



Planning Inspectorate
Arolygiaeth Gynllunio

Hearing Transcript

Project:	Lime Down Solar Project
Hearing:	Issue Specific Hearing 9 (ISH9) - Part 1
Date:	23 September 2026

Please note: This document is intended to assist Interested Parties.

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The video recording published on the Planning Inspectorate project page is the primary record of the hearing.

FULL TRANSCRIPT (with timecode)

00:00:06:12 - 00:00:27:02

Hey, welcome back to those who are here this morning and welcome to those who have just joined us. It's now two o'clock and it's time for issue specific hearing nine on the draft development consent order to begin. As with all our other hearings, can I confirm I can be heard and the live streaming and recording has commenced?

00:00:29:28 - 00:01:03:20

Thank you very much. So hopefully this will be the last time you hear this spiel, unless we're still here tomorrow morning. I'd like to welcome you all to this hearing for the Lime Down Solar Project. You'll be familiar with us by now. I'm Janine Laver, the lead panel member for this examination. And my colleagues David Love and Ben Northover are also appointed onto this project. So we constitute the examining authority for this application. In the room is our case manager for the event Louise Haraway, and she's supported by Rebecca Quinlan, case officer, and colleagues in Bristol.

00:01:04:09 - 00:01:38:21

It is the case team who you should contact regarding today's arrangements and any online connection issues. So we'll largely be following the agenda EV15-one which was published on the eighth of September, although there will be some additional provisions discussed that were not included. I will alert you to those as we come to them. So for those who were present for this morning's CA hearing you'll be aware we're not expecting any fire drills today. And the fire exits are to the left or rather behind the applicant and or to the right outside of this room.

00:01:39:07 - 00:02:12:08

And we must gather near the EV charging points. Thank you very much. In terms of other housekeeping as with all other hearings devices to be switched to silent. Please video and audio off for the online participants until they're invited to speak. And when you are called to speak, please state your name and who you represent each time. So if we don't get through all the agenda items today, we've got allocated time to reconvene tomorrow morning at nine thirty.

00:02:13:00 - 00:02:48:24

So the purpose of the hearing, and it's important that I do read this out for those who are not familiar with how DCO hearings are run. This is a really important document. The hearing is being held on a without prejudice basis. So in essence even if the position of a party is the development consent should not be granted and the Secretary of State should not make the draft development consent order into a permanent consent. You can make your representations in the hearing on improving the drafting without conceding the wider position that the draft DCO should not be made.

00:02:49:15 - 00:03:23:08

Now it's extremely important for the XA to look to tighten and improve the drafting because we are under a duty to provide the Secretary of State with the best drafted DCO that we can. And this is because the XA doesn't decide this application, rather we only make a recommendation so that he or she can make the decision. So even if we were to recommend to the Secretary of State that

development consent should not be granted, we must still append a recommended version of the DCO ensuring that the Secretary of State can make the order, if they so wish.

00:03:23:10 - 00:03:39:16

So does anyone have any questions about purpose of the hearing? No? Great. So on that basis, we'll do the usual go around the room and introduce the parties today. So, Miss Broderick, I'll come to you first.

00:03:40:22 - 00:04:02:11

Good afternoon. My name is Claire Broderick. I'm a partner at Pinson Masons LLP, solicitors for the applicant Lime Down Solar Park Limited. I have a slightly smaller team for this afternoon's draft DCO hearing, but I'll let those that sat at the table introduce themselves. We don't have anybody joining us the purposes of this afternoon's hearing.

00:04:05:02 - 00:04:11:21

Afternoon, everybody. I'm Will Threlfall, senior project development manager at Island Green Power, project lead for Limesdown Solar Park.

00:04:12:27 - 00:04:21:08

Good afternoon. William Barrett, technical director at ACOM, environment lead for the project. Thank you.

00:04:21:12 - 00:04:29:25

I will come to Wiltshire Council, please. Good afternoon, Isabella Bueno, a barrister for Wiltshire Council.

00:04:32:22 - 00:04:36:29

Johanna Weber, solicitor from Davitt Jones Bold acting for Wiltshire Council.

00:04:37:06 - 00:04:42:04

Would you prefer Ms, Mrs, Ms, Weber? Thank you. Miss Weber, thank you.

00:04:43:00 - 00:04:45:12

David Lee, Highway Development Control team.

00:04:46:23 - 00:04:47:24

Kate

00:04:49:27 - 00:04:51:24

Tate, agricultural officer for Wiltshire

00:04:51:26 - 00:04:56:23

Council. Miss, missus, miss, miss. Okay,

00:04:58:09 - 00:05:00:07

coming on. Stop line down, please.

