in line with their ordinary functions.

01:17:56:09 - 01:18:09:27

Um, and so there's a question here as to whether the drafting needs to expressly restate what the council's already obligated to do as part of its public functions.

01:18:14:09 - 01:18:24:26

Maybe I can just leave that with you to ever think about. Um, but if if he's riding the councils happy with that, then.

01:18:27:02 - 01:18:30:12

Rachel Hodge with the need for an Arts Council. Yes, we've got that side with it.

01:18:31:28 - 01:18:37:18

Okay. I think we'll just park that one for the time being. In that case. Thank you. Um.

01:18:43:27 - 01:18:51:06

You said something that about that being paragraph 17 rather than requirement 17. I think it's a requirement, isn't it?

01:18:52:15 - 01:18:59:09

Mr.. Ability for the applicant. I may be the only person to say this, but that's a very interesting question because.

01:18:59:14 - 01:19:11:10

The reference section for normally they're all just requirements. You have requirements. And then you have another life called those paragraphs because it doesn't fall under the requirements section.

01:19:11:12 - 01:19:41:04

The so. So Mr. Fields here for the applicant a requirement is under the Planning Act. So if you look at schedules four and five is is defined as something which requires something in relation to the authorized development. And so as as a point of principle, a requirement is something the content of which looks something and smells like a planning condition. Whereas I said paragraph because this relates to a procedure relating to the requirements or a process that's to be followed in relation to the requirements.

01:19:41:06 - 01:19:46:11

So if you look at part one, then part two doesn't. That is know what part two is doing.

01:19:46:13 - 01:20:06:00

So uh, yes, that's that's correct. The distinction here is whether the content of the paragraph itself controls the development directly. The titles of the parts, um, don't impinge on what the content actually does. It's a slightly academic question, but, uh, that's why I said.

01:20:06:04 - 01:20:09:28

Which ones do you think are requirements? What was it up to in your view?

01:20:10:03 - 01:20:15:15

Mr.. Felicity, very much for the applicant. My view is that the requirements go up to 15 two. Yeah, yeah.

01:20:20:07 - 01:20:31:02

Okay. Thank you. Um, schedule two, part two, paragraph 22, one C and D, And I think there's a typo in there that should refer to paragraph 21.

01:20:31:14 - 01:20:36:19

Mr. Aaron Marsh for the applicant. That's correct. We'll update that at the next deadline.

01:20:36:21 - 01:20:39:01

We'll make an action point for that.

01:20:47:18 - 01:20:51:01

And then schedule three legislation to be applied.

01:20:55:03 - 01:21:18:04

So this list changed quite substantially from the first submission version to maybe this third. Subsequent to a written question from us. And I just wanted to know why. No. Why was it. Why was there everything included in the first place. And then kind of decided a lot of that wasn't needed. But then new stuff came in.

01:21:19:26 - 01:21:59:28

Mustapha Latif for the applicant, there are three reasons Um, why the list has changed. So the first is that we have reordered the list so that it follows a chronological order. So what appeared to be quite substantial changes was actually just restructuring. The second relates to the fact that at the time of the application submission, we had carried out our local legislation search on a precautionary basis and following the questions that were raised, we went away and decided to compare the results of that local legislation, search against the specific powers that we were taking.

01:22:00:00 - 01:22:34:20

So the first list was, um, slightly precautionary. The latter list was very, um, specifically looking at the works that we were seeking to undertake against the relevant provision. The third and final reason is some updated results were received following the application. Um, and so so we considered those and added them when we thought it was appropriate to do so. There is there is an overarching point which I'll just conclude on, which is the relevant article that relates to schedule three.

01:22:35:07 - 01:23:11:04

Article nine. You'll notice article nine sub paragraph one. Sub paragraph F specifically refers to a dis application only quote, insofar as the provisions are inconsistent with a provision or power conferred by the order. And so it's not as though we're suggesting all of this legislation is applied no matter what. It's only insofar as there is that inconsistency. And the reason for the changes are we've we've had, um, a further look at the search and identified the, the ones that we think give rise to a potential concern now.

01:23:11:14 - 01:23:24:06

Okay. So similar to the like private rights, for example, where it's only you'd only there'd only be effective if they're inconsistent with the proposed development.

01:23:25:28 - 01:23:30:11

For the applicant. If you're referring to the private rights, yes, that's exactly the same, same principle.

01:23:34:17 - 01:23:38:11

Um, and do you foresee any further changes to this schedule?

01:23:38:28 - 01:23:51:03

Mr.. Very much for the applicant. We we are still awaiting two bylaws, but we don't currently anticipate that they will need to be included. Um, based on the information that we have. But so short answer is very unlikely.

01:23:53:15 - 01:23:56:07

Okay. Um, so schedule five, part one

01:23:57:23 - 01:24:14:01

accuracy of the title in the column. So part one of schedule five is titled Streets to be Temporarily Closed or Restricted. However, column one makes reference to closure only. I was hoping you could just clarify that matter is next.

01:24:16:17 - 01:24:27:01

Next schedule? Yeah. So streets temporary be temporarily closed or restricted in the first column. One says streets will be temporarily closed.

01:24:29:18 - 01:24:35:27

Mr. Latif Ramesh for the applicant that that's going to be amended at the next deadline so that it's consistent with the the part title.

01:24:35:29 - 01:24:39:07

Okay. And the part two was the same issue I think.

01:24:39:09 - 01:24:40:26

Similarly it will be amended.

01:24:44:15 - 01:24:47:14

Okay. We'll make a action point for that as well then.

01:25:02:02 - 01:25:02:27

And then

01:25:04:20 - 01:25:20:18

this reference to wrist and footpath number two and one is that we pronounce it Ward one, footpath number one. Both of those were deleted from the draft DCO at deadline three,

01:25:22:11 - 01:25:52:11

but I'm unclear why this was the case because and this was sort of part of a written question as well. But given that the streets rights away and access plans, which is rep to O5 one and the outline rights away an access management plan. Table three one, which is rep to 144, indicate that these footpaths would be subject to some restrictions. So I'm a little bit unclear which which is right. Is it the DCO or is it the management plans?

01:25:52:29 - 01:26:12:28

Mr.. Mr.. T very much for the applicant. It's the plans that are correct and the DCO will be updated. Um, the distinction here is that there's no proposed closure or outright diversion, but as you say, there are restrictions that comprise, you know, crossing points being marshalled by banks. Yeah.

01:26:13:08 - 01:26:13:27

So I think.

01:26:14:03 - 01:26:16:11

It will be reinstated stated incorrectly.

01:26:16:13 - 01:26:35:17

I think they need to go back in and. Yeah. So it says temporarily restricted. Temporary restricted. Temporarily restricted. That's right. And then just the space between. Temporarily and restricted needs to be deleted as well. Thank you. Yeah I think that's then. Correct.

01:26:37:12 - 01:26:38:08

But then.

01:26:40:20 - 01:26:49:06

That then leads on to is chapter 13 paragraph 13 .9.1 which is app 049, which says,

01:26:51:06 - 01:26:55:08

if you could just be worth just bringing that paragraph up.

01:26:56:20 - 01:27:03:19

Mr.. Felicity, very much for the applicant. You're right. That reference in chapter 13 also needs to be updated and we will do so.

01:27:03:21 - 01:27:10:06

Okay. And is is that the is that the council's understanding of the matter as well? Yeah.

01:27:11:07 - 01:27:13:23

Rachel Hodgson Easter Island. Yes, I believe so.

01:27:13:25 - 01:27:14:29

Okay. Thank you.

01:27:20:17 - 01:27:22:26

So we'll make an action to

01:27:24:15 - 01:27:26:05

amend the schedule five.

