



## Event Transcript

<b>Project:</b>	Great North Road and Biodiversity Solar Park
<b>Event:</b>	Issue Specific Hearing 2 (ISH2) - Part 1
<b>Date:</b>	3 February 2026

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File Name: GNRS\_FEB3\_ISH2\_PT1.mp4

File Length: 01:29:38

FULL TRANSCRIPT (with timecode)

00:00:12:00 - 00:00:42:10

Good morning everyone. Now, 10:00 and time for this hearing to begin. I'd like to welcome you all to this issue specific hearing on the draft development consent order for the Great North Road Solar and Biodiversity Park project. Can I just confirm that everyone can hear me clearly. Thank you. And can I also confirm with the case team that the live streaming and recording of this event has commenced? Thank you. So my name is Doctor Andrea McGeehan. I'm a chartered town planner.

00:00:42:12 - 00:00:51:18

I've been appointed by the Secretary of State to be the lead member of the panel to examine this application. And I'm now going to ask the other panel members to introduce themselves.

00:00:52:14 - 00:01:02:07

Good morning everyone. My name is Graham Hobbins and I'm a chartered civil engineer and planning inspector. I've been appointed by the Secretary of State to be a panel member for this examination.

00:01:05:22 - 00:01:19:14

Good morning everyone. My name is Doctor Philip Brewer. I'm a member of the Institute of Acoustics and a planning inspector. I've also been appointed by the Secretary of State to be a panel member for this examination.

00:01:21:13 - 00:01:22:07

Thank you.

00:01:23:23 - 00:01:54:12

So together, we constitute the examining authority for this application. We'll be reporting to the Secretary of State with a recommendation on whether or not the development consent order should be made. Just a couple of housekeeping matters for those attending in person. Can you please set all devices and phones to silent? And just to note that if you need the toilets, they're there outside double doors at the back of the room and straight ahead. We're not expecting any fire drills, so if the alarm sounds, then please use the fire exits indicated.

00:01:57:01 - 00:02:35:10

This meeting will follow the agenda published on the National Infrastructure Planning website on the 23rd of January, 2026. And it would be helpful if you got a copy of that in front of you. At the applicant will also display the agenda on screen. The agenda is for guidance only, and we may consider other matters or issues as we progress. We'll conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to that said, if the discussions

can't be concluded, then it may be necessary for us to prioritize some matters and defer others to written questions.

00:02:36:01 - 00:02:45:05

Likewise, if you can't answer the questions being asked or require time to get the information requested, then please indicate that you wish to respond in writing.

00:02:47:00 - 00:03:06:01

Today's meeting is being undertaken in a hybrid way, meaning some of you are present with us in the hearing venue and some of you are joining us virtually using Microsoft Teams. We will make sure, however, you've decided to attend today, that you'll be given fair opportunities to participate.

00:03:07:14 - 00:03:19:07

A recording of today's hearing will be made available on the Great North Road Solar and by the Biodiversity Park section of the National Infrastructure Planning Website website as soon as practicable after the hearing is finished.

00:03:21:20 - 00:03:59:04

Okay. Um, with this in mind, please ensure that you speak clearly into the microphone stating your name and who you're representing each time before you speak. If you're not at a table with the microphone, then there is a roving mic. So please wait for one of these to be brought to you before you speak. I'll link to the Planning Inspectorate. Privacy notice was provided on the notification of the hearing. We assume that everyone here today has familiarized themselves with this document, which establishes how personal data, how the personal data of our customers is handled in accordance with the principles set out in data protection laws.

00:03:59:16 - 00:04:03:01

Please speak to a member of the case team if you have any questions about this.

00:04:05:02 - 00:04:41:06

So I'm now going to ask those of you who are participating in today's meeting to introduce yourselves. When I state your organization's name, could you introduce yourself stating your name and who you're representing and which agenda item you wish to speak? If you're not representing an organization, please confirm your name. Summarize your interest in the application and confirm the agenda item upon which you wish to speak and could. Please, could everyone please indicate how they wish to be addressed, whether that's Mr. or Mrs. Mis or some other title? So I'll start off with the the applicant and then any of their advisors please.

00:04:43:02 - 00:05:01:23

Good morning. Um, my name is Mr. Peter Nesbit. I'm a solicitor and partner at law firm Eversheds Sutherland here representing the applicant. I'm joined today by several colleagues. I wonder if it's sufficient for me to introduce them now. Yeah.

00:05:03:03 - 00:05:04:01

Yes, please.

00:05:04:20 - 00:05:12:17

Thank you. Um, so to my right is Mr. Matthew Sharp, senior director at planning consultancy quad.

00:05:14:07 - 00:05:50:08

Uh, then we have Mr. Martin Pennington, who's a senior associate at Eversheds Sutherland and is also the author of the DCO. He'll be taking us through items one and two today. Um, then there is Mrs. Michelle Moss, partner at Eversheds Sutherland, specialising in compulsory acquisition. Then we have Melanie Sarajevo, head of planning for the applicant. And then finally we have Doctor Paul Phillips, director at Evans, an environmental consultancy responsible for coordinating the ES.

00:05:50:13 - 00:05:51:08

Thank you.

00:05:53:04 - 00:05:54:00

Thank you.

00:05:58:11 - 00:06:03:24

And then moving to others in the room. Nottinghamshire County Council, please.

00:06:06:09 - 00:06:07:23

Good morning, Mr. Lawrence.

00:06:08:15 - 00:06:17:19

Planning and infrastructure manager at the county council. And with me I've got my colleague Sarah, who will introduce herself. Sarah Hancock, highway development management officer.

00:06:18:09 - 00:06:20:04

And is it. Is it Mrs.. Miss?

00:06:24:10 - 00:06:25:07

Thank you.

00:06:27:21 - 00:06:30:14

And then you can show a district council, please.

00:06:32:19 - 00:06:36:15

Good morning, Mr. Simon Betts, planner. Major projects.

00:06:36:17 - 00:06:37:18

Representing Newark.

00:06:37:20 - 00:06:39:12

And Sherwood District Council.

00:06:39:21 - 00:06:44:23

Add to my rights. I have Miss Bryony Norman, principal legal officer.

00:06:45:00 - 00:06:47:11

Also representing Newark and Sherwood Council.

00:06:48:07 - 00:06:49:03

Thank you.

00:06:53:21 - 00:07:00:08

And then moving to those present online. Um, do we have representatives from National Highways?

00:07:02:09 - 00:07:08:20

Uh, yes. Um. Uh, sorry. Ross. Um, Mr. Oliver Smith, representing National highways.

00:07:10:15 - 00:07:11:12

Thank you.

00:07:13:09 - 00:07:16:02

Any other National highways representatives?

00:07:16:13 - 00:07:17:03

Yes.

00:07:17:05 - 00:07:27:10

Thank you. Um, my name is Ross Corser. I'm a solicitor at Pinsent Masons. That's him for the National Highways Limited. Um, and I'm interested and will be speaking at agenda items two, three and potentially four as well.

00:07:30:04 - 00:07:31:01

Thank you.

00:07:34:15 - 00:07:38:19

And then Eleanor Croft, do we have Eleanor Croft from National Highways?

00:07:40:22 - 00:07:41:12

No.

00:07:41:14 - 00:07:42:04

Okay.

00:07:42:06 - 00:07:49:09

No thank you. Okay. Thank you. Um, and do we have a representative from Historic England.

00:07:53:04 - 00:07:54:19

No. Okay. Thank you.

00:07:58:21 - 00:08:07:18

And a representative of, um. I've noted the name Dawkins is online. Is that correct?

00:08:10:12 - 00:08:11:02

Okay.

00:08:11:04 - 00:08:13:03

Good morning. Yes. Yes. Yes. I'm online.

00:08:15:24 - 00:08:22:08

Yes, I'm representing Mr. Richard Gill and run defence services. I'm a solicitor at EBS law.

00:08:23:10 - 00:08:27:11

Lovely. Okay. And is there a particular agenda item which you wish to speak?

00:08:28:02 - 00:08:32:03

Um, no. I will see how it progresses. And I may make comments at item four.

00:08:32:08 - 00:08:33:19

All right. Thank you very much.

00:08:35:08 - 00:08:40:10

Thank you. So, um. Is there anyone else in the room that I've not mentioned who wishes to speak this morning?

00:08:44:01 - 00:08:48:12

No. Okay. Thank you. And anyone Online. Wishing to speak?

00:08:52:11 - 00:08:54:07

Yes. I can see a hand raised.

00:08:57:17 - 00:08:58:19

Do you want to introduce yourself?

00:08:58:21 - 00:08:59:11

Morning.

00:08:59:15 - 00:09:00:05

Good morning.

00:09:00:07 - 00:09:03:14

And hangman, on behalf of the Environment Agency.

00:09:04:17 - 00:09:05:09

Lovely.

00:09:07:17 - 00:09:10:05

Okay. That's great. Thank you very much.