00:05:02:14 - 00:05:09:24

Good afternoon, madam. Daniel Kuzelka for Stop Line Down. With me is Celia Reynolds. It's just us two this afternoon.

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Thank you very much. Other parties that I have registered to speak were National Gas Transmission PLC, Mister Westmoreland Smith. It's online.

00:05:25:20 - 00:06:01:14

Good afternoon. My name is Mark Westmoreland Smith, Kings Council. I'm a barrister at Francis Taylor Building and as you've identified, I appear on behalf of National Gas Transmission plc. I'm instructed by Fiona Barker at Mills and Reeves LLP. We'll also have available, if necessary, Jeremy Huns who's the Chief Engineer Assets at NGT. With your leave we'd like to speak to agenda item three on protective provisions and Mr is fine.

00:06:01:16 - 00:06:02:01

Thank you.

00:06:02:05 - 00:06:03:26

Thank you very much.

00:06:05:14 - 00:06:09:05

Do we have Miss Russell for National Highways?

00:06:11:05 - 00:06:20:06

Good afternoon. My name is Julie Russell. I'm a solicitor at Gowling WLG and I am representing National Highways this afternoon.

00:06:21:23 - 00:06:31:11

And is it your intention Miss Russell just to speak on the protective provision section? I may have some questions for National Highways as we go through the rest of the agenda.

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I didn't intend to speak on the protective provision session after the hearing this morning which I think covered all our points. So it was just the other agenda items that

00:06:44:29 - 00:06:57:12

as and when necessary. Okay. Thank you very much. Are there any other persons who have registered to speak who have not called out? Or anyone who wishes to speak who hasn't registered?

00:06:59:14 - 00:07:18:18

Nope. Not seeing anything. So let's get straight into it then. Item two into substance of the hearing. And item two on the agenda is broken down into a number of other points and I'm going to come specifically to Article two. Article two,

00:07:20:16 - 00:07:53:14

I want to cover in this the definition of maintain. Now this matter was discussed at issue specific hearing four and is featured in the XA's written questions. However, don't believe I we've reached a consensus on the definition. And the XA previously suggested additional words to try to ensure that the wholesale replacement of all equipment could not take place. But the applicant's position was that this overlooks the and assessed expected replacement of the solar panels in the BES. And I expect the positions of the parties remains the same.

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And I'll come for comments in a moment, but I wonder if there's still not room to adjust the wording from that which the ExA suggested in EXQ1 DCO one point two. I wonder if it's possible for the applicant's team just to share that question on the screen, which was in PD-ten. I appreciate you won't have been primed to share certain documents for this hearing, but it just might be helpful because then we can see the wording that was recommended in our EXQ, and I'm just wondering if where we can insert some additional words.

00:08:37:04 - 00:09:17:08

Claire Project for the applicant. Yes we'll just try get and it put on the screen. In terms of the applicant's position, it remains as we have said at the previous DCO hearing and in our response to the questions. Obviously you need to consider the definitions in the context of how they are used in the operative provisions. Article five deals with maintenance of the authorised development and Article five(three) makes it very clear that maintenance is only limited to those activities that won't give rise to any materially new or materially different effects that have not been assessed in the environmental statement.

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So the applicant's position is that Article five already constrains the activities that can be carried out in relation to maintenance to those that have been assessed in the environmental statement, and therefore there isn't a need to make any further clarification to the definition of maintain. We note that there are obviously a number of other solar DCOs that

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have been granted to date that maybe do include this wording, but as far as we're aware, they didn't specifically assess the complete replacement of the solar panels or the BES, so that wording was appropriate for those particular projects. Island Green Power's previous DCOs in terms of Cottam and West Burton, that wasn't something that was assessed in the environmental statement, only ad hoc replacement of broken panels was assessed.

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Whereas for this particular project, similarly with Island Green Power's Greenhill DCO, which is currently awaiting determination, both of those projects have specifically assessed the complete replacement of all of the bers and all of the panels and therefore we consider it appropriate to have different wording in relation to those projects. But obviously we managed to get it up on screen now.

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I referenced one point two but it's actually question one point three

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in that. If we could just zoom that in and it's more because it's got a bold text within there. It's not overly clear that the bold comes out on that screen, but you can see the bold text which the XA originally suggested could be included was but not remove, reconstruct or replace the hole. And and I've heard what the applicant has said about that but I'm wondering if there isn't a place to say after the then the words the whole of the authorised development where there isn't a we couldn't put an insertion in there, which says accepting solar PV panels and beds.

