



Planning Inspectorate
Arolygiaeth Gynllunio

Hearing Transcript

Project:	Lime Down Solar Project
Hearing:	Issue Specific Hearing 4 (ISH4) - Part 2
Date:	3 July 2026

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FULL TRANSCRIPT (with timecode)

00:00:10:04 - 00:00:49:20

Okay, it's 1150. So let's resume this issue specific hearing into the DCO. So coming on to item 2.9 of the agenda which is in relation to schedule two requirements. Um we'll start with requirement five which is detailed design approval. Um I suppose I'm unclear why this requirement is restricted to work numbers one, two and three and doesn't include other work numbers such as, but not limited to work numbers five relating to cabling um, particularly cable route corridor or eight relating to highway work.

00:00:49:22 - 00:00:55:09

So I wonder if the applicant can explain why it's restricted to work numbers one, two and three.

00:01:01:14 - 00:01:33:20

Claire Patrick for the applicant. Yes. So requirement five is designed to deal with effectively the, um the elements of the scheme that have, um, design details and parameters, um, relating to sort of predominantly layout and external appearance. Um, and that links you through to the design principles and parameters document. Um requirement five uh subparagraph four does state that work. Number five must be carried out in accordance with the design principles and parameters.

00:01:33:22 - 00:02:13:21

So the actual specification of the cable route corridor and the maximum parameters will need to be complied with. It's the applicant's position that that because that is underground. Um it's not um, uh, there is no need for the planning authority to have to approve the detailed design of that Cabling route in terms of the circuits and the cable trench. As long as we're compliant with the parameters, there isn't a need for the council and it wouldn't typically, um, be involved in approving that sort of electrical configuration.

00:02:13:23 - 00:02:50:21

It's concerned with the external parameters of development, which obviously this isn't, um, it is wholly underground. All of the other elements of the scheme, um, and the work numbers are covered by other, um, requirements. So it's the applicant's position that it would be a duplication to add the

other work numbers to requirement five, because they are covered by the other plan, by the other requirements either specifically. So for example, fencing has its own requirement and drainage has its own requirement, or it's via one of the um management plans.

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So it can be either the construction environmental Management plan or the operational environmental management plan or for highways works, the construction traffic management plan. So it's the applicant's position that adding adding any additional work numbers is unnecessary because they are already provided for in the other requirements. Okay.

00:03:11:26 - 00:03:14:10

Um, so

00:03:16:10 - 00:03:49:10

I understand that there's there could be duplication with some of those other requirements, but there's, there's no cross referral that anything in work numbers one, two and three have to accord with the details in those other requirements. So there's no sort of statement that takes you to having to be in accordance with. Um, and I suppose we don't know the sequence of the discharge of those sort of requirements. So when they're going to be submitted to the council for approval.

00:03:49:12 - 00:04:22:25

And I guess I'm, I just am slightly nervous that something is discharged in isolation of something else. And it comes back to something almost, you know, sort of res a similar thing. Um, you know that if you amend one management plan, but you don't necessarily amend another plan at the same time, then the the sequence means sometimes detail on one approval is not consistent with another approval. So maybe we need something around about the sequence of the discharge of those requirements.

00:04:23:07 - 00:04:40:21

Maybe there needs to be something like that, or there needs to be something that says in requirement five that the details submitted for work numbers one, two and three must be consistent with those other requirements. Um, I'm wondering if that's just a way around it.

00:04:41:29 - 00:04:45:28

Uh, Claire, project with the applicant. Um.

00:04:48:06 - 00:05:31:29

So the the the elements that are specified in requirement five are quite specific, so they are designed to deal with layout, external appearance, etc.. Hard surfacing. If if you took a substation, for example, the applicant would under requirement five have to discharge the details of those elements that are listed in requirement five. It would also need to provide details of the fencing around the substation under requirement ten. It would then need to supply details of the drainage for the substation pursuant to requirement 11, and to the extent that there's any landscape or screening around the substation, then that would need to be detailed pursuant to requirement seven.

00:05:32:03 - 00:06:05:19

Um, the applicant doesn't consider it necessary to because all of those requirements apply. There isn't a need to cross refer to them. They just all apply to the applicant. How it does its discharge. Um, will depend on on how the works are carried out. So it may well be that it does a separate suite of plans for, for example, the 400 kV substation. And so it would submit detailed drawings and plans for each of the relevant requirements for the substation and have all of those approved.

00:06:05:21 - 00:06:37:15

And then it may do a separate exercise for the bears and submit the plans required for each of those, or the details required for each of the requirements for the beds. Alternatively, it may do it all in one go and provide details for both at the same time. Um, it's not possible to specify at this stage in the process how that will be done. It will possibly depend on how it's the timescales, whether it's the same contractors doing both packages of work, for example. So there's a range of flexibility.

00:06:37:17 - 00:06:52:22

I, I would just say from a statutory drafting perspective, it is unnecessary to say that you must comply with each of the requirements because you you just have to comply with each of the requirements before doing that part of the authorized development.

00:06:52:28 - 00:07:20:19

Okay. So if we if we were then to leave our requirement five just to work numbers one, two and three, you don't see that there's any merit in expanding, um, part one sub points, which is A to F to include drainage, water storage, security measures, junction improvements and the like, because you're suggesting they're already all covered in the other requirements.

00:07:21:18 - 00:07:23:29

Uh, Claire Bush of the applicant. Yes. That's our position.

00:07:24:01 - 00:07:28:19

Okay. Thank you. Um, I want to bring my colleague, Mr. Northover in because he has a question.

00:07:29:01 - 00:07:33:22

Yes. So, uh, related to that and, um, so

00:07:35:21 - 00:08:09:24

XQ1 DCO 1.37, um, the council's response was that fencing gates, boundary treatment signs, CCTV and lighting columns should be included in that list. And I understand your position that you that the applicant um, considers these are. These are covered appropriately through other requirements. Um, but requirements seven only. Only requires written detail of permanent and temporary fences rather than.

00:08:09:26 - 00:08:55:12

Any visual design detail. And as I understand it, the production of the final management plans and the requirements 13 and 14 don't necessarily require that visual. Visual details would be provided for those other components either. So given that, um, these components set fencing gates, boundary treatment signs, CCTV, lighting are part of work numbers one, two and three and have potential to be

visually discordant, uh, with the receiving landscape if they're not treated appropriately, Um, would I want to return to the question of would it not be appropriate to include those so to include granted.

00:08:55:14 - 00:09:14:05

Fencing is in requirement seven, but to include it in requirement five signs, CCTV and lighting columns. And then if requirement seven could be amended to refer to wider, wider details than just written details of fencing.

00:09:15:06 - 00:09:48:02

Er Clare project for the applicant. I'll need to find an authority for it, but written details just means it is in it. It doesn't limit it to being text, it includes plans. Um, but what I would say is that the particular points you've mentioned in relation to sort of, um, CCTV, for example, those, those are covered in the relevant, um, uh, management plans. So, And details of lighting.

00:09:48:04 - 00:10:16:18

Details of security during construction are set out in the Construction Environmental Management Plan, and then during operation, they are set out in the Operational Environmental Management Plan. So again, the applicant's position is it's a duplication because those elements of the project are already controlled via another requirement. They don't need to be listed in requirement five. Requirement five is essentially listing those elements of the project that aren't set out in the other management plans.

00:10:18:08 - 00:10:33:02

Okay. So then it be good to understand how how much of detail about the visual appearance of those elements will be in in those final management plans.

00:10:36:21 - 00:11:07:18

Clare project for the applicant. So obviously for this particular scheme the lighting is very minimal. So you've got construction lighting during, um, activities that might be undertaken. So there's sort of lighting up. Section 2.6 of the Outline Construction Environmental Management Plan sets out the type of lighting that will be put in place during construction activities. During um operational activities, the only lighting is at the substations and the beds.

00:11:07:20 - 00:11:25:03

And that lighting is, um, is sort of motion censored and, and for sort of security purposes only. I'm just going to try and find the relevant, um, sections. So both of those documents have provisions relating to lighting provisions relating to security, for example. Um.

00:11:27:05 - 00:11:43:24

I think in terms and so the, the detail of the lighting that would be required for the substation would be specified when we came to discharge that particular plan. Um, in terms of the where the lights would be located, for example.

00:11:47:13 - 00:11:49:19

Yeah. Which council can I get you? Um.

00:11:50:08 - 00:12:30:00

To be Wiltshire Council. So if these matters are all I mean, Council's raised concerns previously. It's set out that it would prefer the details not just of those works but of works in particular five, six, seven, eight, nine and ten. And we're listening to what the applicant is saying, that it's covered in these management plans. And that's been the applicant's response on a number of questions. I think what would be extremely helpful for the council if this is possible? Um, because the concern is that things fall between the cracks and, okay, the applicant is saying it's in a particular plan, but potentially things aren't there.