01:27:28:26 - 01:27:29:17

Part

01:27:31:17 - 01:27:39:27

two or part one and two. And then two in terms of footpath as well. And then update the yes chapter 13 as well.

01:27:49:28 - 01:28:07:08

Okay. The next bullet point was schedule 11 which we've dealt with. Um, schedule 14 documents to be certified. Um, so yeah. Matters around ensuring this is correct and up to date with each submission. Um, that I just listed a couple of examples.

01:28:08:04 - 01:28:15:12

Mr. Latif, for the applicant. We'll do a comprehensive check and update that schedule.

01:28:31:07 - 01:28:35:12

Especially in the final. The last deadline, I suppose, because that's when

01:28:36:29 - 01:28:41:02

I guess we'd have to change any references to documents.

01:28:42:20 - 01:28:48:27

Very much for the applicant. Yes, we'll, we'll, we'll we'll make sure that we do it at the next deadline, but also the final one again.

01:28:48:29 - 01:28:55:17

Thank you. Um, yeah. The explanatory note. Um, why was that changed? Um,

01:28:57:03 - 01:28:59:17

are you saying the only documents that you need to be.

01:29:01:29 - 01:29:07:18

Like, for someone to inspect is the book of reference and the land plans?

01:29:08:01 - 01:29:43:17

Mr.. For the t furnish for the applicant. So ahead of deadline three, the council advised the applicant that Beverley Library would be a more suitable deposit location to ensure that the documents were easily accessible by the general public. However, that library has limited capacity to store the full suite of certified documents, leading the applicant to reflect on which documents are necessary to be held for inspection. So we carried out a review of recently made solar dossiers, including the Buyers Guild order, the Oaklands solar farm.

01:29:43:19 - 01:30:04:23

The applicant on those schemes had included the book of reference in the plans as available for inspection. And so what we've sought to do to accommodate both the need for a venue that the council considers to be appropriate, and also the spacing issues, is to follow the approach on those two schemes by providing those documents.

01:30:11:18 - 01:30:28:15

But do you know when that changed from one DCO to the. When was the change? Because it used to be all documents. Like why? What if somebody wanted to inspect? I don't know the outline landscape and environmental management plan.

01:30:28:17 - 01:31:05:16

For example Mustafa Latif Mahesh for the applicant. I believe in 2023 there was a change from directly from MHCLG to take a digital first approach to various matters. And so the change is likely to have occurred at that point. The answer to your question is what if someone wants to inspect the

relevant document? The the documents themselves will, as you noted at the very start of your commentary, will be available in their various forms on the Planning Inspector website for up to five years, and the applicant's own website contains relevant details as well.

01:31:09:19 - 01:31:15:25

Okay. And I don't know if you have any view on the matter, but is that is that.

01:31:15:27 - 01:31:29:14

Rachel Hodgson, East Riding of Yorkshire Council? We'd advise against County Hall because County Hall isn't open to the public, which is why I would suggested Beverley Library and Customer Service Center. Would that be the most accessible and open to members of the public?

01:31:29:16 - 01:31:31:01

They're happy to do that.

01:31:31:06 - 01:31:37:12

The applicants have been in touch with them, and that's where the issue has arisen in terms of this, to accommodate.

01:31:37:14 - 01:31:44:06

In terms of the range of documents, could only be the book of reference and the land plans. Is that right?

01:31:46:06 - 01:31:49:06

Is that. Yeah. You're okay with that?

01:31:53:10 - 01:32:02:26

I think the the fact that it's all digital, um, and I don't know if further documents were requested it.

01:32:03:28 - 01:32:10:07

I suppose it's scope of the plans. Not just the land. It's all plans, right? Not just the land plans.

01:32:10:10 - 01:32:14:11

Mr. Lateef, very much for the applicant. The references to the plans rather than just the land plans. Yeah.

01:32:14:13 - 01:32:17:27

Okay. Okay. Thank you.

01:32:19:29 - 01:32:20:15

Um.

01:32:21:01 - 01:32:43:19

Sorry, just to come in. Um, Rachel Hudson Council has an alternative. It could be that we could store the full suite of documents at County Hall, so we could have them available there, but individuals

would need to request, I guess, an appointment for those to be taken across to the library if there was a particular document that they wanted to inspect.

01:32:48:12 - 01:33:01:10

Okay. Um, I think I'll just let me take this away and think about that. But if you're saying it's another DC OS, then I guess it's been accepted by the by the Secretary of State.

01:33:01:22 - 01:33:08:06

Municipality Admissibility error message for the applicant. That's correct. The specific references of Byers Gill and the Oaklands Solar farm.

01:33:12:12 - 01:33:16:21

Okay. Thank you. And then in terms of the third change request, which.

01:33:20:00 - 01:33:28:06

I think is coming at deadline four. Is that correct? Um, the question is, first of all, are you still intending to.

01:33:31:06 - 01:33:43:13

Make this change request or this change application? Um, it's mainly, I understand around the routing of proposed permissive pathways for each ecological reasons.

01:33:45:04 - 01:33:59:12

Municipality furnish for the applicant. On the first question, yes, we're still proposing to make that change. And on the latter point, yes, it's right. It relates to permissive paths following discussions with various parties, including Natural England.

01:33:59:19 - 01:34:06:28

Okay. And does it would it have any, um, notable changes to the DCO? Or is it just plans?

01:34:07:22 - 01:34:15:21

Mr. Lateef, for the applicant, we don't anticipate any significant changes as a result of that change to the draft DCO.

01:34:29:03 - 01:34:54:09

Okay. Uh, in that case, there are all the questions I had on the articles, schedules and requirements of the DCO. Um, are there any parties present who wish to comment on any of the matters discussed under this agenda item, or in respect of any of the articles, schedules, or requirements of the draft DCO? Uh, with the exception of schedule 12, which will come onto under the next agenda item. Yes, please. Thank you. Chair.

01:34:54:11 - 01:35:24:28

Uh, George McManus for East region against solar expansion. And, uh, a couple of questions that have arisen during the course of the discussion. Uh, first of all, to East Riding Council. And the question that arose with regard to the suite of documents and the availability clearly are very

important issue as far as members of the public are concerned. Uh, Rachel, can you can you advise? We've already had a DCO for Boone Power.

01:35:25:08 - 01:35:33:09

Uh, and here in the East Riding. Uh, what arrangements? Do you know? What arrangements were made for? The suite of documents for that.

01:35:34:13 - 01:35:48:16

Rachel Hodgson, East Riding Council. I'm not aware of where those documents were displayed. Um, one difference is there's a lot of council services that have merged into that one building, which is why there's now the issue with limited space.

01:35:48:24 - 01:36:12:15

Okay. Uh, thank you for that. And again, George McManus from AHS. Uh, it was on I think it was section eight Were you referring to battery safety? Can I ask you, chair and Mr. Amish? Am I is the Humberside Fire and Rescue Service a statutory consultation in this process?

01:36:15:05 - 01:36:28:24

So we we are due to discuss that in issue specific hearing to um the applicant might wish to say something but they are a statutory.

01:36:29:12 - 01:36:32:03

They are a statutory body obviously. Yeah.

01:36:32:17 - 01:36:53:21

That's the the applicant. My understanding is that the applicant has in the past, um, liaise with them, but is having trouble at the moment making contact with them again. Hence why we're going to be discussing it. Um, at issue specific hearing to. But maybe you have an update for us.