00:09:17:06 - 00:09:47:11

Good. Right. Okay, so just moving on to agenda item two. The purpose of the issue specific hearing. Um, so this issue specific hearing relates specifically to the development consent order associated with the application. And more generally, the purpose of an issue specific hearing is so that we may probe, test and assess the evidence through the direct question questioning of persons present at the hearing. We will lead the questioning at this hearing.

00:09:47:13 - 00:09:58:18

Cross questioning of a person giving evidence by another person will only be permitted if we consider it necessary to ensure the representations are adequately tested, or that an interested party has a fair chance to put its case.

00:10:00:06 - 00:10:33:06

We'll be noting down any actions arising from the discussion as we go along, and we'll summarize these and if necessary, and towards the end of the hearing, and in terms of how we will manage proceedings, we expect the discussions to go on until around at 1230, and that we will be seeking to close the hearing by around 1:00, and to allow a break before this afternoon's can pull through acquisition hearing, which starts at two. We'll also have a break of around 20 minutes at some point, depending on where we're up to with the discussions.

00:10:35:12 - 00:10:41:01

Before we continue. Does anyone have any questions about the the nature of proceedings this morning?

00:10:44:04 - 00:11:02:03

Okay, I should just say at this point, if anybody attending virtually wishes to ask a question or make a point at any particular point, if you could raise your hand, um, virtually, that would that would be helpful. Thank you. So I'm now going to hand over to Doctor Brewer to, um, uh, to to lead the discussion.

00:11:04:16 - 00:11:10:13

All right. Thank you. Thank you very much, doctor McGuigan. Um, so.

00:11:13:19 - 00:11:44:06

Under item 1 or 3 matters to be discussed. Item one, overview of the draft development consent order. Um, I'll ask the applicant to set us on our way with a brief overview. As per the agenda. I was going to ask Mr. Nesbit. Um. I'm quite happy. Um, if the applicant would prefer. I'll just. I'll just invite, um, um, Mr. Pennington to to lead on this. It's really up to you who he wishes to introduce it and who wishes to speak at this point? So, Mr.

00:11:44:08 - 00:11:55:16

Nesbit or Mr. Pennington? I'll, um. I think it's fair to say the floor is yours for the next, um, few moments. Um, and you may we may give you a overview. Thank you.

00:11:57:01 - 00:12:29:07

Thank you. Sir. Martin Pennington, senior associate at Eversheds Sutherland, on behalf of the applicant. Um, setting out the overview of the latest version of the draft development consent order or draft DCO, as I'll refer to it through throughout for the Great North Road Solar and Biodiversity Park Nationally Significant Infrastructure Project, or CIP. Uh, the version of the DCO we're considering is revision four, which was submitted at deadline two and has examination library reference.

00:12:29:12 - 00:12:53:07

Rep 2-0 5 or 6 if you're looking at the track change version. Um, so I'll start by explaining the broad structure and key provisions of the draft DCO and set out how it aligns with the government's DCO guidance on the content of the DCO, as well as the Planning Inspectorate Advice Note 15 drafting development consent Orders.

00:12:54:22 - 00:13:23:02

So the draft DCO is the legal instrument that will, if made, grant development consent for the project as required by the Planning Act 2008. The DCO defines the authorized development, provides for the land rights and the highways, traffic management and other powers necessary for the construction, operation, maintenance and decommissioning of the authorised development and imposes requirements under the controls with which the applicant must comply.

00:13:25:03 - 00:14:04:08

Following the standard structure recommended by by the DCO guidance and the note 15. The draft is organised into six parts containing articles grouped by function, with 14 schedules, providing details of the works packages, requirements, highways measures, CPO details, protective provisions and other standard procedures and controls with the drafting conventions from previously made orders having been adopted where appropriate. Schedule one to the order describes the authorized development which comprises the CIP, and that's a ground mounted solar photovoltaic generating station exceeding 50MW.

00:14:04:10 - 00:14:43:10

Alternating current that's set out in work number one, together with associated development within the meaning of section one on five two of the 2008 act, including cable works and construction compounds. In working with two green infrastructure and working on the three intermediate substations and working before the best facility in work. Number 5AA 400 kilovolt substation for working by five B Grid Connection works. Um works packages six and seven access works comprising works number eight and further associated developments within the order limits.

00:14:44:18 - 00:14:57:04

As the DCO guidance requires, each element of associated development is clearly linked to and subordinate to the principal and CIP, ensuring it forms an integrated project rather than a separate development.

00:15:00:19 - 00:15:32:14

The DCO guidance emphasizes the importance of carefully drafted definitions, and these are set out in article two and then in particular, which will be coming to later the definition of commencement. And um, sorry, the definition of commencement to allow limited preliminary works while preventing honest enabling works. And our draft defines commencement by reference to section 115 of the Planning Act 2008. It specifies a list of permitted preliminary works, including.

00:15:32:16 - 00:16:10:20

Ecological surveys. Site preparation for temporary facilities. Vegetation removal and advanced planting. And obviously that's that forms part of a separate agenda item later in the morning. Um, similarly, the guidance requires that maintenance powers must not allow materially different scheme or new significant environmental effects. Article two therefore defines maintain to cover inspection, repair and replacement. But article five expressly limits this to prevent works that would give rise to materially, new or materially different environmental effects beyond those assessed in the environmental statement.

00:16:13:11 - 00:16:26:21

In accordance with DCO guidance, the draft DCO includes comprehensive highways and access provisions, and those are detailed in part three and schedules 3 to 7. Again, we'll come on to those in more detail later.

00:16:28:10 - 00:16:45:08

Um, additionally, that the the guidance sets out that the DCO should accurately define the land over which the powers are acquired by way of compulsory acquisition and temporary possession powers, together with provisions to override private rights, which are included in part five and schedule eight.

00:16:46:21 - 00:17:10:15

Article 23 imposes a standard five year time limits on the exercise of compulsory purchase and temporary possession powers. Article 46 also requires the undertaker to put in place financial guarantees or security for compensation liabilities before exercising Keelan powers providing additional protection for affected landowners. In terms of the requirements.

00:17:12:13 - 00:17:33:09

The DCO Guidance and Advice Note 15 set out that they should be drafted, bearing in mind the six tests that apply to the imposition of planning conditions under the Town and Country Planning Act 1990, so namely that requirements must be precise and enforceable, necessary, relevant to the development, relevant to planning, and relevant in all other respects.

00:17:36:17 - 00:17:54:03

Schedule two of our DCO contains 24 requirements, which were intended to secure the mitigation measures identified in the Environmental Statement in accordance with advice. Note 15 they've been drafted with the six tests in mind, along with avoiding the use of tail pieces, which is also expected by the guidance.

00:17:56:11 - 00:18:30:08

Finally, in relation to requirements, article 45 and schedule 14 established comprehensive procedure for the discharge, including time limits for determination by the relevant authority. Requests for

further information and consultation and appeal mechanism and the fees which which are to apply to discharge applications. Finally, with regards to protective provisions, again, these will be discussed in more detail later in the agenda, but briefly. Schedule 13 of the draft contains a suite of protective provisions, currently including for utility undertakers.

00:18:30:10 - 00:18:50:07

Electronic communications code. Operators. Network rail, the Environment Agency, National highways drainage authorities. Cadence and ingot. Sorry, National grid. The draft reflects the agreed position as a deadline to and constructive negotiations are ongoing with all parties again, which will come on to later.

00:18:52:17 - 00:18:53:10

Thank you.

00:18:54:15 - 00:18:56:24

Thank you. Thank you very much for that. Um,

00:18:58:15 - 00:19:29:09

so I'll just I'll just make a few sort of introductory comments. Um, just to say that we will also or may also be referring to the applicant's explanatory memorandum, which is, um, library reference rep 2-008 um made uh dsos be my shorthand, uh, or made orders, possibly as a shorthand. Um, deadline. Two draft statements of common ground between the applicant and various parties.

00:19:29:11 - 00:19:37:09

and, um, various relevant legislation as we, as we um, as we move, move forward. Um,

00:19:39:00 - 00:20:16:05

if we run out of time or further draft DCO issues arise, we will use further written questions including XQ to to deal with them. I think it's worth saying even at this point. Um, and really, this is, I think primarily addressed to the, to the applicant, but also all the other interested parties who are interested, particularly in the, in the, uh, the DCO that we can give notice already that our schedule of changes, if required, to the applicant's draft DCO will likely be later than 4th of March.

00:20:16:22 - 00:20:52:09

Um, as per the current timetable, so as to give us time to consider the responses to A2X2 questions. Um, so this will likely be early April. Um, but a procedural decision will be issued in due course to confirm this with the relevant details. Um, I think I also should just say in the preliminary comments is that is that for the avoidance of any doubt, these discussions are all without on a without prejudice basis.