00:12:30:02 - 00:12:59:01

Um, on a number of these issues. So if it's possible for the applicant to prepare a schedule for each of these articles where it says the answer is in the management plan to provide exactly the paragraph and place in the relevant management plan that the issue is addressed. I think it would help the Council enormously to just be able to verify that there isn't anything missing. Um, which is which is which is the concern at this point?

00:13:00:16 - 00:13:19:01

Yeah. Thank you. Um, I think something like that would be quite useful, but I do wonder, I haven't seen the mitigation route map, which the applicant is, is preparing in light of one of the written questions that we put out. And I'm wondering if that type of information is not going to be within it.

00:13:19:16 - 00:13:32:27

Uh, Cllr Brodrick of the applicant. Yes. So the intention is for the mitigation route map to highlight exactly where in the management plans each of the commitments relating to mitigation measures are contained. Um, in terms of.

00:13:35:01 - 00:14:00:14

The concern. The concern we were talking about here was design I suppose, rather than I mean, obviously they are to a certain extent linked, but in terms of we can obviously provide a table. Um, we gave some examples in our response to the, to the question, but we can in terms of each of the work numbers, it would be we could provide a table that then said which requirements relate to those work numbers. That would be excellent assistance. Yes.

00:14:00:16 - 00:14:22:08

Yeah. I don't have you much council. It's for this. But it's also for a number of the other issues we've discussed earlier today where the applicant's response has been it's in this plan. It's in this plan. If if there could be something linking these articles to specific paragraphs of the, of the plan in a more general way, rather than just this article. And that would be really helpful to the council to understand.

00:14:22:14 - 00:14:40:27

Yeah, I think the applicant knows what it is that you're seeking and saying would be helpful to us, but I think we just need to let the applicant go away, have a think about how they could produce that. Um, and what I would suggest is probably deadline five for us to get a feel for that document. And it might be that that then evolves after that.

00:14:41:20 - 00:15:02:22

Claire? The applicant? Yes. The applicant obviously wants to try and be as helpful as it can. Um, so we will take that point away and see. I haven't got, um, the team who are actually preparing that mitigation right back now. So I can't confirm what was whether that was intended to be in in there. I think it's more of an evolution of the commitments register rather than article to plan.

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But we're looking at maybe an extra document that just around how these provisions all sort of overlap.

00:15:11:05 - 00:15:15:16

Yeah. Note that the points understood. And we'll have a think about how best to present that.

00:15:15:18 - 00:15:21:09

Yeah. Thank you I think that would be really helpful. Mr. Gazelka, you don't have anything to say on that, do you?

00:15:21:13 - 00:15:22:06

Um, Danny.

00:15:22:08 - 00:15:55:21

Gazelka, stop lying down. Um. Not really madam, just one small point. Which is? I wonder whether that might usefully appear as some form of appendix in the explanatory notes. To be, um, to be. See? Um, because, I mean, this was a concern we raised as well because. Spring. Well, Fenwick. Fenwick Helios didn't adopt the approach of the applicant. It's taken with how it's picked up the works numbers. And so I just think having that explanation somewhere, which will also explain why this see is a bit different to others, may be helpful as well.

00:15:58:00 - 00:16:15:12

Yeah. Thanks. Okay, good. All right. Let's come on then. To the requirements 6 to 20. Um, and it's the use of the phrase substantially in accordance with, um,

00:16:17:04 - 00:16:27:27

I think a number of parties have raised some concern about the use of that word. Um, Environment Agency notwithstanding. Um, I just wonder

00:16:29:20 - 00:16:58:09

whether that phrase provides the right amount of flexibility for the design to evolve, but in keeping with the environmental assessment and the outline documents, um, but doesn't give too much flexibility to allow the applicant to not do something in accordance with those documents. Um, I want to come to the council first, but before you do jump in, I, I recognize that this is pretty standard drafting.

00:16:59:17 - 00:17:33:14

Um, Odette shall be Wiltshire Council. Um, so my understanding, um, particularly from the solicitors instructing me, is that the wording substantially in accordance with has appeared in a number of made dsos um, including made solar orders. But there is also made DCO precedent for requiring plans to be

in accordance with the outline documents and for using a more tailored approach that goes requirement by requirement. Um, and the I mean, the the existence of some precedent in other dsos doesn't justify the blanket use of of this term if it's not necessary.

00:17:33:23 - 00:17:58:02

and the council's view is that the applicant should either delete the word as the council has set out before, or alternatively justify for each requirement why that flexibility is necessary and how it will be prevented prevented from eroding the secured mitigation rather than just apply this blanket approach to everything. And at the moment, we we don't believe that justification is there.

00:18:00:04 - 00:18:08:02

Mr. Gazelka, do you have a similar position or is this something which isn't problematic for stop lying down?

00:18:08:04 - 00:18:37:21

Um, thank you, Madam Daniel, because stop lying down. I mean, we recognize that. I mean, this is the wording that's used in quite a lot of DC ers, including most of the recent CEOs. So it seems to be currently where the Secretary of State's mind is. Um, I mean, obviously we would prefer that everything was secured as strongly as possible, but was a balance to strike there. And so, I mean, I think we're happy to take a step back and let the matter be resolved. As between the dispute of the council and the applicant, I don't think we add much to that discussion.

00:18:37:23 - 00:18:41:20

Okay. Thank you. I'll come to the applicant then. Please excuse me.

00:18:42:14 - 00:19:13:09

Uh, Clare, project the applicant. Yes. As has been noted, it is fairly standard wording, particularly for solar dsos where the, um, extent of design work that's been undertaken at this stage in the process is quite high level. Um, there are some, um, specific examples where a particular plan is, is the final version that's been submitted and that is um, then complied with. Um, so there isn't a need for a further outline, for example. But that's um.

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So for example, um, in the archaeology, um requirement, which obviously is still under discussion, but um, that is saying that the work um, must be undertaken in accordance with the outline article mitigation strategy. So there's those survey works, Um, and things like that. So there's some examples where it must be. Similarly with the, um, requirement five that we were just talking about in the sense that the, the details must accord with the detailed design parameters. So that's not a substantially in accordance.

00:19:45:04 - 00:20:17:21

One, particularly requirement. Five um, the applicant's position is that there is a need for flexibility for each of the requirements because the detailed design hasn't been confirmed yet. Um, it also allows for improvements to be made as well. So I appreciate it's being talked out in a context of a negative, but equally, if there was a better way of doing it between now and when we come to construct

cooperate, if it said it must accord, then we would struggle to then be able to, um, do it in a in a better way.

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For example, what I would say in terms of the control mechanism is that it all goes back to not resulting in any materially new or different environmental effects. And schedule 16 puts the onus on the applicant to report on that. So when we submit our final management plan, we will have to positively say whether it's materially new or different from what was said in the environmental statement. So to the extent we were trying to do something different, um, so it didn't exactly accord, um, then we would have to be saying what the consequences were of that.

00:20:51:01 - 00:21:09:23

So it's, um, the applicant's position is that the inclusion of substantially gives the flexibility that's needed. But there are other provisions in the DCO that ensure that the mitigation that the council is expecting in order to deliver the conclusions of the environmental statement are, um, are secured.

00:21:10:24 - 00:21:40:29

Thanks. Um, as I sat on the Lower Thames Crossing panel, we had a similar discussion around this wording in that, um, and National Highways at the time were saying, you know, we plan to do a sort of carbon neutral development as we can. But some of that detail is still unknown because the materials are still evolving. And it was a similar argument. If we could do something better, we would be prevented if we took out that word. So I know in that situation we retain substantially in accordance because it seemed to have some merit.

00:21:41:01 - 00:21:52:13

So I'm, I sort of see your point. Um, but a blanket position, I suppose, what the concern is, um.

00:21:52:23 - 00:22:24:18

Shall be Wiltshire Council. Yes. And I think the applicant has just acknowledged that for some issues it's not appropriate because they haven't included that word for archaeology, for example. So I think what the council is looking for really is some justification that that word really is required for all of those requirements rather than just taking that approach. So, um, we're just not convinced it is required for all of those things. So if the applicant is able to explain why the word substantially is appropriate in all of those cases, whereas it's not in terms of something like archaeology, I think that would help progress matters.

00:22:24:20 - 00:22:47:09

Could you explain which of the requirements, you're not comfortable with that wording being employed, because otherwise we're asking the applicant to go through every single one and it may be unnecessary. Um, and I'm happy to give an action to the applicant to update their explanatory memorandum. But if there are specific ones that the council really has concern with, let's have that focus.

00:22:52:18 - 00:23:07:28

Shall be Wiltshire Council. Apparently this is an issue that, um, has had input from the entire team at Wiltshire. So you need to take it. I need to take that away. Um, okay. But we can definitely by the next deadline set that out or if you like.