01:36:54:26 - 01:37:30:25

Mr. Phillips, you very much for the applicant. Uh, yes. We we have been given some new contact details, and we were going to cover off an update. Uh, at issue specific hearing to, um, for the purposes of the requirements, they are given the status of a consul T, but outside of the DCO process, they they are identified as a relevant, uh, consul T under the Infrastructure Planning Applications and Prescribed Forms Regulations 2009. And then just on the earlier point about, uh, the boom power DCO and the suite of documents I have just looked.

01:37:30:27 - 01:37:47:24

They provide a copy of the plans and the book of reference. So it's the same that we're currently proposing. In that case, it's held at the county hall. Um, but there's a process for having to book time to to go and inspect those documents.

01:37:48:27 - 01:38:07:22

Sorry. Can I just ask for clarification then? Because I'm a little bit confused on this question of the fire authority and whether or not they are a statutory consultees from what Mr. Adams says. It suggests that they are not a statutory consultees. Is that correct?

01:38:09:11 - 01:38:32:02

Mr. parish for the applicant they under the requirements there proposed to be a consultation in respect of the relevant plan. So they will have under the DCO a formalized status of being a consultees. If the question is are they generally outside of uh, you know, the DCO or statutory consultees, they are also given that status under the 2009 regulations.

01:38:32:04 - 01:38:55:25

So in under requirement eight the applicant under the requirement has to consult with that body before they then submit the detailed battery safety management plan to the council to then be approved, which the council may also consult them further. I'm not sure, but it's a requirement of the requirement for them to be consulted.

01:38:55:27 - 01:39:51:27

I'm sorry to even the point, Mr. Chair, but my understanding is that statutory consultees having that status are are obliged to be given extra resources to do the necessary research to make reports on specific issues and where they do not enjoy the actual status of statutory consultation. They, they they made the effort. This is somebody from the fire service that raised this with me, Mr. Chair. They may not have the resources available to do the sort of in-depth report which is necessary, especially when we're talking about building enormous battery energy and storage systems, which clearly have big safety issues, and particularly those relating to vessels that are built Near large areas of population.

01:39:51:29 - 01:40:05:08

So I think I would like to just try and clarify whether or not the fire and rescue Service are in a position to do the necessary work in order to satisfy the requirements.

01:40:05:16 - 01:40:27:22

Yeah. My understanding is they've already been involved in the production of the outline battery safety management plan. They've given feedback, which you've responded to. Now the process is for you to, you know, go back to them and seek further clarification that they're satisfied. And they're the questions we've been asking. Mr.. McManus so.

01:40:28:17 - 01:40:43:24

Mr.. T, very much for the applicant. The only thing to add to that is that, as you say, we have been engaging with them and we have followed up with them, provided responses. They have not raised the issue on fulfilling the function under requirement as a particular concern of those.

01:40:49:19 - 01:40:59:04

Thank you. Was everything, Mr. McManus. Thank you. Uh, was there anybody else who had anything to raise on those matters? Um, virtually or in the room?

01:41:12:24 - 01:41:38:05

Okay. Um, so we're going to move on to item three, schedule 12. But I thought we'd probably just have a break. Uh, 15 minutes. Um, the break came a bit early last time, so I think it'd be useful to have another break for 15 minutes. So if we can come back at 1146. Um, the hearings adjourned until 1146. Thank you.

01:41:46:09 - 01:41:54:18

It's 1146 and the hearings resumed. Um, so moving on to item three, which is schedule 12, protective provisions.

01:41:56:07 - 01:42:23:03

Excuse me. The, um, bullet point says that the applicant will be asked to provide an update on progress with parties regarding protective provisions. Um, an explanation of any important differences of view, a timescale for resolution, and to explain any implications should agreement with any party not be reached by the close of the examination. Um, the organizations I have,

01:42:24:20 - 01:42:29:01

which I then update on are Network Rail Infrastructure Limited,

01:42:30:25 - 01:42:45:09

National Gas Transmission PLC, National Grid Electricity Transmission plc, Northern Power Grid, Yorkshire plc, possibly Yorkshire Water Services. Are there any others they've missed?

01:42:47:13 - 01:43:12:15

Mr. Phil, Atif. Aramis for the applicant. Just just before, um, responding to the point. Can I just ask for a clarification? Um, the compulsory acquisition hearing has a number of agenda items where those bodies are all listed. Would you like us to defer anything that you were wanting to discuss until then? Or do you want us to give an update for each one of these organizations now?

01:43:12:23 - 01:43:33:27

So I think I put those crossover there because some people might come to this DCO hearing. Some may come to that one as it stands. No, nobody's come to this one or to that one. So if we could do it now, there may be we probably don't have to do it this afternoon.

01:43:34:13 - 01:43:43:27

Mr. Lateef, for the applicant, that's perfectly fine with us. In which case, um, I think we can we can

01:43:45:18 - 01:44:22:00

couple a few of these together because in relation to any outstanding issues, they're largely similar. So insofar as and get National Gas and Northern Power Grid are concerned, the applicant continues its negotiation of protective provisions for those organizations. As it currently stands, we are waiting on hearing back on the most recent iteration of those protected provisions. The main outstanding issues. In response to your question for these three organizations, I can I can summarize in four points.

01:44:22:10 - 01:44:23:19

Sorry for the three.

01:44:23:21 - 01:44:31:08

The three being and get National Gas and Northern Power Grid. And then I'll move on to Network Rail and the others.

01:44:31:16 - 01:44:36:15

Okay. Can I just check that you saw the additional submissions that we. Yeah. Okay.

01:44:38:22 - 01:45:25:03

Mr. parish, for the applicant. Yes. We saw those additional submissions which reflect, um, I think the engagement that we've had with them and the decision not to come to the hearings, I think is, is a reflection of what I'm about to outline in terms of the limited number of outstanding points with the organisations in question, in terms of the outstanding points with those three organisations. The first relates to the provision of a veto on the exercise of compulsory acquisition powers, and the position of these statutory undertakers is broadly that they should be able to veto the exercise of those powers, and this is by way of a consent provision that um is included in the protected provision.

01:45:25:05 - 01:46:02:03

It says something along the lines of the undertaker will not exercise ex power without our consent, without their consent. Our view on that is that the updated guidance on the drafting of DCMS is very clear that protective provisions should not simply negate authorized provisions contained in the draft order. So that's one of the outstanding issues. The other outstanding issue relates to the scope of the indemnity, um, which, uh, as you might imagine, there's there's a there's a current disagreement which we're hoping to resolve.

01:46:02:13 - 01:46:33:08

And then the final significant point to mention in this context relates to what is the scope of the works to which each one of those protective provisions applies to. And in particular, the applicant is taking an approach that it refers to, you know, assets that currently exist. And there's a question as to whether they should be applied more broadly. Um, in relation to each of those three parties. We're negotiating, uh, on those last points.

01:46:33:15 - 01:47:01:16

In the event that we do not have agreement on those three points. We will be submitting our preferred set with a justification for why we disagree. It's also worth saying that the positions that are being taken in this context, the Secretary of State has taken aside on each particular, uh, provision. And so it would be for determination rather than something that would be agreed between the parties.

01:47:03:02 - 01:47:12:24

With regard to the first one. You're effectively saying this gives that consent. Why should you therefore have other consent?

01:47:13:06 - 01:47:24:05

Mr.. Ability very much with the applicant. That's precisely our position. If the Secretary of State has given us the powers, why would we need further approvals to exercise those very same powers?

01:47:24:11 - 01:47:31:18

I think I can't remember which statutory undertaker was pointedly well or more DCI where it did include that.

01:47:32:28 - 01:47:56:06

Mr. ability for the applicant. I think one of the issues in this context is we could spend quite a bit of time trading precedents with the relevant statutory undertakers. Our position is the Secretary of State's own guidance says do not negate other provisions of the order in your protective provisions because it's specifically trying to deal with this very point.