00:20:52:11 - 00:21:18:19

Uh, so in response to the applicant's overview, which I'm grateful for, um, I'll move on to item two under this agenda heading. And in particular 2.0, which was entitled Structural Comparison with the Nip Solar order, most recently made by the Secretary of State, which is um, the Helios Order dated December 3rd, 2025.

00:21:22:09 - 00:21:38:03

So I think we can all recognise that, um, except solar sector. Within that sets. There have been several orders made in the last year or so. And no doubt they have evolved and in some respects at least the latest would be expected to reflect the Secretary of State's

00:21:39:16 - 00:22:14:20

current preferences with respect to drafting conventions, policy and legislative legislative interpretation. Um, I think the applicant and other interested parties would tend to agree that, generally speaking, adding or modifying to parts 1 to 6. That is to say, the articles of the draft DCO would likely require project specific justification and or a policy or legislative change that meant this was necessary. Um, unless anybody strongly disagrees with that, I will I will just carry on.

00:22:15:00 - 00:22:43:02

Um, and I don't think any I've got, I've got a view of the, um, um, point view of the room, but I've got a view of the virtual participants, So I don't know if I can appear with them. Um, Miss Pennington, I mean, did you want to say anything? I mean, do you agree with that general point that, um, it's largely precedent based, subject to particular changes that may occur that mean you have to change things and project specific issues? Is that fair?

00:22:44:04 - 00:22:46:05

I think so. Yes, I would agree with that. Yes.

00:22:46:07 - 00:23:00:14

Yeah. Okay. It's just when the, um, I, um, remote the actual. I couldn't see you, so I just wanted to sort of I think you've I don't remember if it's not your fault. If I was in the room, I could sort of, sort of look at you and sort of, sort of gain some kind of, uh, comfort.

00:23:00:16 - 00:23:02:08

So I think we're all nodding.

00:23:02:10 - 00:23:33:11

Yes. Good. That's good, that's good. I like that, I like that. Um, so let me, um, let me sort of embark on this, um, journey then. So, so, um, so I can see, for example, 25th May always referred to in the, in the M, so I'll use M as my shorthand for explanatory memorandum. That's a bit of a tongue twister. Um, so, for example, I've got West Burt in January 2025. East Yorkshire, 9th of May, 2025.

00:23:33:15 - 00:24:07:06

Um, and I'm sure the applicant is well aware. Um, but East Yorkshire was the last. So the project examined under section 105 of the Planning Act and Oaklands, which, uh the order was made on 19th June 2025, was the first under section 104. So Oakland and subsequent so that were examined against the November 2023 M1. Um, the same overarching planning policy that applies to the proposed development before us now.

00:24:07:08 - 00:24:12:03

So we're all we all started in the same place, aren't we, in that in that respect? Is that is that fair to say.

00:24:13:16 - 00:24:14:06

Is is.

00:24:14:08 - 00:24:29:16

Yeah. Yeah. I'm making a little bit of a I don't want to leave at the point but but but Oaklands and subsequent ones, um Or subject to a different policy position than the previous ones, hence the section 104 105. Situation. So.

00:24:31:20 - 00:24:57:13

My opening point here is that whilst structural differences, if we were to compare your DCO with other recent ones, may not change the meaning perfectly. Fair to say that, um, they can distract and make differences harder to spot. So by way of example, I'm going to focus on, um, your article 45, which is I think you've already mentioned that.

00:24:59:15 - 00:25:32:20

Opening procedure in relation to certain approvals, which then points to schedule 14. Um, and to illustrate this and lead us into some of the outstanding issues between, uh, yourselves, the applicant and other interested parties. So if I do a very quick overview of of Oaklands, Helios and Great North Road. Oakland's equivalent, if you like, was article 39 but pointed to schedule one, part two with respect to discharge requirements.

00:25:33:07 - 00:26:14:12

Helios article 40, which pointed to schedule two, part two with respect to discharge of requirements. And I'm going to use the abbreviation Greatness Road just for ability. Um, uh, uses um article 45, which, which I'm sure you'll be familiar with. Um, which points to schedule 14. So when you actually look at the detail as well as these sort of structural differences that I mentioned, when you look at the detail, the content is somewhat different. Okay. Um, if I compare the content of the material, it's easy to see how Helios evolved from Oakland's fairly minor changes, but it's less clear how Great North Road evolved from either.

00:26:14:18 - 00:26:15:09

So

00:26:16:22 - 00:26:43:24

I'm going to turn to the statements of common ground now between the applicant and Nottinghamshire County Council, which is Rep 2087. And Newark and Sherwood District Council, which is about 2-089. And these both include comments on timescales and fees with respect to discharge requirements, which is in your schedule 14. Um,

00:26:45:15 - 00:27:22:16

before we go on, this is just an observation from the ECA. And on behalf of the x ray, could I point out to the applicant in these statements of common ground, please only mark issues as green when the other party's words in the draft are consistent with this rating. Otherwise it can be a little confusing. Um, to us. So I'm going to actually invite so I can stop talking for a minute. Um, could I invite Nottinghamshire County Council and first, and then Newark and Sherwood District Council to comment on.

00:27:22:18 - 00:27:27:23

Their on their detail concerns is that would that be possible? I can't see you in the room. Um,

00:27:29:16 - 00:27:36:24

be behind them, I believe. So if somebody would like to, um, pick that up on behalf of Nottinghamshire. Yeah.

00:27:37:01 - 00:28:09:09

Um, well, Lawrence, on behalf of Nottinghamshire County Council. Yeah. Happy to speak to that, sir. Our view is set out in our local impact report and in the statement of Common Ground. We believe that the time period for, uh, discharging the requirements in the DCA is, is, uh, to short the ten week period. And I view as it should be longer than that, we've suggested a 16 week period. I think the district council has as well. Um, but, you know, as a minimum, I think 1010 is too little.

00:28:09:11 - 00:28:42:24

Um, you know, I don't necessarily need to give all the reasons that are in the local impact report, but clearly there's several development consent orders potentially being granted within the county, even within the district, and that will create additional resource constraints on the authority and to to resolve those those applications as they come in, notwithstanding the fees that are payable, you know, we simply don't have the have the manpower to deal with that many applications, especially when some of them are sort of AA sized applications with a lot of technical detail.

00:28:43:01 - 00:28:47:17

So our view is that at that time period should be should be longer than the offered ten week period.

00:28:49:17 - 00:28:59:19

Thank you very much. Um, I think, um, uh, would Newark and Sherwood wish to add anything to that, or would they basically agree with what we've heard from Nottinghamshire?

00:29:02:12 - 00:29:50:10

Simon Betts, uh, representing Newark and Sherwood District Council. Um, a lot of what my colleague from Nottinghamshire County Council has just referred to, I would agree with. Um, just to add a little bit more detail. Um, as a, as a district, an authority. We have three nips, including this one one Earth. We have the A46 scheme as well. Um, admittedly, the A46 is a little bit further ahead in its programme period. But in terms of the local challenges of responding to not just one but three Nip scale projects and looking ahead in the event that the scheme is consented, the discharge of requirements, uh, it does create a significant resourcing challenge and burden.

00:29:50:16 - 00:30:26:18

Um, I, as an, as an individual, was brought in specifically to assist the authority in responding, um, to the NPS within their districts because there simply wasn't sufficient resourcing available within the day to day planning function of the authority to be able to proactively respond to the CIP projects, which is an approach that the authority was keen to take. So, um. Yes, it is a concern. It is a concern I think it's worth, um, considering, I suppose, the different parts of the DCO in terms of that time period.

00:30:26:20 - 00:30:58:16

So I absolutely agree with my colleague at Nottinghamshire, Nottinghamshire County Council. I'm sure the applicant will refer to the other clauses within that part of the DCO that allows for another period to be agreed in writing, or in the event of additional information, um being requested. That time stamp would then continue from the day after the point the information was received, but nonetheless, there's a default position that creates a pressure point in dealing with and responding to the discharge requirements.

00:30:58:18 - 00:31:30:17

And of course, there's a deemed consent position that would be invoked in the event that, you know, if the authority hadn't responded within timescale, permission would be deemed to have been granted in that in that situation. So, um. In terms of fees as well. Um, I have got I don't know whether it's appropriate to refer to this at this stage or whether this is an item that could perhaps best summarized in our, uh, follow up in the verbal summary of, um, what's been said today.

00:31:30:19 - 00:32:13:04

But we've, we've trying to be, uh, look at the practical side of the resourcing challenge and fees. And we think if you took a worked example of a condition, a requirement rather such as detailed design, we're unsure of the phases, um, associated with this project at the moment. And that's the subject of a separate requirement. But even if the scheme was split into two phases, if you are dealing with one phase, that's a significant undertaking in itself. Uh, if you're dealing with, uh, such a requirement as they need to, you know, undertake a site visit, there's a need to, um, consult with internal colleagues as a need to engage and, you know, have back and forth with the applicant.