00:23:08:00 - 00:23:31:16

Okay. So I will issue an action for Wiltshire Council. So, you know, for the deadline for I appreciate it's tight. Um, but I think that's something quickly pulled together that would give the applicant dental deadline five to be able to respond. And possibly it's just a quick update to the explanatory memorandum. Um, or they may reassess and decide some of the wording could come out in some of the requirements. Does that sound reasonable, Miss Broderick?

00:23:32:23 - 00:24:13:06

Uh, for the applicant? Yes. If there are specific requirements that, um, a more detailed explanation than the one I've just given is requested, then I can do that. But, I mean, what I don't want is for it to come back. And if it's going to be every single one, then I just reiterate what I've just said. Yeah, sure. Now, um, in terms of needing, um, the ability to keep on track and battery, um, safety is perhaps a good example of how quickly, um, that moves at the moment in terms of increasing the level of regulatory requirements, the appropriate safety measures, the insurance that's required.

00:24:13:08 - 00:24:29:11

Um, so even over the space of the year, for example, the actual um, measures that may need to be put in place could be could be different from what we've set out in our outline management plan. And so again, there's an example there as to where substantially. Sure is needed.

00:24:29:13 - 00:24:36:18

Um, I just want to come and pass over to my colleague, Mr. Northover, who had a point he wanted to make about archaeology.

00:24:37:23 - 00:24:49:06

I just wanted to check. Um, the draft ser I've got open in front of me here. Does have substantially in the archaeology requirements of paragraph three.

00:24:49:19 - 00:25:17:16

Er. Clare project. Sorry, I was just referring to sir, paragraph one. So in the event that we at this point is still under discussion. So it probably wasn't necessarily the best of it, the best of examples. But that was in the event that we needed to do some pre-construction trial trenching. The detail of that has already been agreed. And so that that, um, it would be there wasn't a need to, um, uh, do it then. Um,

00:25:19:09 - 00:25:52:27

paragraph three relates to then the subsequent plans that will be produced after that. Further evaluative trial trenching is done if it's required. I think there's a potential that that first paragraph might come out, given ongoing discussions that are being had with Historic England. So you may may lose that. So it may not be the best. A good example, but it was just when I was flicking. It was an example of something where we'd said in addition to requirement five, a specific one. Particularly the other example that we have put in is the um, permitted preliminary work.

00:25:52:29 - 00:26:25:23

So we took on board the comments that were made and the questions on um, permitted preliminary works. And the intention is to, um, provide a plan and uh, requirement 131 is saying that the permitted preliminary works must be carried out in accordance with that plan. That's another example of where it's not we're going to provide the plan now. Um, and it's not a further plan that's going to be provided at a later date. So, uh, but I appreciate you haven't seen that plan yet, because that's coming at deadline for.

00:26:26:09 - 00:27:02:00

That's a good reminder, actually. Thank you, Miss Broderick, because I realize I completely skipped over something I did want to talk about. And it is about permitted preliminary works. So thank you for mentioning that, because I would have gone down the agenda and we would have skipped it. Um, so in our first written questions, we expressed concern over the lack of control over permitted preliminary works. Um, and as suggested, um, the applicant has agreed to provide um some information, um, and has put something in the DCO about permitted preliminary works being carried out in accordance with a permitted preliminary works environmental Management plan.

00:27:02:02 - 00:27:37:27

We've got these words that just keep coming up and tongue tying me. Um, but then Wiltshire Council and stop lying down advised of their support for that approach. And that's brilliant. Um, but then we also had suggestions that a slightly different approach was taken in spring. Well, and I think that was in stop lime downs responses. Um, and they said that the way that spring. Well so the farm order managed that um could also be appropriate. Um, in the spring. Well order certain preliminary works were reinserted within the definition of commencement in specific requirements.

00:27:37:29 - 00:28:02:18

So I suppose where I'm going with that is why I think we appreciate the receptiveness of the applicant, um, taking on board what we said in our first written questions. Um, I just want to open it up to whether we have a consensus as to what is the best approach. I mean, the approach that we suggested in our first written questions is one approach, but obviously spring takes another. So I think it's worth discussing.

00:28:02:23 - 00:28:33:11

Um, Clare project for the applicant. So just to give some context. Um, the approach in spring well, was obviously to, uh, to um, add that provision in to each of the relevant requirements where a permitted preliminary work may engage a mitigation measure that was otherwise covered by that particular requirement. The applicant's approach is to do it all in one document. So rather than having lots of different documents relating to fencing or removal of vegetation or, um, the site clearance, for example, we're going to we've put it all in one document.

00:28:33:13 - 00:28:46:21

And so I don't think the, um, the control is what you end up with at the end is no different. It's just our, our decision was that it would be needed to do it all in one document rather than to do go requirement by requirement.

00:28:46:23 - 00:29:03:25

Yeah, okay. And certainly that was the position that the panel moved forward on Lower Thames Crossing, which is why it was a suggestion of first written questions. That was an option obviously. Then we've now got the other option, which is why I wanted to discuss it. And I just wondered if the council will stop lying down, you know, had a position on that.

00:29:03:29 - 00:29:31:18

Um, Shelby Wiltshire Council. Sorry. Just before I answer that, a slightly different point, um, the draft DCO that Mr. Northover had just put up in terms of the archaeology had track changes on, and I should have raised this at the start of the hearing. But what we're able to access in the current examination library for the rep three submissions of the DCO are both clean versions the the tracked and the clean. And and I'm sorry, I meant to raise that at the start, but forgot to do so.

00:29:31:29 - 00:29:34:23

Oh, because we can open both.

00:29:34:25 - 00:29:38:21

We can open both lines. We can open both, but both are clean.

00:29:39:13 - 00:29:44:21

Are they? Oh, I'm wondering how I've managed to print a tract change copy then.

00:29:44:23 - 00:29:49:02

That's what I was. I wasn't clear how Mr. Northover had managed to procure that. Okay.

00:29:49:04 - 00:29:49:21

We will.

00:29:49:23 - 00:29:53:12

I'm not sharing on the screen there. So that's the applicant.

00:29:53:26 - 00:30:00:27

That's the version on the pin's website. And I've just opened it and it is tracked, so it may be some I don't know if it's an issue with.

00:30:00:29 - 00:30:05:12

Sometimes it's to do with not clearing the cache, and it just goes back to a previous version.

00:30:06:08 - 00:30:13:00

Of the stop line. Now I wonder if it's correct from a pin's website, but the Examining Nation library uses the same hyperlink for birth numbers.

00:30:13:02 - 00:30:32:26

Yeah, Claire, for the applicant? Yes. I suppose if you click through via the link from the examination library reference, then maybe it's taking you to the wrong document so I can assume the case team of at that point. But if you search for, um, the draft development consent order, then the tracked version is there and you can open it. So.

00:30:35:17 - 00:30:38:07

3006 I'm just opening it now.

00:30:41:02 - 00:30:48:07

Uh, and Clare project, just to confirm that all of those changes were set out in the schedule of changes as well. So, but, um, just.

00:30:48:18 - 00:30:53:02

Yeah, we have been able to see that. It's just I thought that. Yeah, it's just not there, but.

00:30:53:09 - 00:31:24:21

Yeah. Okay. We will see to get that corrected. In fact, I did just open it and it opened up a clean version. In fact, the tracked version I noticed the numbering is out. So lots of where you start with, um, for some of the articles and requirements, whether you go to if I just look at requirement three on the tracked version, it says approved details and amendments to them. The track version says 347 and it should be 341. So and that's that's consistent throughout the tracked version where the number is gone, the number has gone awry, but the clean version is correct.

00:31:24:28 - 00:31:29:28

The clean version doesn't do that. So note for the applicant when they submit the next iteration.

00:31:30:19 - 00:32:00:08

Of the applicant, yes, we'll check that occasionally. When you produce a track of the PDFs, the C template does not cooperate with you. Um, and so occasionally it shows a change when there isn't a change sometimes, and sometimes the numbering goes through. We do try and manually correct that. Um, but it is a big unfortunate quirk of the of the C template. But we will, um, check through to try and make sure it's not showing non incorrect changes next time around.

00:32:00:10 - 00:32:29:01

Thank you. Sorry Miss Shelby that you and to stop lying down and others that have been unable to open up a tracked version. It's it's really helpful to have the track version because you can actually see the, you know, the changes we're discussing. But flicking back just to the question I asked about permitted preliminary works, whether there was any issue with the approach the applicant is taking to that document in light of the fact that it was a suggestion from the examining authority. But there is an alternative as well.

00:32:29:10 - 00:32:49:09

Odette Shelby, Wiltshire Council. So we're content with the principle of what the applicant is doing and having it in one place rather than the spring well approach. Um, and we're grateful to the applicant for, you know, moving forwards on this, the council does still have some concerns about what's been done in the detail put forward. So I think Miss Jones is going to explain those.

00:32:51:09 - 00:32:55:19

Thank you. Karen Jones, Wiltshire Council. Um, we are looking.

00:32:55:21 - 00:32:57:21

Forward to seeing the, um, first.