01:47:58:27 - 01:48:02:17

Okay. Thank you. So Network Rail.

01:48:04:09 - 01:48:36:03

Mr. Phillips, you very much for the applicant in relation to Network Rail. Again, the negotiations are ongoing. We've had some difficulty in, in, um, receiving their comments on our most recent iteration, but we have followed up and we're hoping to be able to provide an update in, in due course. In terms of the outstanding issues for Network Rail, um, the primary ones are again, the consent, veto power and the scope of the indemnity.

01:48:43:21 - 01:48:47:27

Can you tell me the difference in that indemnity figure.

01:48:49:09 - 01:49:29:03

Mr. Furnish, for the applicant. So this this relates to whether the scope of the indemnity should include consequential losses and onward loss of profits associated with a claim which is not reasonably foreseeable. And our position is that it should not cover that, that that position has been. Um, having said that, we wouldn't engage in a precedent of that. That position is precedent. But there's there's a ongoing negotiation as to as to what we do that that's likely to be a matter that we, um, if we can't reach agreement, would then be determined on based on your recommendation by the Secretary of State.

01:49:35:09 - 01:49:36:19

Okay and

01:49:38:05 - 01:49:50:18

Yorkshire Water Services, they they made a relevant representation but I don't think anything else has come from them. So I don't know whether they're requesting protective provisions.

01:49:51:01 - 01:50:24:15

Mr. Phillips for the applicant. Yorkshire Water have not requested their own bespoke protective provisions, as you say. They submitted a relevant rep in which they raised some, um, issues relating to the hydration hydrogeological risk assessments, as well as requesting some further engagement. We provided a response on that risk assessment. We engaged with them. Um, we have chased, uh, for a response to see whether there's anything else that's, uh, on their minds.

01:50:24:17 - 01:50:27:01

And they haven't raised anything with us.

01:50:37:10 - 01:50:39:28

Are you? Will you keep trying?

01:50:43:16 - 01:50:44:15

Yes we will.

01:50:45:12 - 01:50:50:22

Okay, but you're pretty sure they're not requesting protective provisions.

01:50:51:29 - 01:51:08:20

For the applicant. At no point. Have they requested that. And just. Just for context, part one of schedule 14 contains protective provisions. Um, for for particular organizations that haven't come forward. So it's not a case of if you don't have a set in your name, you're not protected.

01:51:12:29 - 01:51:15:09

Could you just show me where that is, please?

01:51:15:22 - 01:51:16:12

Yes.

01:51:16:17 - 01:51:17:20

Is that the first one?

01:51:17:22 - 01:51:22:23

Yes. So it's the very first part of schedule 14, and I think someone will just bring it up.

01:51:22:25 - 01:51:24:00

Federal 12.

01:51:24:02 - 01:51:25:05

Schedule 12. Sorry.

01:51:28:27 - 01:51:32:05

Water. Water and sewage.

01:51:32:24 - 01:51:36:17

Water and sewage. Undertakers. Gas. Undertakers and electricity. Undertakers.

01:51:36:19 - 01:51:42:00

But it turns Yorkshire water. Their water and sewage. Is it? Is that what? Yeah.

01:51:42:02 - 01:51:44:27

Mr.. Very much for the applicant. Yes. That's correct. Okay.

01:51:47:14 - 01:51:48:27

Um. Any others?

01:51:49:17 - 01:52:05:14

I've missed the the other one that I think is a separate item on both agendas is the Environment Agency and the Internal Drainage Board and the Environment Agency have confirmed their agreement to the protected provisions.

01:52:06:08 - 01:52:26:28

Yeah. So the next bullet point was there was no change between deadline two and deadline three. So it's a it's a deadline two version that is the EA and Environment Agency. And the Internal Drainage Board agreed on. They didn't say we agree. If This comes in the next deadline.

01:52:27:06 - 01:52:38:20

Mr. Ramesh, for the applicant. So the version of deadlines here is the one that is agreed. Hence there being no changes. The Environment Agency, I think it's rep 3059 have confirmed that that's that's the case.

01:52:42:02 - 01:52:55:10

Yeah I get the DCO and their comments at the same time. So you know, so commenting on the previous deadline, I just wanted to make sure that that was not as far as right and thinking that yes.

01:52:55:12 - 01:53:03:10

Mr. Phillips, he very much for the applicant. So we have um confirmed that position that the set that's included is is agreed with the Environment Agency.

01:53:03:12 - 01:53:06:26

Okay. And that will no doubt be in the statements common ground.

01:53:07:13 - 01:53:12:13

But for the parametric applicant. Yes. There's a separate line entry on the protective provisions.

01:53:16:20 - 01:53:41:15

Yeah. So the next bullet point is when we, you know, when you submit a DCO, the expectation is that somebody requested standard protection provisions that are included in the En in in the DCO. Um, suppose we know at deadline coming up to deadline for and all those ones are still outstanding. Um.

01:53:43:21 - 01:53:51:21

Why didn't you just include them and then, like, negotiate on those which would have been in the DCO already.

01:53:52:25 - 01:54:25:19

Missed ability for the applicant. So the the guidance is that the issues will provide the standard templates and then we should adjust them. So we have been doing that in good faith. And we've as I've mentioned, we've got to a position where there are now only those limited items, significantly limited items that I set out. Um, we are exploring. I can't give a commitment today, but we are exploring whether we include them at an earlier stage so that they're at least on the face of the order, our preferred set without these disagreements.

01:54:26:02 - 01:54:37:20

But but that might be one for us to take away and provide an update. And that update might be their inclusion, or it might be we will do it prior to the end of the final deadline.

01:54:38:00 - 01:55:03:06

Okay. Because obviously, you know, the XAT issues, a schedule of proposed changes, and I don't see how we can do anything else other than because we haven't seen yours. So we've only seen their protective provisions, which without seeing yours, obviously we can only, you know, suggest that they they're included as they are unless we see something beforehand.

01:55:04:08 - 01:55:13:07

Mr. Lateef, with the applicant, we'll take that away and try and make sure you have something. So you have our perspective on any outstanding points. Um,

01:55:15:01 - 01:55:19:06

before you make, uh, any preliminary findings on that?

01:55:23:29 - 01:55:39:01

Okay. We'll make it do an action point on that. So update the DCO with either standard protective provisions or your preferred ones, and maybe explaining where the differences are.

01:55:39:24 - 01:55:49:05

But mercifully for the applicant, it will be our. At the point that we do that, it will be our preferred set, and we will be providing a justification for any differences with the standard set.

01:55:53:24 - 01:56:05:22

Okay. Um, yes. Just want to clarify that East Riding of Yorkshire Council is not seeking protective provisions for any of its functions, such as local highways authority.

01:56:06:21 - 01:56:10:29

Rachel Hodgson is for council. No, we're not seeking any protective provisions.

01:56:11:01 - 01:56:12:04

Okay. Thank you.

01:56:18:10 - 01:56:50:06

Um, I have this question in for the compulsory acquisition. I'm going to ask you here instead. Could you just specify which statutory undertakers and plots? So section one, two, seven, 2 or 3, section one, two, seven, 5 or 6 and section one, three, eight of the Planning Act apply because it depends on if they own land or if there's rights affected. If your they own land and you're seeking rights over their land.

01:56:50:08 - 01:56:58:26

So I just want to be clear which exactly which sections of the planning Act are relevant.

01:57:01:14 - 01:57:32:05

Thank you. Mustafa Lateef for the applicant. So I could I could go through and read out the relevant plots. What might be more helpful is providing this information in a table so said it as part of our written submission, so that you have a clear record of each, each one. We have prepared it for each one of the statutory undertakers, where we're acquiring an interest in land that they own as compared with acquiring interest over which they have apparatus.