00:32:13:07 - 00:32:55:10

There's a need to, you know, have reporting produce that will allow us to sign off the discharge requirements. So we think that, you know, a basic worked example, looking at a conservative estimate of time would be about double the circuit, 2500 figure that's currently set aside as a fee, um, within the draft DCO. So I suppose to to get to the point of that concern, it's really that whilst noting the issue of Preston in terms of fees, we're really considering the local circumstances, the resourcing challenges and the fact that we don't think that the public purse should be used to supplement the consideration of discharge requirements.

00:32:55:12 - 00:33:11:05

So, um, yes, I'll probably leave it at that point. No, that's fine, I think. I think I'll just point out we'll, um, we'll talk more about detail design tomorrow. Um, this is more about the general principles use this as an example as I sort of introduced it. Um,

00:33:12:19 - 00:33:37:19

okay. Well, I think I should just initially give the applicant a chance to respond to the general point. So I don't like I think I said I'm not going to get into de detail about, you know, precisely, precisely the times or the fees. But but if the applicant would like to make a brief response, I'd like to sort of sum up on this section and then move on. Um, so over to the applicant briefly if, if you could keep it quite brief.

00:33:39:01 - 00:34:09:05

Uh, thanks, sir. Martin Pennington, on behalf of the applicant, um, just in relation to the time period for um, discharge of requirements. Um, obviously we're now in a world where the NPS has effect and the need for urgent, uh, infrastructure of this kind is well established. Um, I, you know, we appreciate the we appreciate this. This issue has probably been Debated at most DCO hearings.

00:34:09:07 - 00:34:42:24

Um, well, I think we've we've sought to strike a balance between what's gone before and indeed, the Helios, um, DCO allows. Well, the base the baseline is eight weeks compared to our ten weeks. And so we've taken a more generous position than than is in the Helios, um, order. Um, moving on to fees. Um, I understand firstly that the fees set out in our, um, order have been agreed with Nottinghamshire County Council, so that's one point.

00:34:43:12 - 00:35:02:01

Um, again, the fees are reflective of what's set out in legislation and what's set out in, um, paragraph 28 of part two of Helios, which is obviously in accordance with the town country planning fees regulations. Um,

00:35:04:00 - 00:35:15:16

and so, I mean, I wouldn't like to put a, I don't know, go into any more kind of detail than that at the moment. I think our fees are fair and and are consistent with, with recently made orders.

00:35:16:10 - 00:35:46:20

You know, that's all I was expecting. So so I just want to sort of like sum up on this one. Um, so so I can see you're still discussing. You're still talking. There's still, you know, um, uh, addressing these issues. Um, so could I ask then that, um, in consultation with what? Continued consultation with the councils that that the applicant review the structure of their draft DCA with a view to aligning it better with the most recently made orders.

00:35:47:04 - 00:36:11:00

And secondly, could the parties agree their position and justify changes compared with Helios with respect to this particular aspect of the draft? PCO? Um, many times in fees. Um, obviously we would like to see this resolve during the course of the examination. Um, I'm sort of probably addressing this to the applicant. Mainly. I mean, uh, do you think that is likely?

00:36:16:02 - 00:36:22:04

Is that question for the applicant? Do you think you're going to achieve agreement on these matters with the council?

00:36:22:16 - 00:36:24:18

I think we're confident that we will. Yes.

00:36:26:20 - 00:36:36:01

And this just point that same question really to the council's. I think you sort of have a similarly optimistic view on this, um, on this matter.

00:36:37:24 - 00:37:12:15

Simon Betts, new Control District Council I think if we take the issue of fees alone, I would. Without wishing to be negative, I'd be less confident because I think we have a, well, sort of considered and published position that we made on the previous project, One Earth Solar, where that was a matter that wasn't agreed. The applicant set out their position and now the examining authority are considering their reports. So I'm not certainly not ruling it out. But there would have to be, um, from my perspective, some more significant movement from the current restructure.

00:37:13:11 - 00:37:18:14

Okay. Thank you. You've made your position clear, so that's helpful. Um.

00:37:21:07 - 00:37:31:11

So I don't expect there to be, but is there anything from anybody else before we move on to, um, 2.1 and actually getting into the other parts of the draft order.

00:37:33:16 - 00:37:37:23

I'm looking around to see any hands or anything in the room.

00:37:41:04 - 00:37:42:04

Don't think. No.

00:37:45:00 - 00:37:46:04

No, I can't see any hands.

00:37:46:14 - 00:38:20:01

Thank you. Thank you. Talk to me again. It's quiet. It's quite quiet. I can see in some respects a virtual hands would be easier to see, I think, than, um, than hands in the room. So. Thank you. Um, so moving on into part, uh, I think it's 2.1. Um, part one preliminary, including guidance on the state of preliminary works. Um, and in particular. And I gather they're here today. Comments from the Environment Agency. Um, in the uh, which currently in the statement of Common Ground map 2-091.

00:38:20:10 - 00:38:39:19

So I don't know if this is something you were going to talk to a representative of EA, but if you're if you're happy to introduce that whole comment on, uh, the scope of permitted preliminary works. Uh, I'll hand I'll hand this over to you to make comments. But if you don't feel able to, please just say so.

00:38:52:05 - 00:38:55:21

So, have we got the EA representative? Mr..

00:38:57:23 - 00:39:01:05

Asset. Right, Mr. Harrington, isn't it? Yes.

00:39:01:08 - 00:39:41:24

Yes. Morgan. Harrington. Thank you. Behalf of the Environment Agency. Apologies for that. So we've seen this with other development consent orders, where the permitted preliminary works involve certain actions that could take place that may, if there were to be any contamination, could start

contamination, including any unsuspected contamination. All that we simply ask for is that the construction environment management plan, which in this case I think is under condition.

00:39:42:22 - 00:40:18:19

So requirement 12, um, ensures that the permitted preliminary works are carried out in accordance with the Construction Environment Management Plan. Um, I know that the most recent draft of the development Consent order and, uh, rep 2-006 now includes a provision stating that or politically permitted primary works must be carried out in accordance with the Outline Construction Environment Management Plan.

00:40:18:21 - 00:40:49:21

That's excellent. That's what we want to see. And that would mostly resolve our issue. We do have a small detail of wording in relation to the outline Construction Environment management plan. We raised this in our our response to also our comments, uh, to the applicant's response to our relevant maps. Uh, within the swamp, the outline swamp under rep 1-030.

00:40:49:23 - 00:41:24:08

We just request the wording, uh, for section .3.6 to state. The Environment Agency will be consulted to confirm that the chosen method of dealing with any identified contamination is appropriate for controlled water. So essentially, just to resolve this issue with the preliminary works, we've already had resolution in the most recent draft of the DCO regarding the insurance that the stamp is in place for the permitted preliminary works.

00:41:24:10 - 00:41:34:24

That's resolved. We just need that wording to be amended in the outline stamp. That's pretty much a summary of our position.

00:41:36:03 - 00:41:49:02

Thank you very much. Thank you very much. Um, I'll ask the applicant just to respond that it all sounded fairly positive to me. I mean, could you just, um, confirm that or, um, make any comments as you wish to.

00:41:49:17 - 00:42:21:02

Yes, sir. Matthew Sharp, on behalf of the applicant. So, as Mr. Harrington mentioned, that point has been agreed. Um, Mr. Harrington shared his, uh, D2 submissions with us on the morning of the 16th. And so it was in time so we could actually make that change to the construction environmental management plan in time for D2. Um, and so we've actually incorporated that change already as per the agreement with the EA.

00:42:21:17 - 00:42:42:13

Um, we're still talking to the Environment Agency to make sure those matters are sort of tied up. But the principle of what we've talked about is set out within our D2 submissions. And so what's reflected in the statement of Common Ground submitted it D2 and the Outline Construction Environmental Management plan includes both of those matters. Thank you.

00:42:44:24 - 00:42:57:00

Okay. Thank you. Um does anybody else want to do the council's have any um, particularly the council have any comments on on this matter? Are you content with it as it's done?

00:43:00:09 - 00:43:36:08

Simon Betts. You can share with District Council. Um, I think we are content. Um, linking into the fact that the in the event of substantive contamination was found, the outline stamp has a suspected contamination protocol, and there is a trigger, therefore, to consult with the planning authorities. So we were, I suppose, more generally, potentially concerned about the extent of works that could be carried out and nature of those works could be carried out at preliminary stage. But with with that safeguard in place, I think we're, it's, it's, you know, accurate to say we're satisfied.

00:43:36:10 - 00:43:37:02

Thank you.

00:43:42:06 - 00:43:51:04

And um, I take it as nothing from Nottingham Nottinghamshire county on this as such or separately or in addition to.

00:43:52:07 - 00:43:52:22

Well.

00:43:53:08 - 00:43:55:13

Cancel? No, sir. No issues on this matter.