00:32:57:23 - 00:33:28:25

Draft of the permitted preliminary works plan at deadline for um, but without knowing the extent and the detail that's contained within that plan at this stage, whether it would be sufficient for that version to be certified without a need for a separate requirement and a more detailed plan to be submitted once further information had become available for submission and approval by the local planning authority. So we reserve judgment until we have had a chance to review what the applicant will be submitting.

00:33:29:07 - 00:33:44:24

Um, but within our, um, response, we had asked for the permitted preliminary works plan. I'm sorry, I cannot say that. BW yes, um, to be submitted for approval of the LPA. Thank you.

00:33:46:13 - 00:33:47:12

Mr. Gazelka.

00:33:47:22 - 00:34:16:08

Uh, Daniel Gazelka, stop lying down. Um, so, um. Yeah, that that was a position we were in as well. The reason we raised it was because the spring. Well, one, the way of doing it in spring. Well, does reserve the approval of the plan still back to the local planning authority, whereas this makes the plan, I'm going to call it, um, a a a certified document. if the plan is good enough, that's fine. It's just a matter of drafting. So where? Same position. We'd like to see the plan once we've seen it. That may help in determining.

00:34:16:10 - 00:34:24:19

So I think we might revisit this point about, you know, whether it is certified or whether there does need to be a subsequent approval. But it devil's in the detail.

00:34:25:03 - 00:34:32:16

Uh, cloud project the applicant. Yes, that's acknowledged and I'm yet to see the plan too, so I can't comment on it, sir. Context. Yeah.

00:34:32:18 - 00:35:08:17

Okay. There was only one other thing I wanted to add about this. There was an because you don't have the track version, you may not have clocked it the other parties, but 13 um, under requirement 13 and a new part one, it's the construction environmental management plan. Um, a new part one has been put in and it says the permitted preliminary works must be carried out in accordance with the permitted preliminary Works Environmental Management plan. Um, I just wonder if that's the right place for that provision, because it's not The preliminary works are not construction.

00:35:08:19 - 00:35:09:06

So

00:35:11:02 - 00:35:37:23

a clever project for the applicant. I mean, we're happy to put it somewhere else. We just didn't want to change the numbering of the requirements. And essentially. So I mean, if you would want it in requirement to then happy to put it in requirement to do which deals with commencement of the authorized development. I don't know where it goes. We just. Or at the end. Yeah. We just didn't want to change all the numbering because everyone's quite used to referring to the current numbers of the requirements.

00:35:37:25 - 00:36:09:28

We'll have to think about that as well. It was just something I just thought I would mention, because it just does. Doesn't seem to sit neatly there. All right. Well, I'll come on then to, um, requirement six. And you quite rightly pointed out about technology changing and you specifically said about batteries and battery safety's and the management plan. Um, and I asked at first written questions, um, which was DCO 1.38, Whether it was necessary to introduce a review and approval mechanism into requirement six.

00:36:10:10 - 00:36:40:08

And that was because, as you said, if the technology advances and the batteries are replaced, does the battery safety management plan, um, specifically address this? Now your position applicant, was that the most appropriate place for periodic review is not within the DCO. It's actually within the battery safety management plan. Um, but then when I looked at your latest iteration, which was rep three 106, there was still nothing in there about periodic review.

00:36:42:12 - 00:36:47:03

So I just checking that you do intend to include something about.

00:36:49:11 - 00:36:50:23

Updating that.

00:36:53:22 - 00:37:10:21

Uh, Clare project the applicant, um, will take that point away. I haven't noted whether there were, um, check to check whether there is something in there. But if obviously if you're saying you've reviewed it and that there isn't, then it sounds like there may be a need for us to add some wording for that document.

00:37:10:23 - 00:37:32:15

So then to the council, if the applicant were because I knew that you said in your response to deadline three, this seems like a prudent approach to include a review. Um, but you were content with the SSAs approach, but the applicant is saying, but if we update the management plan with, with with such requirements, that's sufficient. Um, Wiltshire Council.

00:37:32:17 - 00:37:38:14

I don't think we have any objection to that. Um, I think that sounds that sounds okay to the council.

00:37:38:16 - 00:38:12:09

Thanks. We didn't get a response from Dorset and Wiltshire Fire and Rescue Service, and it's unfortunate, but I think we will be following up with them again. A second written questions, because

I think there were a number of questions that went out to the service and they didn't respond to any of them. Um, and possibly because they weren't aware that there were questions for them to respond to. Um, but we will follow that up because I've Zucker. No issues with that. Okay. So requirement 15. Uh, we may have already covered this point because it is about construction, traffic and management plan.

00:38:13:26 - 00:38:14:17

Um.

00:38:17:05 - 00:38:46:11

So deadline three Wiltshire Council put forward alternative and more comprehensive wording requirement 15 in relation to the content of that plan or plans, which extends the level of detail being sought. And that was in Wiltshire. Rec 3142. Um, but I'm assuming the protective provisions conversation that's happening may have altered the council's position on that. So I'd like really to understand from Wiltshire.

00:38:49:08 - 00:38:52:29

What their concerns are with requirement 15.

00:38:57:27 - 00:39:37:27

Um, I don't share Toby Wiltshire Council. Um, I'm not sure whether the protective provisions addressed the council's requirements. I'm just seeing if Miss Faber, um, is is has anything to say about that? Um, but I'm not I'm not certain that it does because I didn't get instructions that it does. Um, the the precedent for what was suggested, um, is sort of a composite of a number of recently made dsos, um, including Little Crow's Solar Park, Oaklands Farm, and ramp into offshore wind.

00:39:37:29 - 00:39:39:05

I'm just saying. Oh.

00:39:41:22 - 00:39:56:11

Um, so I, I don't think that the protective provisions, um, solve all the council's concerns about this because the requirement and the protective provisions do complementary things. Um, they don't entirely overlap.

00:39:57:27 - 00:40:02:13

The council's concerns are set out and that proposed wording remains the council's position. Okay.

00:40:02:19 - 00:40:14:05

Um, I wonder if it's helpful to put that wording on. Um, unless the council unless the applicant is about to say, yeah, we're content with that revised wording, at which point we can skip over this.

00:40:14:25 - 00:40:46:18

Uh, the applicant. Um, so our position is it's unnecessary to list all of the things that need to be in the plan where you've provided an outline plan containing all of those things. Um, so it's a duplication is not required from our perspective because the plan already contains that already. The outline plan

already says that each of those things need to be in there. And we've obviously discussed access routes the highways works. It's got provisions about, uh, travel of construction workers.

00:40:46:20 - 00:41:06:00

So each of those things that are listed there are covered by the the management plan itself. Um, so the applicant's position from a statutory drafting perspective is, it's unnecessary to list what needs to go in the plan. When the outline plan already contains all of the things that need to be in the plan.

00:41:06:16 - 00:41:18:22

Okay, I suppose from my perspective, I just want to be sure that everything that is in that list, and that's a pretty extensive list from the capsule running H, um, A to R,

00:41:20:13 - 00:41:31:24

that all of the things in there are actually in the construction traffic management plan without having the two in front of me. Now, I can't really say it just so I want that assurance, um, that it is all covered.

00:41:32:03 - 00:42:02:17

Uh, clever to the applicant. Um, if it would be helpful, we can offline provide confirmation to the council, which are the relevant paragraphs they are directed to in the construct outline plan that covers that particular point. And it may well be that something is covered in another plan. So obviously there's, uh, some parts in there in terms of public rights away, for example. But there is obviously a separate public rights of way management plan. So there is potential. It's not in the construction traffic management plan. It's in another plan.

00:42:02:19 - 00:42:30:03

But the point itself is covered. But we can assist Wiltshire Council with directing them to where those relevant provisions are so that they are comfortable, that they're all included, notwithstanding the points they've made earlier about the construction traffic management plan. Because obviously, a number of the things listed here are some of the things we talked about earlier. So I think it is all in there and we can provide that signposting.

00:42:30:05 - 00:42:53:01

Yeah, sure. And I think actually with that I'm almost certain you will respond in full to the submission by which council that was made at RET three. So it might be that rather than just go back to the council and to and fro over this, it's just encompassed in your response generally into the examination. And then everybody is privy to, to, to that dialogue. Um, and that information.

00:42:55:11 - 00:42:58:22

Shall we? Wiltshire Council? Can I, um, just come back on this?

00:42:58:29 - 00:43:03:09

Certainly. But I had one more point, but I'll let you raise yours because we. Maybe.

00:43:03:11 - 00:43:38:07

I'm sorry. Shall it be Wiltshire Council? So part of the concern is also, um, that this is a sort of a backup, because the outline construction management plan is still an outline plan. And the final plan

has to only be substantially in accordance with. So then we could end up at the point of getting into dispute resolution if the council doesn't consider all of these matters are properly addressed in the final plan. Um, whereas this provides more of a belt and braces approach of setting out what's more specifically required within the order itself and avoids the risk of having to go down that route.