01:57:32:12 - 01:57:41:05

Um, but I'm wondering whether the best way of giving you that information is actually in writing, rather than, um, reading out the plots?

01:57:42:03 - 01:57:52:05

Yeah. Could you include it in the Land and Rights Negotiation Tracker somewhere? Or is that too fixed in terms of its layout?

01:57:52:14 - 01:58:03:12

Mr. Felicity Parish for the applicant. I think the headings of that table are quite, um, uncharitable to, uh, being a bit more specific.

01:58:04:08 - 01:58:04:29

Okay.

01:58:07:17 - 01:58:38:02

Just on the Land of Rights negotiation tracker. While we're here, the deadline three versions in a different format Much to the deadline. One and two. So a deadline. One and two. It was in a, like an Excel spreadsheet, and it had numbers down the side so it could identify which row was which by the numbers down the side. The deadline three. It came in as a like a word document or a PDF maybe.

01:58:39:08 - 01:58:51:05

And those row numbers have disappeared. So at the next deadline, could you submit it as the Excel spreadsheet again? And that was something that happened. Our end.

01:58:51:07 - 01:58:59:17

But Mr. Felici, very much for the applicant. Could we possibly return to that in compulsory acquisition hearing one if that's if that's right.

01:59:03:21 - 01:59:15:05

Okay. Um, just double check. There's no. Are there any statutory undertakers or other bodies present with an interest in protected provisions who'd like to make any representations.

01:59:19:28 - 01:59:23:20

Okay. So again the hands raised.

01:59:26:23 - 01:59:28:09

Bottom line either okay.

01:59:34:06 - 01:59:43:11

Okay. In that case that concludes this agenda item. Um, and I'll now hand over to Miss Milliken for agenda item four.

01:59:45:14 - 01:59:48:28

Hopefully the technology will work. There we go.

01:59:49:09 - 02:00:06:21

Thank you. So, um, similarly to the last agenda item, starting with the first bullet point. Can I please have an update from the applicant regarding any progress of other consents and licenses, together with the timescales for completion, please?

02:00:09:23 - 02:00:58:27

Mr. Felicity furnish for the applicant. So the positions that are set out in the other Consents and Licenses document, which is AP 151, have not changed since the submission of the application in February 2025. For context, the consents and licences in that document relate to matters matters which would arise at the construction phase or following pre-construction surveys, or at a later stage of design development. And so what the Consents and Licences document specifies is circumstances in which those other consents or approvals would be required at the point of construction or following the pre-construction surveys themselves, which I know is the subject of the next sub bullet point.

02:01:00:24 - 02:01:03:14

Mr. Hudson, do you have any questions on that? None from me.

02:01:04:21 - 02:01:13:26

No, I think that's how I understood it. Just make sure there's no nothing to update it in that regard. Um. Thank you.

02:01:14:20 - 02:01:39:20

Thank you. Um, and then obviously, the second bullet was regarding whether any, um, European licenses, um, regarding specific species mitigation would be required and including any drafts. Um, and then it was about, you know, whether there are any impediments envisaged, um, including whether any letters of no impediment, um, from Natural England are expected.

02:01:42:28 - 02:01:54:14

Mr. Felici, for the applicant, I'd like to invite, um, Ben Twiss to, uh, give an update on this matter. He's joining virtually, so he should appear on the screen shortly.

02:01:57:04 - 02:02:41:05

Yeah. Good afternoon everybody. Uh, my name is Ben Swift. I'm an associate director at RSC, specializing in environmental impact assessment and management. And I'm acting on behalf of the applicant today. Um, so pre pretty pre-construction surveys will be undertaken to determine whether an upsell or European protected species license is required for each species as outlined in the other Consents and Licenses document reference app 101. These surveys will generate the necessary up to date ecological data are required for to support any potential upsell application, and these are secured as commitments through the Outline Construction Environmental Management Plan, which Rep 3-026.

02:02:41:19 - 02:03:01:13

At this stage, no impediment to obtain any and upsell with Natural England is anticipated by the applicant and accordingly, the applicant has not approached Natural England for a letter of no impediment at this point, as the need for such a licence will will will depend on the outcomes of the forthcoming pre-construction surveys.

02:03:06:04 - 02:03:10:01

Okay. That's helpful. Thank you. No questions for me. Mr. Hudson.

02:03:11:16 - 02:03:12:01

Could you just.

02:03:12:19 - 02:03:36:07

Could you just explain what kind of would trigger a no impediments, like a draft, um, license? Because I have worked another instance where, you know, if, you know, there's a particular species, you sort of aim to get that so that, you know, the examining authority can be fairly satisfied that that would be forthcoming eventually.

02:03:40:25 - 02:03:41:20

Go ahead, Ben.

02:03:42:28 - 02:04:13:24

On behalf of the applicant. Um, so in terms of our approach that we've taken within, um, is volume two, chapter seven by biodiversity, which is 1020. Um, where we are, where we are waiting for licenses, um, we would undertake the pre-construction surveys, and at that point we would obtain the licenses if that's a requirement. Obviously with with with consultation with within Natural England as well.

02:04:14:10 - 02:04:48:23

Um, we have we have made a certain um, worst case scenario for some uh, species within the assessment of the biodiversity chapter, which is 1020. Um, because surveys pre-application and the data that we obtain can, can obviously change when, when we're dealing with mobile species and therefore pre the pre-construction um surveys are more relevant and that that gives us the, the most up to date data, um required for informal license applications and Natural England at that point.

02:04:51:12 - 02:04:59:12

Okay. Thank you. And Natural England are quite happy with that approach. I've not read that anywhere that they're not that your understanding.

02:04:59:28 - 02:05:12:15

Mr. Gulati? Very much. for the applicant. They submitted a note in lieu of attendance which covers at this point, but they haven't raised any residual points about the point that Mr. Twiss has just made.

02:05:13:08 - 02:05:14:10

Okay. Thank you.

02:05:16:02 - 02:05:31:03

Thank you. And then lastly, um, ten to the final bullet point, I just want to ask the applicant to briefly explain the proposed use of district level licensing and just the procedures that it involves. Thank you.

02:05:32:18 - 02:05:36:22

Thanks for the tip. This is another one for Mr. Twiss.

02:05:38:10 - 02:06:11:19

On behalf of the applicant today, but we haven't found any evidence indicating the presence of Great Crested notes or GCN, as I refer to them within the ward limits. So as a result, it is considered unlikely that the pre-construction surveys will identify GCN. Furthermore, the majority of the habitat within the order limits is deemed suboptimal for supporting GCN populations. So importantly, the the proposed construction works will retain key habitat features such as ditch edges and hedgerows that are most likely to be used by GCN.

02:06:11:25 - 02:06:55:07

So in the event that GCN are identified during pre-construction surveys, an application would be submitted to the East Riding of Yorkshire District level Licensing Scheme and under this scheme, the relevant authority will will determine the appropriate fee required to offset any potential impacts on GCN resulting from the proposed development. The applicant will also implement any necessary good practice measures, such as preparing specification checks as advised and if the if the district level licence scheme is not able to accommodate the application due to capacity constraints, then the more traditional cell licensing route will be followed with with Natural England as an alternative.

02:06:59:04 - 02:07:03:00

Okay. Thank you, Mr. Hudson. Do you have any questions on that?

02:07:03:02 - 02:07:19:20

Yeah, I'm just a bit unfamiliar with the, um, history level licensing. Can. Are you able to explain why you can do that? And you don't have to get a Texas species license from Natural England.