00:43:58:20 - 00:44:04:23

Okay. Thank you. Um, so I think I'll just sort of try and sum up and move on on this one then. Um,

00:44:06:13 - 00:44:30:04

I think we all agree. I think most people would accept that there are certain activities that could be called low or negligible risk, um, that can sensibly be carried out in the absence of an approved, you know, the full blown, if you like the full blown, um, Kenpo. Um, I see there's a handout from Mr. Hangman. I'll come to you in a minute, um, if that's okay. Uh.

00:44:32:19 - 00:44:34:04

But, um.

00:44:37:08 - 00:45:20:05

But it might be. I suppose my concern might be is how precise I know it touched on the particular issues that the government agency had. Um, and we've heard about the in detail and amendments to the outline stamp. Um. Is there a is there a. Is it fair? I mean, are we all happy that the the outline. Simply sufficiently precise. Um, in all respects, it might be used to control preliminary works. Um, I won't I won't actually ask for the response to that question, but my question, perhaps the applicants, it might might be better to have a slightly narrower scope without any reference to the outline.

00:45:20:20 - 00:45:30:10

Semple. Kemp. Um, otherwise, it could still circumvent the relevant requirements. I mean, is that something you've considered?

00:45:36:00 - 00:45:59:23

Yes, I, I can't I can't say to them, so. Yeah. My question was to yourself was like, there's a, um, you know, you can, you can, you can stretch your envelope a little bit to reflect the good reasons or reasons of flexibility and so on and so forth. But there is a risk you can go too far. So I think the alternative is to shrink that envelope a little bit without prejudice or without sort of giving you problems. Um, have you looked at that?

00:46:01:05 - 00:46:14:17

Multiple things. And on behalf of the applicant, uh, thank you, sir. And the concern is, is understood. Um, we we can consider it and we have considered it, and we'll take it away. And I think, um, come back in writing, if that's okay.

00:46:16:15 - 00:46:25:07

Yes. I'll come. I'll just conclude it was a question from the agency. So, Mr. Hangman, your hand was up. Is it? Has this been. Yeah.

00:46:26:23 - 00:46:53:24

Morgan, hangman, on behalf of the Environment Agency, wasn't a question just to pick up on what Mr. Sharpe was saying earlier regarding the outline sampling updated with the wording. I can confirm that we have reviewed that, and it has been done. And our groundwater and contaminated land. Consultant consultation has approved that issue to be resolved. I just thought I might as well pick up on that now.

00:46:54:09 - 00:47:36:02

That's helpful. Thank you for that. Yes. Thank you. Um, so look. Um, so to draw this one through close then, um, and I think actually the applicant has already anticipated my, my my final comment. Really? Um, so it's really, really what I'd ask them to do is, is have a look at the more recent precedents on this. Um, and I think you agreed that you review what you've got in there, um, against those, I mean, the word, the the word that kind of rings alarm bells for me when I, when I read it was, I think you've got demolition, haven't you, in there as permitted penalty works, which a I should think there'd be relatively little demolition um prior to commencement and maybe some, I don't know.

00:47:36:06 - 00:47:50:13

Um, but in terms of an environmental impact point of view, it's that, that that just rings lots of alarm bells to me. And I don't know whether you, you know, whether you would consider, um, removing that and looking at some of the other details.

00:47:53:19 - 00:48:00:18

Thank you sir. Yeah, yeah. Martha Pennington, on behalf of the applicants. We'll certainly look at that. Yes. And and come back on that.

00:48:00:20 - 00:48:10:18

Thank you. Okay. That's that's fine. Thank you. Thank you. That, um, I mean, just I'm just going to pause at this point just to sort of if anybody's trying to follow this and watch it. Um,

00:48:12:11 - 00:48:47:13

what you probably appreciate we in this if you don't appreciate it, we when we, when we move forward in this process and, um, uh, regardless of the, um, whether we recommend the award was made or not made, we have to present to the secretary of state, um, our version, if you like, of the draft order, which may be different to the applicants. Um, so that's why to some extent, I'm sort of laboring some of these, um, these points, um, because ultimately we try and try to produce an order that we think is the best it can be.

00:48:47:19 - 00:49:18:15

Um, regardless of what recommendation would actually make. So, um, and I'll just address it to the applicant. Obviously, the more complexity or the more disparity there may be between what we what we recommend as an order, um, or recommended changes to the order um or tend to will tend to lead to greater consultation based recommendation. Increased uncertainty and and potentially delayed.

00:49:21:23 - 00:49:52:02

Cleaner and more or better align these things can be. Um, at the time we make our report. Generally speaking, the better, the better it is. Um, so I'll move on to, uh, 2.2. Part two. Principal powers on the on the agenda. Um, and this includes the application modification of statutory provisions, which is article eight. So I'll start off by asking the applicant to justify those listed.

00:49:52:08 - 00:50:09:06

Um, we can take each in turn. Um, but particularly could the applicant name the affected bodies and whether they have raised any concerns about about these, um, about these particular matters. So back to the applicant, please.

00:50:10:16 - 00:50:48:14

Um, thank you, sir. Martin Pennington, on behalf of the applicant. Um, we'll take the the land drainage and water ones first, if that's if that's okay. Um, so so just to summarize, uh, section 23, the Land Drainage Act 1991 that prohibits the obstruction and other works in watercourses without the consent of the, um, the lead local flood authority or the relevant Internal Drainage Board. Um section 32 of the same act relates to the Environment Agency's ability to ask the Secretary of State to vary an award relating to drainage under any public or local act.

00:50:49:08 - 00:51:08:18

Um section 66 empowers the relevant Internal Drainage Board and um to make bylaws relating to drainage matters in their area. And similarly, the Water Resources Act, Schedule 25 empowers the Environment Agency to make bylaws. Um.

00:51:10:23 - 00:51:38:08

In terms of discussions on this specific point, um, I think it's something we need to to raise in our statements of common ground with each. And we did receive, um, a relevant, sorry written representation from the Thames Valley Internal Drainage Board at Deadline two, which, uh, we're

working through. Um, and so, um, these will be picked up, um, as part of the statement of common ground with each.

00:51:41:13 - 00:52:06:17

Other. Just just to emphasize, though, the these provisions are generally standard provisions to to supply as part of the DCO. Um and the reason for that is that the, the issues that they raise are, are normally dealt with as, as part of the negotiation negotiations with the affected parties and and where necessary, resolved through protective provisions.

00:52:08:00 - 00:52:09:24

Okay. Okay. Um,

00:52:11:15 - 00:52:23:17

do any of the, um, I mean, possibly the agency again, I mean, the non agency, does anybody want to comment on this or any other? I want to comment on, on what they've heard from the applicant on this.

00:52:27:24 - 00:52:32:20

But not appear to be the case. Oh yes.

00:52:34:10 - 00:53:14:10

Morgan Heyman on behalf of the Environment Agency. I think I would end up leaking into our discussion to be had later regarding the the protective provisions as part of item three, but I appreciate that there are protective provisions within the draft DCO for the Environment Agency. We would not be seeking to allow those protective provisions to be included. Uh, again, I won't go down there about talking about it now, but I just thought I'd give that background, as you did mention that section 32 has relevance to the Environment Agency.

00:53:14:19 - 00:53:41:12

Um, we would not be allowing the protective provisions to be input for ourselves and therefore any works to drainage or within a certain distance of any flood defences or within floodplain would need to go through the environmental permitting regulations and apply for a flood activity permit.

00:53:42:11 - 00:53:54:10

Thank you. Thank you. Um, as you say, I think we we were going to probably come on to that later. Um, but I'll give the applicant a chance to respond before we move on.

00:53:55:20 - 00:54:12:15

Uh, thank you, sir. Martin Pennington, on behalf of the applicant, uh, just briefly, two points. Um, the the protective provisions point is agreed. Um, and the links to the second point, which is that we are not seeking to apply the environmental permitting regime.

00:54:14:06 - 00:54:14:21

Thank you.

00:54:14:23 - 00:54:46:10

Okay. Thank you. Fine. So all I'd say in summary on this and I did my comparison with, um, um, Helios is, is you do seem to have a somewhat a somewhat longer list, if you like. And I and I suppose I just ask possibly what you said you would do this is to, is to review what you've got and make sure you're. You sure you sure? Your position is is if you aren't robust on this, are you happy to do that? Just just sort of. No further double, triple check as to whether they're all really necessary.

00:54:48:18 - 00:55:16:11

Thank you sir. Martin Pennington, on behalf of the applicant. Um, it's something we'll consider further. Um, again, this is this is these provisions are regularly applied, and it tends to be because they can affect future, um, regulation of drainage, which, um, could, could, could cause issues. Um, with the project going forward. But, um, like I say, we'll take this away and discuss whether the, um. Anything can be changed in that regard.

00:55:16:22 - 00:55:52:09

That's fine. Okay. And as I said, I think before it was anything outstanding that we that we think of, we will we will address that through um, second written questions. Just, just so if there's anything else we feel we need to sort of come back on. Um, So I think I'll move on to article nine, which I sort of say quite deliberately, um, and deliberately slowly. Um, and I freely admit, um, this is an article where I think there is a case for change despite a, well, precedent position.