00:43:38:09 - 00:43:40:21

So that's also part of the council's concern.

00:43:42:25 - 00:43:43:22

Yeah, I think.

00:43:47:06 - 00:43:56:29

So it's unfortunate not everyone is looking at at your draft, but part seven of your revised version, um,

00:43:58:21 - 00:44:01:06

would supply schedule 16.

00:44:04:13 - 00:44:09:10

If the council doesn't issue a decision on the construction traffic management plan in ten weeks.

00:44:11:01 - 00:44:13:18

Is that what that's seeking to do?

00:44:27:16 - 00:44:31:09

Sorry. This is. This is paragraph seven of the council's word.

00:44:31:11 - 00:44:32:16

Yes. That's right.

00:44:32:18 - 00:44:35:15

That that starts.

00:44:35:18 - 00:44:49:28

Um, there's approval of the construction traffic management plan. Does not constitute approval under the Wiltshire Council protection provisions. Unless Wiltshire Council expressly confirms in writing that it is to have that effect. So I suppose I'm asking

00:44:51:23 - 00:45:01:25

If it's out with protective provisions, then schedule 16 covers this. Is that my understanding?

00:45:02:29 - 00:45:20:20

Uh, Clare Atkins. So the discharge of the final construction traffic management plan is it's subject to schedule 16. Um, approval under the protective provisions is subject to its own dispute resolution mechanism.

00:45:22:18 - 00:45:26:08

So do we need part seven, Miss Shelby?

00:45:26:29 - 00:45:40:18

Shall we watch, counsel? I think that's just for for clarity, to make sure that I mean, I, I mean, we can take that away and have a look at it, but I think the concern is, um,

00:45:42:08 - 00:45:56:21

yeah, obviously the concern is that somehow it, it seems to, because we've approved something in this way, Also results in an approval under the protective provisions. Um, but I think maybe that's something we can take away. Now, come back to you on.

00:45:58:20 - 00:45:59:05

Okay.

00:46:00:21 - 00:46:34:20

Uh, Clare project for the applicant. Um, yeah. Obviously, the applicant's position is that none of this wording is required because it's already covered. And it is again, a duplication which is contrary to statutory instrument drafting. So I think, um, it may be once the protective provisions have been agreed that the applicant can revisit the wording, um, with the council, but, um, yeah, the council, um, the council's position is noted, but and we are aware that some other dsos do list out the measures.

00:46:34:22 - 00:46:38:05

Um, but um, the way that, um, uh,

00:46:39:25 - 00:46:56:17

Island Green Power does their dsos and we draft it is that it's just by reference to the management plan and that details in the management plan. And that's consistent with the West Baton. The cotton dsos that have been granted in the same approach has been taken in all of the other projects that are at various stages in the.

00:46:56:21 - 00:47:03:08

Well, we'll await your response to that particular provision when you respond to the council reps re Clair project.

00:47:03:19 - 00:47:35:01

Just whilst we were dealing with that point, I just we'd found the point on the battery safety management plan. So it was just to say that we'd made an amendment in the most recent version, and it's paragraph 6.1.2, and in the tracked version, um, there is some wording there that says that the detailed battery safety management plan will be updated should the battery technology change during the operational placement period. So there is um, and that the existing control measures and mitigations would not be amended without the prior agreement of the fire service.

00:47:35:03 - 00:47:46:11

So there is some wording gone in there. But again, obviously happy to if the council would like um, amendments to that drafting then happy to consider them. But um, that was the.

00:47:46:17 - 00:48:19:02

I think I missed it because I opened up the clean version, because the reference I gave, um, when I asked about it was the clean version. So that's that's why I missed it. So thanks for that clarification. All right. Um, coming on now to requirement 20 decommissioning bonds. Obviously, this has come up since relevant reps. Um, in hundreds of the representations that we received and not least from the council and stop lying down, um, about the lack of decommissioning bonds.

00:48:20:00 - 00:48:20:15

Uh.

00:48:24:14 - 00:49:09:09

I think the IPPs concerns are about the uncertainty about the restoration of the land once it's handed back to the landowners at the end of the project's life, at the end of part of the project's life, knowing, noting that this could be a sort of stage development. I think the very first issue, specifically specific hearing, We heard that maybe some of the land agreements weren't for as long, and therefore some of the development would be decommissioned much earlier than the anticipated 60 years. Um, now a note the applicant's position that decommissioning is covered in agreements with landowners, which includes decommissioning securities to cover the cost of decommissioning in the event of any breach by the applicant, or in the event of the insolvency of the applicant.

00:49:09:11 - 00:49:14:26

But I'm wondering if the applicant you could explain how these decommissioning securities work.

00:49:56:04 - 00:50:08:09

So the, the nature of the security, um, is, uh, depends on the contractual terms that are in that particular land agreement. Um,

00:50:09:27 - 00:50:42:13

but the what they effectively require is a form of security. And that form of security could take different forms. Um, and then that's the amount of that security is regularly reviewed over the lifetime of the project to ensure that it is, um, of an appropriate amount. Um, but the, the exact nature and type of the security, um, hasn't been confirmed at this stage, but that is quite common across energy projects, in solar projects and also onshore wind farm projects.

00:50:42:15 - 00:50:46:19

It's a fairly well-known principle in property agreements.

00:50:49:12 - 00:51:16:06

Obviously, we're not privy to the land agreements, and I wouldn't suggest that you submit any of that into evidence. Um, but it still leaves some uncertainty, um, as to whether they are sufficient, um, to pick up decommissioning in the event of the applicant is no longer here in it is no longer here in 60 years or for some other reason. Um, what assurances can we have?

00:51:20:24 - 00:51:26:18

And then I suppose the reason for my question is if I look back at historic quarrying and mining

00:51:28:12 - 00:51:31:28

permissions, um, we have lots of.

00:51:34:13 - 00:52:12:28

Documents that say decommissioning plans that say we will do this, we will restore the land. And if I just look at South Wales as a case in point. All of those promises, or lots of those are empty promises now because those operators are no longer in existence. Um, and there were no security bonds, and the state or local councils are left to pick up the bill. And I think that's the concern of a lot of the IPS. And I don't say it's not. It's standard that decommissioning bonds are generally not secured, um, particularly for solar dsos. I don't think I've seen one that has secured one, but it doesn't take away that fact that we still need some confidence, um, that in 60 years when, as Mr.

00:52:13:00 - 00:52:24:20

Tate said, none of us are here, um, that we're not left with a South Wales mining legacy, um, where the solar farm is just left to rot in the ground.

00:52:26:22 - 00:53:00:02

Uh, Clare, project the applicant. Um, the concerns are noted. Um, but the position is both for this project and across the suite of energy projects. So not just solar, but onshore elements of offshore wind farm projects and other generating stations, whether they're gas or. Energy from waste, etc.. Um, the position um, that has been accepted by the Secretary of State is that the decommissioning requirement in the DCO is sufficient, because compliance with that is a statutory requirement and failure to comply as a criminal offence.

00:53:00:09 - 00:53:34:20

Um, so the applicant's position is that no further a mechanism within the DCO itself is required. Um, other than what's been provided, which is a decommissioning, um requirement, as we've said, there are other voluntary agreements that the applicant has entered into that do provide for decommissioning security, as you would expect a landowner to. Um, the typical provision that a landowner would, would ask for. Um, but the applicant's position remains, as is the case on, on all of the other projects, that it's not necessary for a decommissioning bond, um, to be required.

00:53:34:22 - 00:53:59:21

Um, the I would also suggest it's different to a more intrusive type of scheme, like a quarry, where, um, because the restoration activities are very substantial, whereas this is the removal of, of equipment. But we do recognise the concerns that have been raised. Um, but the applicant's position is that the requirement is sufficient, and that's been supported by the Secretary of State in more recent decisions.

00:53:59:26 - 00:54:19:04

Okay. Just, um, quick follow up. If over the lifetime of the development, um, any of the land that you have agreements on changes, ownership, presumably those security measures transfer in agreements.

00:54:20:04 - 00:54:33:08

Uh, the applicant. Um, yeah. So the the obligations are within the lease. And if the freehold owner were to change, then they just become the landlord and all of the obligations in that lease then, um, apply in respect of.

00:54:33:16 - 00:54:42:16

Those security bonds or whatever it is that you have in place with the current landowners, transfer to their successors, entitle.

00:54:43:12 - 00:54:50:02

The applicant. Yes, it's for the duration of the lease, regardless of the, um, who is the particular landlord? Okay.

00:54:50:18 - 00:54:53:10

Um Wiltshire Council.

00:54:53:16 - 00:55:28:17

Um, Odette Shelby, Wiltshire Council. So a number of concerns about this. So one is the lack of any detail about the size of the bonds or information about it. Another one is the sort of more in principle issue that that doesn't really resolve the concern, which is that if The Undertaker disappears or the Undertaker goes insolvent, even if the landowner has the money, the obligation for decommissioning is on the undertaker and the council can't prosecute the landowner when the obligation is on the undertaker. Um, to to agree the decommissioning strategy and so on.