02:07:21:10 - 02:07:47:27

On behalf of the applicant? Um, yeah, it's a it's an option available to, to developers to offset any potential impacts on GCN. Um, and that's something that's used quite frequently, especially for, for, for the size of, uh, projects. Um, so it's usually the more favoured approach to do so. Um, but yeah, we all we always have the backup of the more traditional license and should, should we need it.

02:07:50:20 - 02:07:56:18

Okay. Thank you. And East Riding, the council is familiar with this process. Are you?

02:07:56:24 - 02:08:09:19

Rachel Hodgson? East Riding Research Council and East Riding Council's ecologist, has raised no issues with going down the route of the district level license if it is required, and it is something that we have dealt with before.

02:08:15:11 - 02:08:16:21

Okay. Thank you for that.

02:08:17:18 - 02:08:25:05

Thank you. Um, at this point, I just want to ask whether there are any questions from the room or online. Um, so we'll start with the room.

02:08:27:22 - 02:08:29:17

And then online.

02:08:32:07 - 02:08:41:15

I'm going to take that as a no. So there are no further questions. Um, I want to now move on to agenda item five, which is Statements of Common Ground.

02:08:43:28 - 02:08:55:02

And I firstly just want the applicant again to provide an update, um, on the statements of common ground relevant to the draft DCO matters Masters, please. Thank you.

02:08:57:05 - 02:09:13:17

Thank you. Laura Tinker, on behalf of the applicant. Um, before I start, can I just clarify? To be clear. Um, you're only looking for updates relating to the draft SEO itself, rather than more general matters or more general outstanding matters for the same as common ground. Great. Okay.

02:09:13:19 - 02:09:23:23

Yeah. For the purposes of this. Yeah. Maybe on Thursday we might address other parts of statements. Common ground. But yeah, just DCO for this bit, please.

02:09:23:25 - 02:09:55:23

Understood. Um, so there were only two. As I understand it, there are only two outstanding matters related to the draft DCO at deadline three. So they were within the draft statement of common ground with the EA. That's um rep 3045. Um, since deadline three, we've been engaging with EA and as Mustafa um mentioned previously, we have um, reached agreement on those two matters. So they are EA 32 and EA 33.

02:09:55:25 - 02:10:02:16

So within the statement of Common ground with the EA submitted it at deadline, for those will be agreed.

02:10:07:12 - 02:10:08:20

Okay. Thank you.

02:10:16:18 - 02:10:17:09

Before

02:10:18:26 - 02:10:31:12

I move on, I just want to ask finally whether the applicant envisages, um, any draft DCO related matters in the statements of common ground which may not be resolved and by the close of the examination, please.

02:10:34:09 - 02:10:55:29

Laura Tonga, on behalf of the applicant, um, as those were the only two remaining outstanding matters, um, that uh, were within the draft statement of common ground. I'm happy that they're resolved unless something comes up, um, between now and the end of examination, in which case we would seek to resolve those before the end of examination.

02:10:56:03 - 02:10:57:29

So could you remind me what they were again?

02:10:58:06 - 02:11:05:20

Yeah. Um, EA 32 and EA 33. So it's a dis application? Yeah.

02:11:08:18 - 02:11:17:03

Okay. So although Environment Agency have agreed sector provisions, they're still concerned about this application of.

02:11:19:09 - 02:11:20:20

Other legislation

02:11:22:12 - 02:11:48:00

Mr. t furnish for the applicant. When the statement of Common ground was initially uh put together, it contained line items relating to the dis application and the protected provision separately. Now that the issues on the protected provisions have been resolved, the issue on the Dis application falls away as well. So when when Mr. Tinker said that the issues are now resolved against all. Both of those have been resolved.

02:11:48:02 - 02:11:48:21

Okay.

02:11:54:16 - 02:12:03:29

Okay. Um, does anyone have any other points they wish to raise before I hand over to Mr. Hutson the next agenda item? Anyone in the room?

02:12:06:09 - 02:12:08:28

Can't see any hands. And then online.

02:12:10:22 - 02:12:16:14

Okay. Um. Thank you. I will now hand back to Mr. Hutson for agenda item six.

02:12:22:05 - 02:12:36:14

So I've got I'll just run through these fairly briefly. Um, have you got a list as well that you want to compare? Yeah. So

02:12:38:06 - 02:12:39:11

we've got 12

02:12:40:28 - 02:12:52:21

items. And first one was regarding further communications with East Riding Village Council highways officer regarding maintenance. So this was for the.

02:12:55:18 - 02:13:05:11

This was for this for the applicant to liaise with or was this. Yeah. So if the applicant to liaise with I was authority.

02:13:05:13 - 02:13:06:02

On the main street.

02:13:06:08 - 02:13:08:05

Related period.

02:13:10:23 - 02:13:11:08

Or

02:13:13:02 - 02:13:17:27

was it not for was not for East Riding to confirm that that was not acceptable as is written?

02:13:19:23 - 02:13:45:07

Sir. Mr. Lateef, very much for the applicant. I think the way that we left it was that we would have a discussion on the effect of article 14, in particular in relation to whether it addressed their concern that it will the point at which the maintenance periods period started. So I think it would be fair for us to have a discussion about what the concern is and explain when the maintenance period runs from.

02:13:45:27 - 02:14:04:06

Okay. Secondly, to correct article 31 one to remove the comma, amend the wording. Uh, number three, article 44 to be amended to provide clarification of linkage between 4044 and 4042.

02:14:05:26 - 02:14:12:25

Uh, number four to amend schedule one, work number one, site one B2 one F rather than one B and one F.

02:14:15:06 - 02:14:27:24

Number five to amend schedule two, part one requirement 12 two operational noise to include wording to the effect of maintain throughout the operation of the authorized development for whatever stage

02:14:29:20 - 02:14:31:03

the document refers to.

02:14:33:20 - 02:14:40:12

Uh number six was for East Riding of Yorkshire Council to further look through

02:14:41:27 - 02:14:56:13

the outline operation environmental management plan. And that's section eight with regard to what's to happen if energy isn't produced, um, for the full 40 years.

02:14:59:18 - 02:15:26:04

Uh seven update schedule two, paragraph two. Sorry. Part two, paragraph 20 21C and D to correct the typo and to refer to paragraph 21 instead of 22 to amend schedule five, part one, in terms of accuracy of title of column one and schedule five, part two. The same thing with column one to include restriction rather than disclosures.

02:15:28:06 - 02:15:38:25

To amend schedule five, part two to put back in reference to rest and footpath number two and one, footpath number one, and that there must be subject to restrictions.

02:15:40:28 - 02:15:47:18

Pen update is chapter 13, paragraph 13 .9.1 to accord with the above.

02:15:51:19 - 02:15:59:24

Number 11 update schedule 14 to make sure it's accurate to each submission and to correct those typos

02:16:01:14 - 02:16:02:09

and.

02:16:04:16 - 02:16:05:18

That, uh,

02:16:07:10 - 02:16:17:18

schedule 12 update the draft TCO with standard protective provisions or preferred ones with justifications are different from the standard set.

02:16:19:16 - 02:16:31:10

And for the applicant to detail which statutory undertakers or plots the different bits of section one, two, seven and section one through eight. Irrelevant.

02:16:33:04 - 02:16:33:24

Um.

02:16:37:03 - 02:16:38:04

I think that was it.

02:16:40:03 - 02:16:56:18

Very much for the applicant. I think that's all we had down. Just just one correction. I think I said earlier that there wasn't another requirement that where the the wording should be changed from its to there or vice versa. It's requirement for you were you were correct. So we'll we'll also correct.

02:16:56:24 - 02:16:58:25

All right. Okay. Thank you.