00:11:21:05 - 00:11:44:05

And the reason I raised this originally in the question was that there are sections of your ES where you are not expecting to replace, and that was cabling some of the foundations and so forth. Notwithstanding what's in Article five, it would seem to me a quite simple insertion just to add accepting solar PV panels and Bears into that definition.

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Claire project the applicant. I think the applicant's concern is that

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we would need to what what what would be the impediment to including the sort of carve out for solar? Well we didn't want there

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to obviously the ES does assess the replacement of broken parts of the apparatus. So, for example, there may be something that is broken, that needs replacing. And I think we felt that we would need to make it very clear in this definition what exactly you were referring to when you meant the whole of the authorised development because we would want the ability for maintain to include the replacement of individual parts that may malfunction or break.

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I think our concern was that you would end up with, it's not as straightforward as just saying except the solar PV and the BES because we wouldn't want there to be any confusion that you couldn't replace part of the substation if it broke for example or replace all of the planting if it died as we were talking about the other day. When we were thinking about the practicalities of it we ended up thinking you would have to make quite a long list to make it clear, which is essentially what the environmental statement has done, which is to assess various different activities.

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So our view is that the ability of, well, the functionality of article five in terms of constraining what is included within that was a more appropriate way of

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capturing

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what is envisaged within the the term maintain and that you would end up with a very unwieldy definition if we needed to make it very clear that we weren't trying to imply that you couldn't replace individual elements and you can't really in a statutory instrument sort of say for example. But just because we're constrained to whereas the management plans and those sorts of in the ES obviously has much more flexibility with how you describe things. So that that was our concern and and our feeling is that the concerns raised by Wiltshire and Stop Lime Down about the scope of what could be incorporated within the definition of maintain is already constrained by article five.

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Okay. Accept your point. But I'll come around to the parties. Wiltshire Council, is there any position that it has on this matter? Johanna Weber. Only that we continue to support

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some further clarification on the definition. Having said that, obviously, we acknowledge article five three and the limitations of the environmental statement. Obviously, also, there is requirement three, requirement five, OEMP, and other mechanisms to constrain, I suppose, what would be our concern, would be

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the introduction of materially different development. We're not suggesting that the undertaker could do that lawfully under the guise of maintenance. But given the points that have been raised by by the examining authority, we would consider that if if you thought it appropriate, we would support some more clarification. It doesn't necessarily need to be in in those words, and perhaps we could explore something more along the lines of reference to parameters assessed in the ES and secured by requirements and the documents certified article under forty two.

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Appreciate that is,

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saying the obvious, but the problem is we see it with five three is that it doesn't necessarily define the legal scope of the maintenance. It is quite a high and technical threshold when considering changes that are made on an ongoing basis to refer back to the ES each time to reassess that and appreciate that there will be details submitted by the applicant along the way. But, again, ma'am, it's not for us a

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red flag point. It's just something that we do also support could be clarified such that the document will be more usable on its face in in that respect.

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Yeah, okay, thank you. Stop lying down. Any points you've made?

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Thank you madam. Dominic Stock, stop lying down. I actually think of the last ISH we were were broadly in agreement with the applicant that

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the addition of the wording doesn't quite, I think, have the effect that we would intend if we wanted to control this further. You can consider, for example, the existing drafting, the words of the whole of wouldn't stop ninety five percent of the replacement of something anyway, given the definition of whole. And so actually broadly, think we're in agreement Article that five free essentially does the job that it's intended to do as the applicant says. If you are concerned about this and if the council is concerned about this, we have had a think about it.

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And another way of achieving this might be to make modifications to the wording and the outline environmental

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operational management plan. Section two point one three of that sets out the replacement programme and it goes through the various forms of maintenance and replacement that the applicant intends to carry out. It may be that the concerns that have been explored here could be remedied by a slightly firmer wording in that, which council the ultimately has control of. And that would address the concerns that I think the council are raising in a different way and allow us, as Ms Broderick said, that you can provide examples, can provide more expansive wording.

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So if the council are still concerned about that, that may be a different, or the examining proctor, that may be a different way of achieving this resolution. But in principle we do accept five-three says what it says and that's what it's intended to achieve.

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Ms Project, did you have anything else that we wanted to say on that?

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Clare Budget, if the applicant, not in terms of the principle of it. Obviously, if if the council would like to suggest some additional wording to that particular provision of the OMP, then we're happy to consider it but the applicant's position is it's not required because we are limited by the environmental statement and when we go to discharge the requirements later, the

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management plans that will govern replacement activities, will need to demonstrate as per Schedule sixteen that there aren't any materially new or different effects at that point in time. The Council will have that information then. But happy to consider any suggested wordings to the OM if the Council has concerns still. Okay.