00:55:52:11 - 00:56:02:10

But, um, hopefully during the short discussion that follows, um, that will become apparent or not. Um, so.

00:56:04:02 - 00:56:39:02

Oh, before I so before I go on, before I go on to the main argument, I do need to point out a, an error with respect to, um, this article where it references section 65 of the Control Pollution Act 1974, which has been repealed. Um, I think that's just a real point of detail, um, that I'm sure the applicant would pick up anyway. Um, So I'll invite the applicant to explain if they could. In simple, plain language what the effect of this power is.

00:56:40:05 - 00:56:41:20

So, over to the applicant.

00:56:44:20 - 00:57:09:23

Thanks. Martin Pennington, on behalf of the applicant. Um, just for on the on the first point, uh, yes, we we have noticed that that, um, section crept in from the model provision, which was, um, brought into force at the time when that provision was in force still. But we will we'll take that out. That's fine. Um, in terms of the purpose of the, um,

00:57:11:17 - 00:57:46:03

the article itself, I understand that in summary, it provides, um, a defence to the applicant where noise issues as a result of the development arise. Um, and action is taken under the, the Environmental Protection Act 1990. I don't want to trip myself up by misrepresenting the precise effect of the of the, um, the defence. And so perhaps I could come back to you with a with a written note on that, if that's if that's required.

00:57:46:05 - 00:58:10:06

Well, I'm a bit disappointed then, aren't I? Uh, to be honest, because I'll tell you. Why should I try and help you with this? Um, I'm going to carry on. Okay. Um, and see, I'm going to ask a few questions and see where and see where it gets you. And I will involve, um, the Newark and Sherwood in this as well. Just just to sort of as is relevant to them as well. Um,

00:58:12:02 - 00:58:45:00

okay. Well, look, my take on this, if you like, is. And this is all on all, um, record, if you look at the Helios, um, uh, recommendation and, um, uh, the decision letter, actually, um, As you, as you, as you have you admitted yourself. Um, it's a rather obscure bit of a section from the 1990 act, which enables, I'm going to describe them as a, you know, a, as a, as an agreed person to, to, to take, to take their complaint to the magistrates court.

00:58:45:02 - 00:59:18:18

Yeah. Under section 82, um, and the, uh, the defendant, um, need a number of means of defence, um, including the reasonable, the sort of use of best practicable means or reasonable practicability. Um, which which I still have. Um, and the contractor, they could also I'm going to use the expression hide behind, um, a section 61 or section 60 notice or section 61 consent or section 60 notice issued under the Copa 1974.

00:59:19:06 - 00:59:41:15

And it was the intent of the EPA that they could not. So. So my question my first question really is and we will return to this a little bit. Three um, I think you'll agree in terms of construction noise from the site. It's a it's what I call a low risk assessment. But but yet you say you still need such, such a power. Um,

00:59:43:03 - 00:59:56:13

this power, this power would not be there for somebody. For example, during construction works for development and consensus onto town country planning. And that was just as low risk. So. So why why should you have such a power?

01:00:01:15 - 01:00:05:13

Can you answer that? Are you, are you are you or are you declining to?

01:00:11:07 - 01:00:12:13

Uh, Peter Nesbitt.

01:00:12:15 - 01:00:42:21

For the applicant. Um, so I think we'll need to reflect on this one. I understand the nature of the question. Um, I think this power is here to reflect the nature and scale of these projects. Um, and um, and to avoid that inconsistency between what the requirements provide for and then a separate statutory regime, uh, that could threaten, um, the delivery of the development. That's my understanding.

01:00:42:23 - 01:00:47:24

But I think if you want more detail on that, we will need to come back to, uh, in writing.

01:00:48:15 - 01:01:05:11

Okay. Well, I'll just finish off what I'm going to say, and hopefully that will help inform your, um, your internal, um, consideration. Yeah. So, um, and this is where I might actually bring in, I was going to say was basically, um.

01:01:08:19 - 01:01:36:07

But it just it does seem unnecessary and disproportionate, even given the context of this project. And unless, of course, I suppose this is where I'm going with this. Unless, of course, the the measures that are set out, for example, in your the Kemp um, are not implemented. In other words, the contractual use the word contractor does doesn't use reasonable practical means. Best practicable means. So

01:01:37:20 - 01:01:51:24

I'm trying to turn this argument around a little bit. So if you if if article nine was omitted, wouldn't they give the undertaker and the local planning authority, um, greater confidence that the undertakers contractor will act

01:01:53:13 - 01:02:28:11

in accordance with the approved Kemp, because they would likely be the defendant in any action taken under EPA 1996 92. Um, I don't and so far, finally, um, would it not be rational for the Xa to give greater negative weight to this subject than it would otherwise have done if this power was removed as recourse to justice by a legitimately aggrieved person noticed the mobile and the legitimately aggrieved person using section 82 would be denied by this provision.

01:02:28:13 - 01:02:45:12

So I'm going to leave those thoughts with you. I'll, um, I'll invite you, new Newark and Sherwood to to, um, comment on this inasmuch as they might have an interest in it.

01:02:47:01 - 01:03:25:01

Simon Betts on the on behalf of the Newark and Sherwood District Council, sir, uh, we've been discussing this item quite recently. So, to be fair to the applicant, it's not something we've raised previously, but really, in preparation for this hearing, I've been having discussions with our environmental health officer. So I think the best phrase to to communicate the point is we are uncomfortable at the present time, um, with effectively the liability for statutory nuisance from noise being excluded, which is my understanding of the terms of the powers being sought.

01:03:25:19 - 01:04:03:08

I think when you then go to the cemetery, obviously there is a control that is intended within the cemetery. Um, but you're then placing quite a lot of reliance and potential risk on, um, adherence to the cemetery. The point that I would perhaps just make in final in relation to that is and will come on to perhaps talk about this later on in the discussion, is the substantially in accordance with so that's substantially in accordance with creates a potential for disagreement wherever it's used, um, within the drafting of requirements.

01:04:03:10 - 01:04:35:15

But given the issues that you've just set out, um, you could you could see that that also being a risk as well, if, if there's a, you know, disagreement between the outline version and the, the sort of detailed final version of descent, but I suppose our position would be if it was to remain as is. Then, um, there would need to be a very sort of detailed set up. Agreed. And it would be extremely important for that to be adhered to in that eventuality.

01:04:35:17 - 01:04:38:08

So that probably summarizes our position. Thank you.

01:04:39:10 - 01:04:54:01

I think I understand. So so I'm I guess I'm trying to put you on the spot, aren't I? So would would you actually what you can sure would. Um, actually rather it was removed from the draft DCO.

01:04:55:19 - 01:05:05:01

So I'm about to you can share with district council. I think the answer is yes, given the opportunity. Um, obviously I'm representing another sort of component of the authority.

01:05:05:03 - 01:05:05:18

Yeah.

01:05:05:20 - 01:05:17:09

In in the discussions, yes. We are with the authority out on yes, we are uncomfortable. So um, the preference not for it to be there. So if it, if it was removed, that would be. That would be.

01:05:17:11 - 01:05:48:20

I understand. Yeah. Okay. Um, so I think there's food for thought there. Um. Mr. Nesbitt, I think you've spoken most recently on that. Um, so I'll ask you to, to sort of, as we say, take that one away and, um, think very deeply and seriously about it and, um, see what you can come up with. Um, is that okay? I can't, I can't literally see you. So I'm looking for some kind of, uh, nods of assurance that you'll give this some serious thought.

01:05:49:17 - 01:05:51:04

Uh, Martin Pennington for the applicant.

01:05:51:07 - 01:05:53:08

Um. Sorry. Mr.. Mr. Pennington. Sorry.

01:05:53:10 - 01:05:59:10

Yeah. No problem. Yes. That's fine. So we'll we'll take that away and we'll we'll deal with that in writing. Thank you.

01:05:59:17 - 01:06:34:15

Okay. Thank you. I'll move on then. Um, how are we doing? I think we're doing okay for time, so I think we'll press on. Um, to 2.3 parts, three streets. And I think this will be principally comments from possibly National Highways. Um, up to that 93 and Nottinghamshire County Council up to 87. Um, in

fact one I looked at this again. I think probably National Highways, um, uh, will be dealt with under the requirements later on.

01:06:34:20 - 01:07:08:23

Um, so I think I'm concerned the management outline, management plans and the process for the approval and protective provisions. So I think we will. I will just go on to, um, uh, those matters of concern to Nottinghamshire County Council. Um, before I do that. Sorry, I noted an interesting, um, um, difference between between, if you like, Oaklands and Helios versus Tilbury and, uh, Great North Road.

01:07:09:03 - 01:07:18:02

And can I just ask the applicant and Nottinghamshire Is this is this related to the existence or not of a permanent scheme in the respective counties?

01:07:20:05 - 01:07:24:21

I don't mind who leads. I mean, perhaps, perhaps Nottinghamshire would be good to lead on this.