02:17:01:07 - 02:17:03:03

Just remind me what requirement for was.

02:17:03:09 - 02:17:20:27

Requirement for is the construction environmental management plan. And it refers to consultation with the Environment Agency on matters relating to their respective functions. And it should say it's it does go on to mention Natural England, but that's in respect of bentonite breakout only.

02:17:21:03 - 02:17:23:12

Okay. That was one I was thinking of. Thank you.

02:17:41:12 - 02:17:44:03

Does anybody have any comments or queries on any of that?

02:17:51:12 - 02:17:55:13

Okay. Moving on to any other matters. Um.

02:18:00:08 - 02:18:12:13

I've got a few other matters. Um, some matters to you. Do you still have something that you wish to? Yeah. If so, can I just go through my bits and I'll come to you? Thank you.

02:18:17:15 - 02:18:55:00

Yeah. So, first of all, we were hoping to ask the applicant and East Riding Council to signpost of any direct link providing the application documents to the policies of the Local Plan update, which recently They superseded your previous local plan as referred to in the Local Impact Report. Now, I think in the planning statement there is a link, but it doesn't go direct to the document. It goes to like a web page, which then you have to search through rather than direct to a document.

02:18:55:18 - 02:19:04:22

But is there anywhere else that directly links or if you've provided like the copies of it, things like.

02:19:05:19 - 02:19:11:21

If you ask council. Rachel Hutchison I can provide a direct link to the local plan if that's what you're after.

02:19:12:17 - 02:19:15:12

Yeah, because I think we can't go searching for things we need to be.

02:19:16:23 - 02:19:18:17

Yeah. No, I can provide you with that.

02:19:19:12 - 02:19:24:05

Um, and there was a link, but I don't think it's. It doesn't go direct to the document.

02:19:26:09 - 02:19:31:05

Thank you. Um, I'll add that to the action points in that case.

02:19:43:25 - 02:20:03:00

Following on from that, we've obviously looked at your local impact report and, you know, note that you do talk about loss policies, but we just wonder whether you are actually identifying any particular conflict with any of your policies or the local plan update.

02:20:05:05 - 02:20:36:17

Rachel Hodgson, East Riding Council. There's no direct conflict. Research was satisfied that the proposal would accord with the local Plan as a whole. There is some slight, um, conflict with parts of policies. So, for example, policy S4, um states that there should be no significant loss of best and most versatile agricultural land, and we acknowledge that There is a significant loss, albeit is the fourth year, so it's not a permanent loss.

02:20:36:29 - 02:21:10:22

Um, another example would be policy envy too. Um, that there should be no a lot of category B b trade unless that's justified. And in this case there is a lot of um, category B trades. Um, and again policy and B one um relates to landscape visual impact. Um however, was satisfied that the proposed design generally provides good levels of mitigation in terms of both um existing and proposed landscape features.

02:21:11:08 - 02:21:11:29

Um.

02:21:12:17 - 02:21:13:15

So no conflict.

02:21:14:00 - 02:21:23:00

No, as I said, but there's slight conflict with parts of the policy. But when red as a whole were satisfied that it does accord with with the local partnership.

02:21:23:03 - 02:21:25:00

So with A and B to

02:21:26:23 - 02:21:32:03

the tail, the, the kind of test is unless it's justified. So if the applicant is justified.

02:21:32:06 - 02:21:34:09

If we're satisfied with the justification, then.

02:21:34:11 - 02:21:45:09

There is no conflict. And the BMV, that's the most versatile thing. Did you say there's, like, a negligible impact? How was that a conflict?

02:21:45:13 - 02:21:53:00

Yeah. So when when you look at it in isolation, it would be a significant loss of BMV land. Okay.

02:21:53:02 - 02:21:54:09

For that temporary.

02:21:54:13 - 02:22:10:07

Temporarily 40 years. It is a significant loss. But when you look at it as the whole in terms of the quality and quantity of BMV land across the East Riding, then we did conclude that across the area as a whole, it would be negligible.

02:22:16:00 - 02:22:18:22

Okay. Was that everything? Yeah. Thank you.

02:22:20:18 - 02:22:22:14

Did you want to say anything on that matter?

02:22:22:17 - 02:22:52:23

Mustafa Lateef, very much for the applicant. Just just briefly, in case it's helpful as a reference in the statement of common ground with the council, which is Rep 3043. If you look at the reference, which is ERYC53, which is an agreed item, it relates to the position that's just been summarised on the local plan. In other words, it concludes overall, there's no conflict as a whole, and I think it specifies some further detail. But that's now an agreed item in the CCG.

02:22:53:15 - 02:22:54:29

Okay. Thank you for that.

02:22:59:00 - 02:22:59:20

Um.

02:23:02:14 - 02:23:34:09

Mr. Latif, our mesh, can you point to where you've responded to submissions? Rep 1084 and rep 1085. These were they came up with the local impact report. So the local impact report concludes what it concludes. These are the two documents, or at least one of them Seems to kind of conclude otherwise to the overall local impact report. I couldn't see where you'd addressed those documents.

02:23:35:01 - 02:23:41:02

Mr. Parrish. For the applicant, we haven't submitted that yet. And we will at deadline four.

02:23:41:07 - 02:23:44:14

Okay. Thank you. In that case, I'll add that to the.

02:23:58:29 - 02:23:59:23

Asking

02:24:01:12 - 02:24:13:09

council does not mean the local impact report is the key document, isn't it? Rather than like the expression of point of view of the planning committee.

02:24:13:15 - 02:24:27:25

Rachel Hodgson, East Riding Council. Yes, the local impact report is is the key document. The other documents were as a result of the discussions had by committee members on the local impact report. But yes, the local Impact report is is the key document.

02:24:28:13 - 02:24:35:24

Okay. Thank you. And then the final bullet points, uh, we dealt with that at the beginning.

02:24:38:10 - 02:24:46:15

With Mr. Tait. So I don't need to address that anymore. Um, okay. Mr. McManus.

02:24:49:01 - 02:25:24:05

Thank you. Chair. George McManus, speaking on behalf of East Riding against, uh, solar expansion. Uh, with your agreement, Mr. Chair, I would like to make a couple of points and raise a couple of issues that have been raised before and and reflect on some of the things that being said today. Uh, but first of all, I want to thank you, Mr. Hudson, for the forensic examination that's taking place this morning, which I have found, uh, enlightening as well as Educational and Mr.

02:25:24:10 - 02:25:55:06

Amaris for his detailed responses. How on earth you managed to get your head around so many documents? I never understand, but I certainly find it commendable that you do. Uh, that's the niceties over. Uh, first of all, can I just reflect on the most recent point that was made by by Rachel? Air bnb land and the use of BMV land is a very controversial issue as far as the is concerned.

02:25:55:10 - 02:26:29:10

Yes, it's 30% of of this and over the whole of the East Riding. It may appear to be negligible, but as far as this, as far as this project is concerned, you're talking about hundreds of acres of BMV land, which appears to fly in the face of the Secretary of State's own guidance and the government's strategy on net zero. That BMV should be avoided at all cost. 30% is a lot of BMV land in this context, and I think that is whether or not that is a negligible amount.

02:26:29:12 - 02:27:07:10

I have no doubt that it does not conflict with the impact with the report, but I think the public will make their own mind up on that. And I don't want to mention too much about the environmental issues, because the issue specific hearing on Thursday is more to do with that. But can I reflect on a

couple of things that came up before? Because when we met back in July, and this is related to something else, I raised the slavery issue and the production of solar panels in the Xinjiang region of China. And over a year ago, I started with what measures they had in place on the ground to ensure that slavery and forced labor was not being used.