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All right. Let's come on then to Article six, which was Disapplication. And the reason I've left this on the agenda, I was tempted to remove this from the agenda in light of a conversation we were having issue specific five, hearing five last week. But there was some confusion, it seemed, from Natural England about whether they understood the possible implications of the disapplication on the status

of the Wildflower Meadows decommissioning. And so I just want to run through Article six again to be sure that the XA and other parties understand the applicant's position.

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So Article six was revised at deadline four to include subpart four, which related to the modification of Regulation three point two of the EIA agriculture regulations two thousand and six. Now at EXQ1, the XA asked for an explanation for this insertion and the applicant responded at Rep five thousand and ninety seven stating the land utilised for the solar development would be considered uncultivated land and a screening decision would be needed after decommissioning for the land to be returned to arable use.

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So the intention

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was that part of decommissioning the land would be restored such that it would be returned to the landowners and they could immediately use it for agricultural purposes. But with the insertion of subpart four into Article six, the land without the insertion of that part, the land couldn't actually be used for agricultural purposes as I understood it, until a further screening decision was then issued by Natural England. I mean, that's the premise behind the insertion.

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Now I think as an ex A we understand that logic, we appreciate it, but Natural England seems somewhat confused by this insertion last week.

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And so I guess I wanted to

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really understand would the Wildflower Meadows, which is really the section that we're talking about, that was seemed to be the issue because we were talking about the CNL, would they be protected from returning to agriculture at decommissioning as a priority habitat or not?

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And I think I know the answer but just want to air it one more time. Claire Brodricks

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the applicant. Yes so as we'd explained at the moment the regulations apply as you said but there is an exemption if you've already done an environmental statement under the Town and Country Planning Act nineteen ninety. There isn't an equivalent exemption if you've obtained development consent under the Planning Act two thousand and eight.

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We think that might be just a statutory omission. The regulations came into force in two thousand and six so prior to the two thousand and eight regime applying. We've obviously already done an environmental statement that considers decommissioning, so screening isn't necessary because we

have already assessed the decommissioning of the land. When we submit our decommissioning plan in sixty years' time before approval, we will need to provide evidence at that point in time that there won't be any materially new or different effects to those that we've assessed as part of the application here.

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So obviously if the nature of the land and the implications for reverting the whole of the solar PV panels back to agricultural use and or specifically the areas that have been put forward as habitat management areas would result in materially all different effects. We would need to report them at that point in time. So we don't think it's necessary to go through a separate screening process because that process is already captured within the DCO mechanisms themselves. And so that's the reason we've disappplied it because it's already incorporated.

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We had understood that Natural England understood that point and they had confirmed agreement to that disapplication on another project. We are having another call with Natural England because obviously it was apparent that the person who was representing Natural England at the issue specific hearing last week hadn't necessarily fully understood what was the implications and why we decided that the dissapplication was appropriate. That is separate to the point about whether, in particular, the wildflower meadows were able to be restored to agricultural land or whether that restoration activity would be prevented because of other legislation that applied.

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I made it clear last week that whilst we have the DCO planning gives consent to return to agricultural land if there is another piece of legislation that prevents the destruction or the loss of that type of habitat. The DCO itself doesn't remove or disapply any other legislation that may apply. Obviously legislation that's in existence at the moment or that's likely to come forward in sixty years' time. We obviously said, or I said last week, that none of us here know what will be the priority in sixty years' time, whether wildflower meadow is a more valuable asset than agricultural field, we don't know.

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But that's a decision that will need to be made at the point of decommissioning. But at the moment, the S has been done on the assumption that at the end of the life of the scheme the land will be returned to agricultural usage as part of the decommissioning And

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if there were then a piece of legislation such as it was still the NERC Act which protected those Waffler Meadows then just that disapplication in Article six wouldn't change that. It would be protected under other legislation. Yes, the disapplication is solely that there is no

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to carry out further environmental, well we don't need to screen. We've voluntarily done an environmental impact assessment.

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Yes, perfect. So I'm totally clear on that and I don't think any other parties have anything to comment on that. Good. Okay, so come on then to the next item which was a bundle of articles eight to sixteen in relation to streets. Now I'm just wondering if before I get into my queries on this whether it's prudent at this point for me to understand the position on protected provisions with Wiltshire Council and highways. It won't prevent my subsequent questions but it just might help with some of the answers.

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Is it Ms Aliyah or Ms Weber?

00:25:25:25 - 00:25:58:21

You, Madam. Johanna Weber. I'm pleased to confirm that we have agreed protective provisions for the local highway authority with the applicant, and, these are very helpful. And, you'll be happy to hear that they resolve, our concerns with the operation of the articles mentioned. As you know, the articles confirm broad powers to do certain things, and the protective provisions are engaged to provide the detailed framework for the protocols and mechanisms for the way that those powers are operated.