00:55:28:22 - 00:55:59:10

Um, so that's that's the concern. There's also a sort of separate concern linked to this and link to the length of the leases, which is that, um, as as the examining authority noted, some of the land leases are shorter than the 60 years required. And the concern is, um, that what we understand from the applicant is that if those land leases aren't extended, um, we're going to be at a point in 42 years, which I think is the maximum length of some of the lease is that the applicant will start to decommission then.

00:55:59:12 - 00:56:27:29

So we'll decommission in a staged approach, partially over time. That could be 18 years worth of construction works and decommissioning that the public are going to have to deal with if it's done in that staged way. And part of the concern of the Council is that that hasn't been properly assessed in terms of the environmental effects and the impact on, on the local population, and there's simply too much uncertainty at the moment from the applicant as to how decommissioning would actually operate. Yeah.

00:56:28:23 - 00:56:59:16

Um, yeah, I was going to come on to some of that. So requirement 20. As I noted, it doesn't include any fixed commitment to completing the decommissioning on the site within a certain time frame. Um, paragraph 2.2.1 of the outline decommissioning strategy and the latest version is rep 3096. Um says the process is expected to take 12 to 24 months, but I can't see any backstop date in requirement 20.

00:57:00:11 - 00:57:16:08

Um, and then similarly as, as, um, which cancer just raised for any part of the site which may not be secured for the full 60 years of the order and ceases to be in commercial use. Why is there no backstop date to require decommissioning and restoration of that part within the backstop date?

00:57:16:14 - 00:57:36:14

And Shelby, Wiltshire Council, it's linked to another point the council is concerned about, which is the commissioning of the scheme, um, which we set out in our written representations, which is, um, the five year time Frame at the moment applies to sort of each component to all aspects of the development. So

00:57:38:04 - 00:57:58:17

there can be sort of different starts triggering the five year time frame. And the concern then is 60 years from when and when does the 60 years end? Is it. And what the council think it should be is 60 years from the point of first commissioning of the first part? Um, and that's not clear to us that that's what the DCO secures at the moment.

00:57:59:10 - 00:58:03:04

Yeah. I'll come to stop lying down before I come back to the applicant. Thanks.

00:58:03:22 - 00:58:35:28

Thank you, Madam Danny, because I'll stop lying down. Um, I'm not going to get into the point which shall be raised, which, um, with which we agree. And we made submissions on before about what the effect of not having security about the length is, um, and assessment of significant effects. What I wanted to pick up on. We agree. I mean, I've seen in another DCO what I've raised in the DC over this issue about what happens if an undertaker is dissolved. Um, because that raises a real issue about who you enforce against. Um. We also have a concern about, um, the starting points that were just raised.

00:58:36:00 - 00:59:08:22

And one of the things that I noticed about requirement two, which isn't on your list, but would maybe resolve some of these issues, is that the applicant is currently undertaking to tell the council what it's going to do when it commissions, but the council doesn't have to approve that. And in the schemes that do include a, the applicant will tell the council what it's going to do. The council approves it. So I'm pretty sure that's the case in spring. Well again where they actually approve what is going to happen? Um, in respect of, um, the decommissioning, um, provisions.

00:59:09:01 - 00:59:14:03

Um, we also have this concern about, um,

00:59:15:22 - 00:59:48:29

piecemeal decommissioning over time. Um, which, um, again, maybe it's something that we're going to come on to or I just flagged, but we have that concern as well. And the point about the bond. Um, so what there is in Amir DCO is in the Helios DCO was a requirement for the applicant to inform the council. Um, I'm looking at it now. It's, uh, requirement five, um, para three. Uh, within the first 15 years that there is a decommissioning security secured for the landowners.

00:59:49:01 - 01:00:15:06

So at least the council knows that that exists for the landowners. Now, I mean, obviously, this raises the issue about how you actually can get a landowner to use that money if it ever comes to pass that that is the case. But, um, there is at least one example where something is done on, on, on the along the lines of, you know, what is the decommissioning, security, etc.. Um, I appreciate that was a bit of a hodgepodge of different points, but, um, yeah, that's where we are currently.

01:00:18:12 - 01:00:21:03

Okay. I come to the applicant, please.

01:00:24:04 - 01:01:01:15

Uh, for the applicant, obviously a couple of points down there, just in terms of the. The time to clarify the time period. It is um, in relation to, uh, the, the, the, the 60 year period runs from the um, final commissioning of that part. So in the event that, um, I don't know, lime down A and B were commissioned before part E, then that 60 year period would run from those.

01:01:01:29 - 01:01:33:09

It would it wouldn't be the same 60 year period if there was a idea, a period of six months between them, for example, then um, then that 60 year period would, would run in that way. And that, um, the applicant considers is appropriate given the sort of the, um, it's not a one site to this project. It's conceivable that individual elements could be, um, could be done, albeit that that's not the intention. But it's also to make sure that that. That it's quite clear, I suppose, when the date of commissioning is.

01:01:33:11 - 01:02:06:05

And then as there's. Been mentioned, there is a requirement for under requirement to subparagraph three. And the applicant must notify when the date of final commissioning for that part has taken place. So there is clarity in terms of when that time period starts running. So there's there wouldn't be any, um, any confusion over what was the the start date for that 60 year period. And that's a notification because there's obviously the applicant will be confirming a fact that has happened.

01:02:06:07 - 01:02:39:04

It's not something that can be approved or not. It's a confirmation of something that has factually happened. Um, in terms of, um, the timeline for decommissioning, um requirement 20, subparagraph four, um, does state that the um Decommissioning a plan that is approved and must include a timetable for its implementation. So the final plan will clearly set out what works are going to be done and the time period over which they need to be undertaken.

01:02:39:06 - 01:03:17:17

And then obviously that that approved plan must be implemented. And so the applicant is on those points that have been, um, raised. The applicant feels that the current drafting does give that level of clarity. Obviously, it's not known at this point in the process. And we're not um, we can't give any more information about how decommissioning may or may not take place now. Um, but we have included what we consider to be appropriate safeguards. And again, as I said several times when we come to discharge this plan, we will need to demonstrate whether there are any materially new or different effects to those assessed.

01:03:17:19 - 01:03:52:20

So if the nature or the timeframe for decommissioning was at that point in time was very different from what we had assessed. We would need to, um, confirm whether that was the case, and it may well be that the applicant would need to amend the DCO if it turned out that was going to be very different environmental effects because of the nature of decommissioning in, in, in that in that time in the, in the future. And that is a potential for, for any of these that what we've assumed to be the effects of decommissioning at this point in time could be very different in in 60 years time.

01:03:52:22 - 01:04:09:29

And that that is recognised and the process allows um, for, you know, consent to be refused on the basis it's very different and the applicant would have to amend its DCO at that point in time to, um, to allow for the decommissioning to take place in the way it needed to.

01:04:10:11 - 01:04:22:27

So how does that pick up on the enforcement matter, which the parties have raised? They can't enforce against a landowner if the applicant becomes insolvent. No longer exists.

01:04:24:14 - 01:04:26:00

What's the position there?

01:04:27:15 - 01:04:32:01

I mean, we, you know, we hope that's not the case, but.

01:04:34:07 - 01:04:36:03

What assurances do we have?

01:04:54:26 - 01:05:31:14

Apologies. I'm just double checking the provisions in the Planning Act. Um, because I believe it's covered in there in terms of the ability to inform, uh, the ability for the council to enforce and that that that money, the bond or the security that was in place for the benefit of the landowner, then those monies could be used to to undertake the work. So in that sort of scenario where the undertaker has led appeared, as it were. There would be an ability for the decommissioning works to be undertaken by the local authority, using the money that was secured for the benefit of the landowner.

01:05:31:18 - 01:05:33:11

But I will come back if that's okay.

01:05:33:15 - 01:05:34:07

Yeah. That's fine.

01:05:34:18 - 01:05:37:15

The provisions are in there, but I just want to double check them.

01:05:37:17 - 01:05:51:17

That's fine. Come back at deadline for, um. We'll give an action just to just for you to signpost us to that particular part of the legislation, if that's helpful. Um, just so we can move this along. Miss Shelby, please.

01:05:52:12 - 01:06:04:23

Shelby. Wiltshire council. So there's one. Could the council come back on one point here about the commissioning and the timing for that? Do you want to? Um. I'll let Miss Jones.

01:06:06:20 - 01:06:08:02

Thank you. Karen Jones, Wiltshire.

01:06:08:04 - 01:06:08:23

Council.

01:06:08:25 - 01:06:42:01

In our written representation, um, in section 13.3, we set out, um, what we suggested as, as some appropriate wording and would use this based on other made, um, DC solar DCS. And whilst Miss Broderick explained about the notification, um, of the data final commissioning and that there was, you know, no need for um, for approval of that part, um, it was actually.