01:07:26:06 - 01:07:56:19

Well Lawrence, Nottinghamshire County Council. Yeah. We did request that uh, any street works, uh, performed under the consent order are subject to the county council's permit scheme. Um, the applicant has agreed to include that. Uh, we've requested that on other shows that affect the Nottinghamshire area. I don't know whether, uh, permit scheme is standard practice for all authorities, but it certainly is in Nottinghamshire, and I believe it is in Lincolnshire as well. Um, and that's why that's been added. It's our request.

01:07:57:07 - 01:08:16:13

Good. That's why it seems to me I just wanted to sort of get a little bit more clarification because Lakelands is Derbyshire and Helios is North Yorkshire. So I guess each highways authority of each county, um, uh, is free to is, is free to implement or, you know, to, to make an order for a permit scheme. Does the applicant does want to comment on that. Just just the completeness.

01:08:19:13 - 01:08:42:12

Martha Pennington on behalf of the the applicant. Um, not not much further to say really. So, um, we've we've picked up we've agreed to include that on on the request of the, of the county council. Um, I think it supplements, um, the new roads and street works, uh, act provisions, um, in relation to the street works article ten. So not not much further to say.

01:08:42:16 - 01:09:25:21

Thank you. I think there are there's certainly some quite significant differences between the articles, between orders that are made depending on the regime, if you like. So, so I think I'm, I'm sort of comfortable with the broad the broad situation there. So going on to the detail of the, um, uh, matters on the statement of common ground between yourselves and, um, Nottinghamshire. I've noted that article 11 and schedule for which um, the county reserving their position until satisfied with the transport settlement. Assessment methodology scheduled for part two concerning the permanency of past passing places and article 13 undertake to temporarily close the public rights of way described in schedule five.

01:09:26:01 - 01:09:51:21

Um. For further clarification information which will be set out within the Outline Construction Traffic Management Plan and the Outline Public Rights of Way Management Plan. So rather than me try and go into detail on there. Could could could Nottinghamshire um perhaps describe their concerns around these issues. And then I'll give the applicant a chance to respond. So Nottinghamshire County Council.

01:09:52:02 - 01:10:22:21

Yeah. Well Lawrence, Nottinghamshire County Council, I think the crux of the issue here for us is essentially the approval process for some of the works. We appreciate that the relevant articles give a give consent for for the undertaker to put in accessories and to alter the layout of streets. Um, what's less clear is how that that technical approval for those works can be secured from the Highway authority, if it is at all.

01:10:23:05 - 01:10:54:02

Um, and what we're trying to get across, notwithstanding that, you know, the fact that the transport assessment isn't yet agreed, even if it was, we would still expect that those those, uh, accesses and alterations described in the schedules, uh, to the DCO are subject to some form of, of technical approval from the authority, the highway authority and the costs of the highway authority's time in doing that to be covered by the undertaker. So, so that's essentially our our principal issue.

01:10:54:10 - 01:11:32:01

Um, and we appreciate obviously, that, uh, the requirements do require the undertaker to, to seek approval for the, uh, accesses. Uh, but that's, you know, uh, That's to be submitted to the planning authority. It's not to be submitted to highway authority. Um, clearly, any costs incurred wouldn't be covered. Um, because the fees wouldn't be payable to the Highway Authority. And I think there's other elements there that it doesn't necessitate, such as, uh, requirement for a road safety audit, for example, a program of works, materials, all that sort of detail, uh, isn't fully captured in that requirement.

01:11:32:03 - 01:11:50:16

So we still have reservations, really, about the extent to which we will actually be able to approve those works in the same way we would if it was an application under Nepa. And there was a section 278 agreement, which clearly there isn't in this case, but we think that the, you know, the same principles should at least be followed, if that makes some sense.

01:11:54:01 - 01:11:59:11

I thank thank you for that. Um, did that cover all of your concerns? I mean, I, um.

01:12:01:20 - 01:12:11:08

I think the permanency of passing places was something that caught my eye. Is that something you want to. That you've covered sufficiently there? Or something you want to say more about?

01:12:14:02 - 01:12:34:24

Well, counsel. Yeah, I think the position of higher authority is that all passing places should be made permanent. Um, we've set that out in our observations. I think the applicant is is mindful of that and is potentially willing to agree that. But, um, I just have to defer to, to the other side to, to update us on that.

01:12:36:02 - 01:12:38:07

Okay. Um, okay. Fine. Um.

01:12:41:14 - 01:12:44:20

Well, the applicant like to respond to those comments.

01:12:46:14 - 01:13:17:12

Thank you. Sir. Martin Pennington, on behalf of the applicant. Um, the concerns of the of the county council are understood, and we're having constructive dialogue with them at the moment in order to address those. I don't I don't think it's so much an issue for the drafting of the articles themselves, um, which are relatively standard across the board. Um, but these are certainly measures we can, we can look at in, in, in other ways.

01:13:18:00 - 01:13:34:10

Um, I think on that we've recently, um, updated RTMP to, to include that the works will be subject to, uh, road safety audit, um procedure. Um,

01:13:36:00 - 01:14:08:08

and, and yeah, I can understand that the the the the conversation is ongoing. Um, in relation to the passing places, uh, firstly, the temporary, um, the temporary, because they're only required for construction of the, the authorized development and not, um, during its operation. Um, and there are provisions in the DCO which provided they're to be reinstated to the satisfaction of the the county council. Um, but again if if.

01:14:08:11 - 01:14:16:01

If the county's position is that even though they're only required for construction, they should be permanent. That's something we will need to pick up with them and carry on discussing.

01:14:17:08 - 01:14:34:10

Thank you. Okay, well, you're obviously still discussing the with the county council. Um, and I'm correct. I'm sure I'm correcting assuming that that, um, progress on those discussions will be reflected in your updated statement of common ground with Nottinghamshire.

01:14:35:20 - 01:14:39:02

Thank you sir. Martin Pennington for the applicant. That's correct. Yes.

01:14:39:10 - 01:14:55:08

And my sort of final question on these sort of ones is and this is addressed probably the applicant and the council is the only thing that any party thinks will not be resolved during examination. So perhaps the applicant first and then I'll ask the view of Nottinghamshire.

01:14:58:06 - 01:15:06:07

Uh, Martin Pennington for the applicant. um, at this, at this moment, nothing that we can think of, um, isn't capable of resolution, though.

01:15:07:13 - 01:15:09:19

And, um, for the Nottinghamshire.

01:15:11:16 - 01:15:22:08

County Council, I mean, we hope that those issues can be resolved. Obviously, the response today from the applicant there has been positive. So, um, you know, fingers crossed is all I can really say that we would resolve.

01:15:22:10 - 01:15:54:03

I sent some optimism on the on the on your behalf. Yes. That's good. Okay. Um, I'm going to do, uh, I think we can move on then to 2.4, which is part six. And, um, after this, we'll have a break. Just to give you some kind of relief from this. Um, so this is 2.4 of the, uh, jars, part six miscellaneous in general, which includes, um, excuse me, articles 48, 49, 50 and 51, which I'm sure you're all familiar with.

01:15:54:11 - 01:15:59:22

Um, and I put even in the title, noting that these are not present in the most recently made order for hills.

01:16:02:14 - 01:16:32:18

So I'm hopeful that we will not get immersed in the detail of these. Um, and that we can just rattle through them quite quickly. I'll start. I'll go in reverse order. Um, article and I was going to read this out and see what the applicant thinks. Um, article 51 for recently made DCFS is not present. And for once before where they remained, the Secretary of State has taken it out. So the applicant may wish to reflect on that. Um, can you give me your response, Mr.

01:16:32:20 - 01:16:33:13

Pennington?

01:16:34:13 - 01:17:08:05

Uh, yeah. Thank you sir. Mr. Pennington, on behalf of the applicant, and we'll certainly reflect on it. Um, just to say that the reason that it's there is to try to deal with, um, not so recently made case law in Hillside and Snowdonia National Park Authority, which deals with overlapping and inconsistent, um, planning permissions. Obviously the the order limits for this project are significant and cover you know, a large area. There's going to be planning permissions which sit within the red line boundary for the order limits.

01:17:09:02 - 01:17:43:07

Um, which from a from a legal perspective raises some concerns following the judgments in in hillside and whether there are any kind of implications as to the lawfulness of either project, either development in that scenario. Um, hopefully that's understood by, um, the examining authority. And

then the reason for us trying to include that, it's just to deal with the points that we don't want to, um, cause any issues for any other developments or, or indeed our own.

01:17:43:15 - 01:18:14:09

Yes. I understand the general gist of it. Um, I think I'd say that the the case law you refer to, I think was available to, you know, pre-dated, um, the orders that I've referred to. So it was, if you like, already accounted for. But it is your order at the end of the day is your draft order to, to, to, to, to, to put order by the examination. But I just ask you to give that some serious consideration. Um, article 50 which is about Crown land

01:18:16:02 - 01:18:17:19

in summary. Um.