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So the protective provisions now are satisfied give the us controls and other processes that we need in order to discharge our duties with respect to the exercise of those powers.

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Okay, great. That's really, really good to hear. And hopefully some of my questions don't unravel that now. But I do need to ask them. So in terms of Article eight Street Works in REP one one hundred fifty three, is possibly more for National Highways, because National Highways that advised it had received no information regarding the nature and scope of proposed works beneath the M4 at points 9I to 9J on the streets plan. And I believe that those were the parcels we were looking at at the CA hearing a little while ago with National Highways.

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National Highways sought confirmation that any operators installed under the strategic road networks could be carried out or would be carried out by horizontal direct drilling rather than open cut method. Now we added the applicant must obtain its prior approval for any works undertaken in connection and that such consent should not be subject to deemed consent under article forty seven.

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Obviously we heard this morning protected provisions are not yet signed. They are very likely to be signed, as I understood it, subject to

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National Highways

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agreeing following our conversations this morning.

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Assuming that they are not signed, does there need to be any additional or revised drafting in Article eight

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so consent that is obtained from National Highways.

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Claire Project the applicant. So the protected provisions, as we said this morning, are very close to agreement, I don't see any reason why they won't be agreed. As we discussed this morning's hearing, uncertainty is the applicant's risk. We have already agreed

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to ensure that the works in this location are subject to National Highways approval. We have done further design has been work ongoing in relation to the nature of that crossing, so we're in the process of going through the various different stages of

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internal protocols that national highways have in place in terms of getting approvals for directional drilling underneath motorways. Some initial work has been being done on that in order to give a bit more information about the nature of those works.

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The applicant therefore considers that National Highway's initial concerns have been addressed so that there is no need to amend

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article eight or the drafting of article eight. I believe we also I'm just trying to find

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the relevant provisions. I think we also

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made some specific amendments as well to schedule nine to confirm

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the point as well, but I'd need to double check that point. But as far as we're concerned, it's the commitment to HDD is there for the M4 crossing. There was no way that it would be done by way of open cut trenching, but in any event, National Highways have to approve the works. Okay.

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Miss Russell, is there anything you wanted to mention about that?

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Julie Russell, on behalf of National Highways. No, I would just support Ms Broderick's submissions that

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once protected provisions are agreed, Highways will be content with the wording in Article eight and that we see no reason why those protective provisions can't be agreed and that the commitment to horizontal directional drilling is noted and National Highways are content with the same.

00:30:20:23 - 00:30:58:18

Wonderful. Thank you. Okay so we'll come on now to Article nine, application of the permit scheme, which is the local authorities permit scheme for roadworks. So in Rep five dash ninety seven which was in response to our EXQ DCO two point two four, which was a question on the operation of protected provisions for the local highway authorities. The applicant stated that no revisions are required to the provisions of articles eight to sixteen, requirement fifteen, or the outline construction traffic management plan, because article forty five protected provisions gives effect to the provisions of schedule fifteen.

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And these operate in addition to the powers provided in the articles such that where the protective provisions apply, the power can only be exercised if it is done in a manner that also complies with the protective provisions. And obviously having heard protective provisions been agreed,

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that's all very positive.

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So I just remain a little confused around the dispute resolution mechanism in Article nine for the Roadworks permit scheme. So let me just open up my paper copy.

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So one, two. So it was Article nine-three, and it states that without restricting the undertaker's recourse to any alternative appeal mechanism, which may be available under the permit scheme or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit scheme in accordance with the mechanism set out in Schedule sixteen of the order. Now if protected provisions are meant to take precedent then does Article nine point three need to continue to be there?

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Claire Brodych of the applicant. Yeah. I was just

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double checking the approach.

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I think we might just need to take away that point just to make sure that there aren't any other unintended consequences from removing it. But the point is noted and obviously we have agreed a dispute resolution mechanism within the protective provisions. I think it was probably assumed that

the or otherwise would capture any dispute mechanisms that are required under the protective provisions. But we'll take that point away.

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Don't want to agree to removing it without having made sure there weren't any potential scenarios whereby a permit could be required for works that wouldn't fall within the protected provisions such that we would

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need to follow a different dispute resolution. I can't immediately think of one but we'll just double check that I'm

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going to come to the council but as in addition to responding on my initial point and the point Ms Broderick just made,

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the council put forward revised wording for Article nine in Rep three thousand one hundred forty two,

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and then a slightly modified version was put forward in Rep four thousand and ninety two. And I'm just wondering what the council's position is on Article nine, and whether the suggested wording they had put forward in those two previous submissions actually is relevant now that you've agreed protected provisions.