01:06:47:09 - 01:07:19:26

Trying to find it on my screen and it's going blank. So under, um, what we've suggested. Um, requirement three, paragraph one, um, it would read and this wording to a degree is within, um, Miss Broderick's DCO. The applicant's DCO, um, would read no part of the authorized development may commence until the written scheme. Setting out the phase or phases of construction of the authorized development has been submitted to and approved by the relevant planning Authority in the draft DCO as it currently stands.

01:07:19:28 - 01:07:32:25

That as far as I'm aware, it's not currently on screen, but it and it's only submitted to the relevant planning authority. That and approved by um has been omitted from the current drafting.

01:07:37:29 - 01:07:38:19

I know which I'd.

01:07:38:21 - 01:07:39:06

Be.

01:07:39:08 - 01:07:39:23

Wiltshire Council link.

01:07:39:25 - 01:07:40:10

Sort of.

01:07:40:12 - 01:08:02:02

Link to that point. The council still does maintain that the 60 years should be from the commissioning of the first part, because otherwise the the public are dealing with the scheme. That could be 8575. It's not it's not a 60 year scheme if, um different. You know, there's just no, no certainty for the public as to how long they're going to be dealing with this for.

01:08:06:07 - 01:08:32:04

Yeah. I do, um, understand your position on that because you don't want elongated, um, decommissioning works, which is why I think I was talking about backstops, because if if you've got phase development, then where does where is the backstop? Um, I'd like to give some more thought to that before I say any more. And I think there may be some further questions come in around.

01:08:32:06 - 01:08:32:21

That.

01:08:32:28 - 01:09:24:14

Project for the applicant. Um, the point. So I think there's two points. When I was saying about the date, we were previously talking about the the date of final commissioning and that being a notification point, that was what I was just referring to, because that is a factual matter. It is electrically commissioned. I think the point, um, that, um, Miss Jones was talking about was a separate point, which was about whether we needed our phasing plan approved. The applicant's position is that it's not an approval. It's a we were trying to give information about the the nature of the timings of the works, um, rather than seeking the council approval, approving those because it was more of an offer of transparency in terms of giving the Council greater oversight of of when works may be taking place, rather than them approving when they're going to take place.

01:09:24:16 - 01:09:40:16

Because obviously construction program is what the construction program is for a variety of different factors. And we don't consider that to be something that from a planning perspective, um, requires approval. But the point on the 60 is, um, we will have another look at that drafting, because obviously

01:09:42:02 - 01:10:12:13

we do. We definitely take the point that that, um, if it's a staggered approach to commissioning, then you could have, um, a generating station operate still generating beyond the 60 year period of the first point. And my instructions are that that's not the intention. So we will have another look at that drafting to see if we can provide clarity that it's 60 years from the date of final commissioning of the of the first part, rather than from each individual part.

01:10:12:15 - 01:10:17:07

Yeah. So I think we can address that particular concern in an update to the drafting.

01:10:17:09 - 01:10:19:20

That would be helpful. Thank you, Mr. Gazelka please.

01:10:20:16 - 01:10:58:19

Thank you madam. Daniel, I can stop lying down. Um, that's very welcome. Um, if the applicant is going to look at that, because it's something that we're concerned about as well, I think it would resolve some issues with the sort of timelines of the DCO. Um, we would also invite, if you're going to if the applicant is going to look at that, they also look at changing the wording around works 2 to 10 to also mirror that. So currently works 2 to 10 exist for as long as there is any part of works, one

which is still commissioned and operating, which is why you could end up with the best that exists for 70 plus years, even if every bit of works one only exists for 60 years.

01:10:58:21 - 01:11:36:16

So if those can line up as well. So it is basically everything goes at the same time, if at all, you know, if that's how it works out. Um, we agree, I think we meant we maintain a position and agree with the council. I mean, the wording that was just read out by the council is is the wording from the spring. Well. Um, DCO and if it's said, I think the applicant says it doesn't actually meet the test, the planning test for imposing a requirement for the council to agree to a phasing plan. Um, obviously this is a DCO, so it would I mean, if we're saying it's not meeting the test, I would say that if it's included in a mayor, it probably does.

01:11:36:21 - 01:12:22:19

Um, albeit if the applicant fixes this issue about was a 60 year dead end anyway, it may resolve all this problem. Um, and then, um. Oh, yes. Um, and then on bonds and enforcement, it would assist. I'm not suggesting that we need to answer now if they find that provision in the Planning Act, which would be very welcome. If it's there, that obviously then changes the complexion of what the council would need to know about that decommissioning bond. It seems to me, because there is then a world in which the Council needs to rely upon the form of that decommissioning bond to be satisfied that if the worse were to come to the worst, it could also cover its obligations to remedy the land, and so that may result in a higher obligation on the applicant to make information available to the Council than might otherwise be the case.

01:12:22:22 - 01:12:28:03

But I'm not suggesting that needs an answer now, because it relies upon what the precise terms of the Planning Act are.

01:12:28:07 - 01:12:28:24

Yeah, thanks.

01:12:28:26 - 01:13:04:16

And I noticed that there wasn't any, um, provision around abatement of works that are abandoned or decayed. So to allow the council in that scenario to compel the applicant to remove equipment or undertake the works and recover the funds for that, if we found ourselves in that position, and I was intending to put a second written question out to you on that. So anyway, we're on notice to talk about that at a subsequent hearing. But if it's okay with all the parties, I think we know there's a bit more work for sure to do around commencement, commissioning, decommissioning and enforcement around those things.

01:13:04:18 - 01:13:15:03

So if I just leave that there now because we're really running quite tight on time. I had then intended to talk about schedule 16. Um.

01:13:19:10 - 01:13:52:27

Obviously schedule 16 is is the is the process around the council discharging requirements and the obligations really on them? Um, it gives them ten weeks or the permitting authority to make decisions

on the details. Um, but if this is missed, the applicant games and gains are deemed consent. Um, you know, ten weeks that's been noted in here is slightly longer than the typical eight weeks you'd get under the Town of Country Planning Act. Um, but I would welcome the council's position on the ten week time frame.

01:13:52:29 - 01:14:17:20

And I note that the Environment Agency's submission, a deadline one, um, said that they would like 21 calendar days and 15 business days in which to respond as a discharge authority. And there will be other consultees that probably similarly need the same. So if we could just have a very quick discussion around the time periods in schedule 16, as opposed to the detail of schedule 16, that would be helpful.

01:14:18:21 - 01:14:44:28

Um, Odette shall be, which I'll, I'll start. So as I understand it, in our representations we've been asking for for 12 weeks. Um, and I understand there's precedent from other dsos for that. And the reason, essentially, is the amount of information that's being submitted and in particular, in particular, the council's responsibility to consult with other parties. Um, and

01:14:46:22 - 01:15:04:03

linked to that, uh, something the council's been asking for, which the council has had in the previous DCO, the council was involved in um is a formal, formalized process for consultation with the council and with consultees on draft plans. And

01:15:05:21 - 01:15:32:26

in advance of their submission, um, and given the timeframes and the amount of changes the council actually ended up requiring on draft plans in that previous DCO that the council dealt with, so that there is a real concern about the time and the ability to do that properly. Um, so yeah, there's two things the council wants essentially. So it's sorry.

01:15:32:28 - 01:15:43:03

I did I, I may I misunderstood. Were you looking for the applicant to do some consultation before they submit their information to the council for discharge?

01:15:43:09 - 01:15:44:24

Um, yes.

01:15:45:09 - 01:16:26:22

Okay. So that's that's the first point. Um, the second point is, uh, it seems it's a resourcing issue possibly as well. So it comes back to the conversation. We had twice an hour around section 106 agreements. And whether there is a dialogue to be had with that. Certainly on low attempts crossing the local authorities, they're engaged with national highways around resourcing so that they were able to deal with the applications coming in. That was a very extensive scheme, and with lots of information that would have come to the councils there, and they contemplated whether they would need extra staff to allow the applicant to to really get going quite quickly.

01:16:27:00 - 01:16:48:03

Um, that's something I'm just going to park that's for you as parties to talk about. But, um, for the applicant in terms of pre consultation with consultees, is that something that you had intended or are you hoping the consultation with the relevant statutory consultees happens within the ten weeks uh.

01:16:48:08 - 01:17:17:27

Project for the applicant. So in terms of the sort of formal consultation as part of the discharge of the process, the applicant is required, where it's there, where there's a named consul T in the draft DCO, then the applicant has to submit a copy of the documentation to that name consul T at the same time as submitting it to the Council. So they will have that documentation from from day one of that ten week period. There is obviously then a period of time in which they can um, uh.

01:17:20:05 - 01:17:53:05

So whilst the paragraph one for one then requires the, the planning authority to then, um, also notify them, the applicant has already done that effectively. So they've already had the documentation. Um, and then there's timescales set out there in terms of whether um consultees require any further information as a result of comments made by um, uh, those consultees, um, and they consulted um.