01:18:20:04 - 01:18:31:24

So I'm going to just say might just be just before you go. Go ahead. Um, before we just respond, um, I mean, could you could the applicant name a solar may a made solar DCO where it is included?

01:18:34:11 - 01:18:45:04

Thank you sir. Um, as these as these matters concern, um, compulsory purchase. I'm going to pass over to my my colleague. Um, miss Mrs. Moss. Fine. Fine. Okay.

01:18:45:08 - 01:19:18:12

Thank you. Morning, sir. Michelle Moss from Eversheds Sutherland for the applicant. Um, yes. These next group of provisions are more compulsive acquisition related. I'd love to get into the detail of them, but I'm not sure if anybody else would. Um, with regards to your question about a made solar order, I believe it's in article 47 of West Burton. Um, the the the other comment I would, I would make more generally is that these provisions aren't particularly type of scheme specific.

01:19:18:14 - 01:19:49:20

So they're, they're very much provisions relating to how orders work in general as opposed to having a particular policy, uh, position, depending on whether it's a solar farm or whether it's a wind farm or another type of project. So, um, there are two other two other examples where, um, where I've, you know, recent made orders that aren't solar, um, ramping to offshore wind farm order, which was April last year.

01:19:49:22 - 01:20:09:23

Article 48 uh, Cambridge Wastewater Treatment Plant relocation order also April last year. Article 50. So it has been included in other orders. I don't know, for example, why it wasn't in Helios. I would obviously say there's there wasn't any crown land or any crown land in this order.

01:20:10:00 - 01:20:42:12

But I think that was going to be our response was the one's the one, the one, the ones you've cited. Um, West Burton, there's crown land in Poland, in West Burton. So so I accept there was a case by case basis, a case by case argument to be made for article 50, but I can't find the I can't in my own mind. See the argument in the case of Great North Road for it to be in the order. I mean it's something

again, as in all these things, you can take it away and you can reflect on it and think about it and, and, and revert in due course.

01:20:42:14 - 01:21:19:09

But um, um, I think I'm sort of rehearsing, you know, what might happen in a few weeks time. Now, where were you? If it remains in your order and then we make our recommended changes, it might not be in our order. So that's where this may well end up. Of course. Um, and then the Secretary of State can decide, um, which to go with. But as I said before, it is, um, it's cleaner, of course, if we are better aligned at that point, rather than having to point out to the Secretary of State, the applicant wants something in and we recommend that it's taken out.

01:21:19:20 - 01:21:29:12

I think I understand my point, don't you, that, um, it needs to be justified. Um, and if it's not justified, we will recommend it's taken out in a nutshell.

01:21:31:16 - 01:21:48:05

So that's understood in essence, article 50 protects the crown as opposed to protecting the applicant. Therefore, if the ex or the Secretary of State doesn't consider it necessarily necessary, then from the applicant's perspective, that's not that's not problematic in this in this scenario.

01:21:48:07 - 01:22:27:07

Good. Okay. Um, just. If you're still yourself, who will talk about, um, article, the other articles that I mention in this group. Um, 1449. Now, I'm just going to kick that off by saying that the precedent argument seems somewhat weak. I mean, they're a long time ago and all the different types of scheme. Um, I noticed that what transport and network development schemes. So I think the question is somewhat similar. Which have either of these been present in any made solar discos in the last year or two, or even going back further, I don't know.

01:22:28:00 - 01:23:07:02

So Michelle Moss for the applicant. Um, I, I'm not aware of a of a recent made solar DCO. However, just, just really to explain why it's relevant from a compensation perspective and why it's relevant to, to this scheme and to schemes in general, as opposed to it being a precedent point for from a scheme perspective. Um, this principle deals with what's often known as as betterment in compensation terms, where, uh, part only of somebody's land may have been acquired.

01:23:07:04 - 01:23:37:12

And it's, it's a compensation principle to ensure that somebody with retained land doesn't get effectively a windfall in the sense that their land may increase in value because there's there's been some road improvements or something similar to next door to them, and that they can't claim they have to effectively have a, have a take account of a net loss. So if they have received a benefit part of their land, um, they shouldn't be able to, uh, also get losses which might exceed that benefit.

01:23:37:14 - 01:24:21:03

So it's it's a necessary compensation principle. And the reason it's necessary to apply it specifically to the order is comes down to the definition of of how scheme is identified in section six of the Land Compensation Act 1961, which principally deals with compulsory purchase orders in a Acquisition of

Land Act 1981. Sense. So it's making sure that those provisions apply to the definition of scheme and the authorised development pursuant to a development consent order, which is why it's not sole or specific, it is its compensation and DCO specific.

01:24:21:05 - 01:24:29:02

And I certainly very much consider that it's that it's necessary where, um, part only of somebody's land may be acquired.

01:24:30:04 - 01:24:53:16

Okay. So I think, um, that's helpful if, if you want to include us in your written submissions, that'd be helpful. Um, posting submissions so we can understand, uh, if, like, justification, you know, um, Um, did that come up out of them? So was that 48 and 49? Were they there? Was. Did you have something more to say about the other one, or have you said enough about most of them?

01:24:54:11 - 01:25:36:15

So, um, I didn't cover 48. There's a there's a similar principle in the sense that this is about applying the provisions in the Acquisition of Land Act 1981. So section four, which governs the situation where somebody shouldn't be able to gain compensation, where they've deliberately done an act that with the view to increase in compensation. So if they've created new leasehold interests before you acquire the land or they've done work so that they then seek to claim more compensation from an acquiring authority, and that provision only applies to compulsory purchase orders in in an acquisition of land.

01:25:36:17 - 01:26:10:14

That sense, and therefore it's necessary to include here to ensure that it it follows through to the right statutory instrument under a development Consent order. Um, is the reason again, um, why I'd say it's necessary and I, I, I, I don't understand why it wasn't included by the applicant in Helios from the outset, because it doesn't appear to be a situation where the Secretary of State has determined to take out something that they put in. It's more that they they hadn't put it in in the first place, as far as I can tell from from that order.

01:26:11:07 - 01:26:25:09

Okay. That's fine. So so yes, I think if you could provide that detail in writing, then we'll have a look at it. Um, obviously if you've got any further questions, we can follow up at execute too. So that I think, I think that's the the way forward on that one. Um,

01:26:26:23 - 01:26:42:22

unless there's anything from anybody else, I think I suggest we have a break there and we adjourn. I make the time. 1126 so if we can reconvene or Resume at.

01:26:44:10 - 01:26:53:14

I'm just checking this thing else. 1145 I can't see there is a there is something I just can't forgive me. I just can't see what's going on in the room.

01:26:53:21 - 01:27:00:15

Simon Burton, you can show a tissue. Cancel. I was trying to wave around in the room to catch people's attention. Okay, I got you.

01:27:00:17 - 01:27:02:04

Thank you, Mr. Betts. Right. Okay.

01:27:02:06 - 01:27:08:04

Um, just a brief comment on article 51, if I may. Um.

01:27:08:15 - 01:27:09:07

Yeah. Sorry. Of course.

01:27:09:11 - 01:27:54:21

I think we understand, uh, the workings of that. Um, and ultimately, it wouldn't prevent the planning authority from granting planning permission within the order limits. I suppose it's a practical consideration of where there are inconsistent planning permissions. How or what obligation does the authority have to engage with the applicant on such permissions and therefore thinking it through? What are the implications for applicants in that scenario as well? Because you can imagine imagine a scenario when someone is seeking an application and going through the process, and they can't potentially implement that planning permission.

01:27:54:23 - 01:28:10:18

Now, clearly, we we as an authority, I would expect us to raise that issue with the applicant in the early stage. But it's just if it was to remain in some understanding of how how that would work on a practical level would be, would be helpful.

01:28:11:21 - 01:28:14:07

Okay. Um, does, uh,

01:28:15:20 - 01:28:22:17

before we close, the applicant want to respond to that comment from the Newark and Sherwood?

01:28:23:19 - 01:28:56:16

Uh, thank you, sir. Martin Pennington, on behalf of the applicant. Um, well, obviously think about the practicalities of it. Uh, just just thinking, um, on the spot. Obviously, an application within our own limits would trigger the certification requirements under the Town and Country Planning Act to notify the landowners and anybody with an interest, and so there would be a mechanism there for engagement. Um, but I think that's something that we, we both need to, to discuss, um, as part of, as part of the examination.

01:28:56:18 - 01:28:58:10

Um, so I would have the hearing.

01:28:59:20 - 01:29:28:11

Okay. Thank you. Yes. If there is any discussion that needs to be recorded, you can obviously capture it in your statement of common ground, you know, on things like and things that perhaps aren't on there. But we can add just, just so we have a record of this, um, uh, discussion, consideration,

justification and so on and so forth. So I think, um, it is now pretty much 1130. So we'll, we'll break until 1150. So this hearing is adjourned. Thank you very much.