00:34:21:07 - 00:34:37:09

Yohana Weber, Fort Wiltshire Council. Yes, thank you madam. I I I suspect that our concern is now addressed by the protective provisions mechanism, but that's something that I think we'll take away with the applicant just to confirm that we're on the same page.

00:34:38:28 - 00:34:47:29

But I certainly agree with Ms Broderick's assessment that we can't really think of any situations where permits would apply outside of that regime.

00:34:50:13 - 00:34:51:07

Do have

00:34:53:05 - 00:34:54:10

the call

00:34:57:04 - 00:35:21:01

Carter from the council. Just mentioning him in case has anything to add on this point, madam. But from my legal drafting perspective, respect to our previous submissions on Article nine, they were given against the backdrop of the protective provision not having been agreed. Now that they have been, like I said, I suspect that that resolves the matter, but we'll confirm with you after if that If

00:35:21:03 - 00:35:38:11

If could have a I an update on the council's position on article nine, in light of your two previous submissions, like I said, rep three, one, four, two, and then subsequently rep four, zero, eight, two. That would be very helpful. If that come at just a deadline seven, would be most appreciated.

00:35:40:21 - 00:35:50:06

Okay. I'll come on then to I'm assuming stop and I don't have no no comments on these articles. I'll come on now to article ten which is power to alter layout etcetera of streets.

00:35:52:14 - 00:36:31:02

National Highway stated in its written representation Rep eleven thirty two that Article ten point two contains non street specific powers that may affect National Highway's interests. It noted that consent under Article ten four should not be subject to deemed consent under Article forty seven and that the applicant must obtain National Highway's prior approval for any works undertaken in connection with the strategic road network. The applicant in REP five thousand and ninety seven responding to EXQ2 DCO two point one five stated that as a relevant highway authority, national highways will be consulted under requirement fifteen, which was construction traffic management plan.

00:36:32:20 - 00:36:46:11

But seemingly doesn't address the issue of deemed consent for works not detailed in the CTMP. So the XA recalls applicant's the statement at ISH four that it anticipated

00:36:48:04 - 00:36:54:26

that all details of that design would be dealt with in the discharge of the final CTMP or CTMPs if

00:36:54:28 - 00:36:55:20

there were more than one,

00:36:56:21 - 00:37:06:19

such as Schedule sixteen approval and appeal provisions would apply. And then in brackets in the answer, in the written response the applicant said all protected provisions.

00:37:08:16 - 00:37:11:06

So I'm sort of needing to understand

00:37:12:26 - 00:37:20:07

protective provisions assigned those other appeal mechanisms under Article forty seven or Schedule sixteen. It's like with Article eight,

00:37:21:06 - 00:37:51:17

what takes the priority? Clare Brodricks, applicant. Street here covers a range of different streets, some of them being public highways, some of them being private access tracks, some of which are maintained by Wiltshire Council or South Gloucestershire as the highway authority and some of which form part of the strategic road network. The details of the actual alterations to any public highways etc will form part of the CTMP.

00:37:51:29 - 00:38:15:26

To the extent that National Highways would like to input into access works that don't actually form part of the SRN that may have implications on the use of the SRN, then they are a consultee for the purposes of that document. To the extent we are carrying out works to the SRN then the protective provisions apply and so that

00:38:17:11 - 00:38:39:20

consent in Article ten(four) would be superseded by the requirement to obtain consent under the protective provisions and the dispute resolution mechanism that applies in the protective provisions. In terms of addressing National Highways concerns, works to the SRN are dealt with via protected provisions to the extent they have an

00:38:39:22 - 00:38:57:13

input on works outside of the SRN, then they're a consultee in relation to the detailed CTMP. Yeah, okay. That's that's helpful. Miss Russell, did you have anything you wanted to add as it was a concern of National Highways that brought this to the table?

00:38:58:12 - 00:39:14:06

Julie Russell on behalf of National Highways. No, given the changes to the CTMP and the protective provisions National Highways are content their previous concerns in relation to Article ten have been dealt with.

00:39:14:25 - 00:39:45:22

Wonderful. No other party wants to comment on Article ten? Is good. We are moving swiftly. Article eleven, construction and maintenance of streets. Like I said, some of these points may no longer be relevant, but I just want to clear them off. So the maintenance of altered streets was considered in EXQ1 DCO one point one five and an ISH four whereby the XA suggested the extension twelve of months maintenance for the defects period.