01:17:56:04 - 01:18:38:28

If they. Yeah. So there's 15 working days Effectively, that's allowed for a consultant to then tell the planning authority that they would like some more information, and then the planning authority has to, um, request that of the of the applicant. As I was saying before, the from the applicant's perspective, it is not in its interest to submit documents for discharge, that it is not discussed in advance. So the applicant's position is that there isn't a statute, there's no statutory requirement to put in an informal consultation process because it's in the applicant's interest, because if it's trying to submit a drainage plan and it hasn't discussed that at all with the Environment Agency, then the chances of it being refused are fairly substantial.

01:18:39:00 - 01:19:17:29

And we're in respect of, um, West Burton, for example, the applicant or IGP has got is having discussions with the planning authority in advance. And then, um, then once those drafts have been discussed, then the final versions are being, um, submitted. Um, as part of that process, Discussions are taking place in relation to planning performance agreements, so that the time spent having those informal discussions is all covered by the applicant. And then obviously when we when the final plan is submitted, there is a payment, um, under the provisions that covers the cost of processing the final application.

01:19:18:01 - 01:19:50:25

But all of those um, pre submission discussions have been will be the cost of those have been covered by a planning performance agreement. So that's the typical process that's put in place. Um, and I would say there's no need to put in a statutory mechanism because it's very much in the applicant's interest. There's also a whole range of different plans. So, you know, there might be a very minor work that doesn't take very doesn't take the full ten weeks, for example, for the council to review. And that's very different than maybe the construction traffic management plan, for example, which is obviously a much more detailed document.

01:19:50:27 - 01:20:29:29

And the full ten weeks, as we've noted, the point about the council Requesting a longer period of time. We are obviously aware that there are some days that have longer than ten weeks in them, so we will take that point away. Um, in terms of the the total time period to see whether we can, um, give any more additional time. But again, it's as there's been recognized, it's a balance between ensuring that the plans can be, um, properly considered and discharged, but also remaining on programme to deliver a generation project within the timescale required to meet the grid connection date.

01:20:30:15 - 01:21:10:15

Yeah. I don't think we're going to get a resolution here today. Um, but I think there's a conversation to be had around planning performance agreements, section 106 agreements that some of that there might resolve. The timeline that suggested here. Um, it may very well not. And there may need to be some give on ten weeks to be slightly longer. Um, I just wanted to have just to hear it in the room today, but we're not certainly going to to resolve it here and now. The only thing I would say if it's 15 days for those consultees, obviously the Environment Agency have said 21 typical time frames through the Town and Country Planning Act is 21 days for a consultant to be consulted when the council refers a document to them.

01:21:10:25 - 01:21:25:18

Um, it does seem a bit tight. Unless, of course, you are intending to have planning performance agreements with all those statutory consultees that may need to receive the documents as well, so that they're they're looking at all this detail as well beforehand before it lands.

01:21:25:29 - 01:21:58:07

Er Clare project. So it is 15 working days. So it is effectively three weeks. So it is the 2021 regular days. But we're, we're talking working days. So it is pretty work like that. Um so we do think that we have actually given the Environment Agency what they want. But what I guess the point I was trying to make is that that timescale starts running from when the, um, uh, relevant planning authority obviously have given the information, but what we're saying is the applicant also needs to give it on day one, so they'll have it a bit.

01:21:58:09 - 01:22:05:00

So it's not a lag because it's landed with the capsule and then they've got to farm it out. Exactly. Yes I appreciate that. Chris Jones.

01:22:05:17 - 01:23:02:25

Thank you. Karen Jones, Wiltshire Council just also to flag that in our previous representations on the draft DCO, we had, um, asked for that time frame. For further information, request for further information to be extended to 20 working days. Um, which is in line with other similar made DCMS, for example, the Mallard Pass solar farm. Um, and also just coming back to Miss Broderick's point about the consultation not being required to be formalized. Perhaps a, um, a compromise might be for the applicant to set out, along with the discharge application, how they have undertaken those informal discussions with the other consultees, and to say how they have reflected or addressed the points raised in those informal discussions with consultees, because that might help the planning authority when considering the issues and determining whether to grant consent or not.

01:23:02:27 - 01:23:37:12

So you're suggesting that when they submit their discharge, it comes almost with a statement? Yes. Um, and sure, I mean, I'm sure that would be pretty standard from an applicant. I don't know if we need a provision to suggest they need to do that. I think it would be presented would be it would be in their interest to tell you we've got agreement from the Environment Agency on this drainage plan and then no doubt within that 15 um, business days, the Environment Agency would simply respond. Um, but I'll, I'll ask Miss Broderick to, to comment.

01:23:37:14 - 01:24:10:01

Uh, the applicant. Yes. That that would be, as I say, it would be typical for the applicant to confirm that it has sought, um, yeah. Agreement with any relevant stakeholders as as part of the the discharge at the moment. Obviously the um, the provision is that the applicant will provide a yeah, a statement saying, um, whether it would result in any materially new or different environmental effects. So that's the the additional information, the contextual information that the applicant is providing, um, with the applicant with the documentation.

01:24:10:03 - 01:24:17:12

Um, so I think the applicant's position would be there's no there's no DCO. We don't believe there's a need to put it in the, in the actual DCO.

01:24:17:19 - 01:24:51:01

I almost think as well, if it were in the DCO, the council would still make its diligent inquiries with those statutory consultees as opposed to taking something face value from the applicant. Um, so I think we just need to park that provision there for the moment. Um, in the interest of time. Um, and wrapping up, there is a section where we were due to come to talk, um, protected provisions, but we don't have other than obviously, the protected provision in which the council is liaising with on 15.

01:24:51:03 - 01:25:04:19

I think we've discussed that. We know that's ongoing, so I don't want an update on that. Um, I think it would just be helpful at deadline for, for the applicant just to give us just a little written statement as to where they're at, um,

01:25:06:11 - 01:25:31:00

with, you know, with the statutory undertakers that they're discussing with, we don't need to have an oral, um, dialogue here, if that's okay. And then that would bring us to item four on any other matters. Uh, is there anything that we haven't covered here in a very brief fashion that any of the parties want to to raise?

01:25:32:19 - 01:25:33:19

Mr. Gazelka?

01:25:34:20 - 01:26:05:02

Thank you, madam. Daniel Gazelka, stop lying down. Um, there's a small number of, um, additional, um, comments that we've made on the DCO before and was being a bit of a back and forth between us and the applicant. Um, because we've accepted the explanation of the applicant and some of them, it's now a little bit difficult to find where all of our remaining points are. Um, the bigger remaining points

are, I can raise them now, or I'm quite happy to put them in a note at deadline for what is, you know, what is remaining.

01:26:05:04 - 01:26:11:05

And we've not discussed here today. So that sort of the applicant knows where we are or I'm happy to raise them now, but.

01:26:11:07 - 01:26:41:15

Can I ask you to put them in writing for deadline for. Because if you raise them now, it's incumbent then on the applicant to respond at deadline for. And that's pretty tight timing. And given the number of actions coming the applicant's way, I think it would be preferable. You put it in writing, we receive it, we can consider it fully. And then the applicants got until deadline five to to make a formal response. So I would be appreciative if you could do that. Thank you. Okay. So in terms of actions, um, I don't want to run through them.

01:26:41:17 - 01:27:19:07

I haven't got them on my screen here. Another colleague has been it's been keeping a track of those, but we'll try to get those out as soon as possible. I think they were our intention for the actions from across the week was to try and get some. The ones the hearings, which we've already held. Those actions are already comprehensive and drafted and ready to go, and if we can hopefully get those published today, we will try and do that. Obviously, we've got a back office case team that are responsible and I can't speak for their workload, but we will try to get these ones done for Monday. Um, because the turnaround time is quite tight, but hopefully you'll have sight of the others, um, first thing Monday morning.

01:27:19:14 - 01:27:56:22

So that really brings us then to the close, unless there are any other questions for anybody, I'm not seeing any. So my fellow panel members and I really want to thank all parties for their participation this week and their contributions, um, and your patience, and also to the IPS that came to the open floor hearing and the compulsory acquisition hearing. it, it remains to be a sensitive examination with lots of emotion running high. And we we appreciate that and we thank the applicant for for their respect in this process to the IPS as well.

01:27:56:24 - 01:28:27:16

So, um, need to extend our thanks as an examining panel to the case team here. Um, and back in Bristol, um, Deborah Allen in particular and CVS for the smooth running of the event. A few minor hiccups yesterday, which they got us back on track. So thank you very much. Post hearing summaries documents any answers to action points by deadline for unless otherwise stated in the action letter? Um, but that really brings us to a close for this week of hearing. So wish you all safe journeys home.

01:28:27:21 - 01:28:34:18

Happy weekend! Um, the time is now 118 and I close issue specific hearing for thank you.