02:27:07:12 - 02:27:18:29

And I am afraid the responses I have had, which have been quite detailed, have not been satisfactory because to all intents and purposes, I fully understand the difficult situation,

02:27:20:23 - 02:27:56:13

but unless you have people on the ground who can actually supervise what is going on, and we are talking about dealing with a communist totalitarian state here, then you cannot guarantee wholeheartedly that your supply chains will not be dependent upon slavery. So I hope that you might be able to give a more comprehensive and more agreeable answer to that, because, again, this is something that's covered in the the Department of Energy and net Zero strategy that slavery and enforced labor should not be used.

02:27:56:19 - 02:28:28:19

I want to bring a couple of points to the attention of the examining authority of things that have happened recently, because earlier this summer, the East Riding of Yorkshire Council had a full council debate on on the solar farm issues on this as well as others. Now, at the moment we're doing we're looking at four and six nationally significant infrastructure projects here in the East Riding, as well as numerous other applications for smaller solar farms.

02:28:28:21 - 02:29:00:03

And since we last met, new applications have come in. And this was the main concern of the East Riding of Yorkshire Council elected members when they passed the motion saying that if this application was coming before them, they would refuse it. And the main concern that I think was raised. I'm happy to be corrected, was the cumulative impact of all these projects when you bring them together. So it's not just about Tree Hill, it's about seeing Pear Tree Hill in the context of all the other projects.

02:29:00:05 - 02:29:35:21

And I keep coming back to the Department of Energy and net zero zone strategy on this, saying that cumulative impact has to be taken into consideration by the examining authority because you can't see Pear Tree Hill in isolation as a couple of thousand acres. When you've got kingfisher up the road of another 3000 acres, and you've got 18,000 acres of East Riding, East Riding land currently under potential development to solar farms, and that's only at the moment.

02:29:36:03 - 02:29:57:07

So that has to be applied to four pages and the weekend edition of the Yorkshire Post. People are becoming more and more aware of just the wider impacts of this, and therefore I think the Pear Tree Hill, like the other applications, has to be seen in that context.

02:29:59:04 - 02:30:26:11

Which brings me back on to brings me back on to supply chains, because something else that happened only last week was that people were alleging that China was a security threat to this country. And two people are two people were due to be prosecuted for spying on behalf of the Chinese state.

02:30:28:09 - 02:31:14:02

The case collapsed because the CPS decided they couldn't take it forward for whatever reason. But again, it reinforces the point that without checks on the ground to show how these panels are being produced and inverters and all the other hardware that goes with it, then we can't guarantee to the British people that they do not present a security risk. Now, I would like to ask AWB if they've got a plan B, because at the moment that I think one of the biggest risks, if I was promoting this project on behalf of our w e would be the potential dangers in the supply chain.

02:31:14:16 - 02:31:55:17

If at some point the government decide that we cannot be dependent upon supplies coming from China, and the latest estimates are that up to 90% of hardware, including the panels, will be coming from Xinjiang. Do rw rw r rw working on a plan B to find an alternate alternative sources? Because if I was them, I would be desperately keen to process this, but be worried that this process is moving too quickly to allow them to find contingencies, and I would urge them to do so.

02:31:56:05 - 02:32:32:05

There are a number of issues I would like to raise under the environment, but we will leave that until Thursday. But in the meantime, I hope that we can. I hope, I hope we can be seen speaking on behalf of the Res Aris has been constructive partners in this. We want to try and play a part in delivering net zero because we support the production of renewable energy. But only yesterday I received a copy of a letter from another MP who's concerned about a proposal in his constituency in South Yorkshire.

02:32:32:08 - 02:33:07:02

It happens to be next door to the Secretary of State for Energy's constituency, and it happens to be John Healey. Now John Healey is the MP down there and he's raised a number of issues, including safety, including concerns that he's got a bit about the impact and the size, the scale of what is being proposed in his neck of the woods. Now, I do not need to remind the chair that he also happens to be the Secretary of State for defence.

02:33:07:04 - 02:33:49:27

Ends. There was. Which brings to the. Brings me to the point that there are a number of cross-cutting issues here that cross between D and Z and the Department of Defense that impact on potential supply chain risks. Now, as the Secretary of State for defense, who is primarily responsible for security in this country, is raising issues with the Secretary of State for energy. Then I think they have to get their heads together and watch out whether or not it is feasible to push ahead on this timescale with these massive projects, while still being dependent on Chinese supply chains.

02:33:49:29 - 02:34:06:13

But I believe that I'll leave that one on the table for the moment. But I think it was fair to raise that today, chair, because as far as the issues to be discussed on Thursday are concerned, there has to be

much more environmentally focused. But thanks very much for the opportunity to make this presentation.

02:34:07:19 - 02:34:14:24

Okay. Thank you very much for those comments. Does the applicant want to respond to any of those? Um,

02:34:16:19 - 02:34:17:06

I don't see them.

02:34:17:08 - 02:34:59:29

Internal stability very much for the applicant. I think we can be brief. There are just two points. So in relation to the matters concerning the environment, um, we can pick those up in the Thursday hearing to the extent, uh, necessary and helpful. Of course, we agree that there should be a consideration of cumulative impacts. And the applicant's position is that the application does that in relation to the supply chain issues. I think the key point that we would stress is that the applicant, as an institution, which is well established in this country, is committed to upholding human rights and labor rights.

02:35:00:07 - 02:35:24:16

The applicant is a signatory of the United Nations Global compact, and it's additionally a member of the Solar Stewardship. Solar Stewardship Initiative and sources PV modules from SSI aligned manufacturers. So to. To the extent that there is a point being raised in this context, the applicant's firm view is that it is dealing with it in the most appropriate way.

02:35:27:16 - 02:35:43:23

Okay. Thank you. Mr.. Can I just ask so we we ask the same question at the of the applicant. Did you see their response? Was that was the response the same you gave to Mr. McManus did to the essay with just basically all the stuff that you just said?

02:35:43:26 - 02:35:55:27

Um, yes. It's, uh, the reference is, uh, page 18 of the response to the relevant representations, and it's a response that's provided to erase.

02:35:58:15 - 02:36:00:04

Oh, can I actually saw that?

02:36:00:17 - 02:36:20:28

I did indeed see it. And that's what I was referring to at the start of my statement, because I'm afraid it just doesn't cut the mustard. It doesn't guarantee because you don't have people on the ground that the rules and regulations, which we which are fully accepted, that we are signed up to unnecessarily being implemented.

02:36:23:10 - 02:36:24:10

Okay. Thank you.

02:36:29:12 - 02:36:33:01

Did anyone else have any other matters before I move to close the hearing?

02:36:35:12 - 02:36:37:22

Nope. I can't see any hands online either.

02:36:41:21 - 02:37:09:04

So I'll move to agenda item eight. Um, I'd just like to thank you all for your contributions to the hearing. Um, including virtual participants. Um, a digital recording of the hearing will be made available on the project webpage as soon as practicable. Uh, may we also remind you of the next stages of the and process. And that's a compulsory acquisition hearing the first one or compulsory acquisition hearing one at 2 p.m. this afternoon.

02:37:11:09 - 02:37:40:19

And as per our recent hearings notification update, due to a planned power outage in the area tomorrow affecting the planned start date of issue specific hearing two on environmental matters that will instead commence at 9:30 a.m. on Thursday the 23rd of October. Um, also deadline for is Friday, the 31st of October, and that is to include any written summaries of oral submissions made at any of these hearings.

02:37:43:08 - 02:37:53:20

The time is now 12:42 p.m., and this issue specific hearing into the draft of a consent order for the Pear Tree Hill Solar Farm project is now closed. Thank you all very much.