00:39:46:11 - 00:40:24:05

Now the XA notes the applicant's position that the construction of the scheme would not require any extraordinary trafficking, but it also appreciates the council's position that for early completed highway works, there was a concern that ongoing regular HDV construction trafficking associated with the wider solar sites could lead to defects and damage to those works after the normal twelve month maintenance period expiry. Now, the XA notes there are provisions within the outlined CTMP to deal with any damage caused as a result of the use of roads which the applicant is not altering through the road condition surveys.

00:40:24:19 - 00:40:53:23

But for the streets that are covered by Article eleven such as Alderton Road or anywhere new accesses are being created, the XA remains concerned that the liability for the ongoing maintenance hands back to local the authority too early. Twelve months after completion of the alterations in question. And the XA is therefore seeking to understand from the applicant why this period of time should not be extended to twelve months from the date construction trafficking along the said length of altered roads ceases.

00:40:56:07 - 00:41:12:29

Claire Bodge of the applicant. The applicant understands that it's addressed which council's concerns in the agreed version of the protective provisions which will be updated in in deadline seven just to make it clear how the process of

00:41:14:27 - 00:41:45:18

providing certification as to completion of works and also ongoing maintenance of those works is is regulated. So the applicant believes the protective provisions have addressed Welch Council's concerns on in respect of this particular point. Obviously, as I said in respect of the other articles, street supplies to private tracks in respect of this article well, where it would be appropriate to potentially have the same twelve month period.

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So I think that as far as I'm aware there isn't any outstanding concern by Wiltshire Council on this and that the combination of protective provisions and the ongoing survey work that's required under the CTMP addresses

00:41:59:28 - 00:42:36:09

addresses their concerns. Ms Weber? Yohanna Weber for wheelchair council. Madam, that's correct. The protective provisions provide now that if an early completed road remains a construction HGV route after the twelve month period, that wheelchair can use, the regime under the protective provisions to monitor and recover the cost of attributable extraordinary traffic damage, and it also preserves the ability for the council to agree a different maintenance arrangement, should that prove necessary with the applicant.

00:42:36:29 - 00:42:56:03

But ultimately, the protective provisions allow for both the requirement of that extraordinary traffic damage to be recovered and for agreed condition survey and monitoring regime to be carried so out far as is necessary.

00:42:56:15 - 00:42:58:05

Wonderful. Thank you.

00:43:01:06 - 00:43:17:11

Onto Article twelve, temporary closure restriction or prohibition of streets and public right of way. Article twelve relates to temporary closure or restrictions specified in Schedule six. However, look it is subsection four.

00:43:21:02 - 00:43:36:09

I must look it up. Subsection four states the applicant must not close or prohibit the use of those streets and public rights away without first consulting the street authority and for any other street or public right of way, the applicant must obtain the consent of the street authority.

00:43:38:06 - 00:43:50:13

So I'm just asking for the applicant to explain what it means by consulting with the street authority. Is consulting just notification about when the closure or prohibition may take place? What does the provision entail?

00:43:53:04 - 00:44:01:00

Claire Project for the applicant. Yes, that's correct. It would just be the provision of information in relation to those

00:44:04:06 - 00:44:42:25

streets which we have already identified as requiring temporary closure during construction. Obviously these are all subject to the management plans, so any closures of public rights away, for example, will be subject to the public rights away and permissive past management plan, will contain all of the detail required in respect of those closures and notification process that will be followed. More generally, it's important to note that these powers need to be read in conjunction with management plans.

00:44:42:28 - 00:44:53:07

Similarly, CTMP will include details of potential road closures where they're necessary for the carrying out of the street works, for example.

00:44:56:15 - 00:45:26:08

The known roads are those that are listed in the schedule. It's a consultation because obviously information has been provided already about those. But if in the event that the applicant needed to close another road that hasn't already been raised as part of this DISO application, the article twelve gives them the statutory power to do So it there's no need to go through the sort of temporary road closure statutory procedure. But it can't utilise that power until it's got consent.

00:45:27:29 - 00:45:32:25

So from that perspective of the consent perspective is that consent

00:45:34:23 - 00:45:39:21

from a dispute resolution perspective? Is it article forty seven provisions that would apply?

00:45:41:12 - 00:45:56:17

No, presumably if you're dealing with national highways or the council and you have your protected provisions in place, the dispute resolution process in those apply but you said that there may be other authorities? Claire Bojack for

00:45:56:19 - 00:45:57:28

the applicant. Yes, it

00:45:58:00 - 00:46:08:03

would be their dispute resolution that's in Article forty seven. So that would, and then Article forty seven contains that deemed consent? It does, yes. But

00:46:11:21 - 00:46:18:28

if they were within National Highways or was Wiltshire Council's area, it would be the protective provisions. Claire Brodrick of

00:46:19:00 - 00:46:21:08

the applicant. I believe the protective provisions,

00:46:23:00 - 00:46:35:08

I'll just double check, but they're obviously drafted to apply, I think just more generally to the relevant highway authority. So, I believe it would be captured. In respect of any relevant highway authority but I'll I will

00:46:35:10 - 00:46:37:11

just double check that point quickly. Okay, thanks.

00:47:04:10 - 00:47:32:24

Claire Bush at the applicant. No apologies. So local highway authority is defined as being either Wiltshire Council or South Gloucestershire Council. That's correct. So it would to the extent that the applicant needed to close a road outside of their administrative boundaries then in theory that would be subject. You'd have to go and get the consent of the relevant highway authority there and then Article forty seven would apply.

00:47:32:26 - 00:48:03:06

Yeah. Okay. Thank you. That's helpful. Any comments? Which Council note? Okay. So Article fourteen. This may be a moot question. Again everything is hinging around these protective provisions. But in Rep five one one two Wiltshire Council suggested that article 14A and B should specifically refer to the requirement for detailed design approvals to be sought in accordance with the local highway authority protective provisions in Schedule fifteen. The applicant's response in Rep six thousand and sixty

00:48:06:00 - 00:48:27:27

suggested that the protective provisions in Schedule fifteen are given operative effect by Article forty five and therefore there's no need to include a cross reference within Article fourteen because doing so would be to include drafting that has no legislative effect. I guess I'll come to the council first whether they still feel there's a need for more wording in Article fourteen or not.

00:48:28:24 - 00:48:37:26

Johanna Weber, Wiltshire Council. In short, madam, no. We do not feel that is necessary now that we have protected provisions agreed. Thank you. Okay.

00:48:42:06 - 00:48:44:20

Miss Broderick, we're settled on that position.

00:48:46:08 - 00:48:56:13

Clear budget for applicant, yes, that's correct. Great. Okay, coming then onto article sixteen, traffic regulation measures. Let me just take a look at my notes.

00:49:09:12 - 00:49:17:09

No, I don't think the question I had down there is relevant, but I'll come to Welsh Council to see if they've got any concerns still over Article sixteen.

00:49:37:28 - 00:49:40:27

Yohana Wiebo, Chair Council. Apologies, ma'am, for the delay.

00:49:42:20 - 00:49:58:05

No, I believe that we don't have any issues between us here today. There is a network management officer at the council from whom we would like to get that confirmation and we'll submit that at the next deadline if that's okay.

00:49:58:07 - 00:49:59:03

Okay. Thank you.

00:49:59:05 - 00:49:59:25

Thank you.

00:50:01:23 - 00:50:05:03

Okay, coming then onto article seventeen, discharge of water.

00:50:11:28 - 00:50:44:26

In its written rep, National Highways asked the applicant to confirm whether the article is intended to apply to National Highways drainage infrastructure. It added that although the article requires consent from the owner of the watercourse drain or sewer, that consent is subject to deemed consent under article forty seven, which National Highways considers inappropriate in respect of drainage its infrastructure. In addition, if the article is intended to apply to National Highways Drainage Infrastructure, this would conflict with government's policy in paragraph fifty nine of DFT circular zero one twenty slash twenty two.

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Now my notes here record an objection.

00:50:52:07 - 00:51:09:28

It recorded that National Highway's objection would be addressed by incorporating paragraph seven in brackets two of its proposed protective provisions which requires the applicant to obtain its consent before exercising the right under this article. So presumably if those protective provisions are signed this point falls away.

00:51:12:03 - 00:51:25:19

Claire project for the applicant. Yes, the the applicant has agreed that the exercise of this power and respective drainage apparatus that's owned by National Highways would be subject to their consent in the protection of provisions.

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Ms Russell, is that accepted?

00:51:32:20 - 00:51:36:13

Julie Russell on behalf of National Highways. Yes, that is the case, yes.

00:51:36:15 - 00:52:17:01

Wonderful, thank you. Okay, I'm going to come on now to Article eighteen, which is in relation to human remains, removal of human remains. Now this wasn't on the agenda, but there's been some back and forth between the applicant and the XA on this, including input from Historic England on the necessity for including the article. So I would like just to discuss it here. The XA notes that similar articles have not in recent years been accepted by the Secretary of State and Historic England have advised that the article's not needed or needs to be reworded to ensure burials of more than a hundred years, are dealt with by the archaeologist as set out in the outline archaeological methods statement.

00:52:17:29 - 00:52:43:01

Now the XA notes the applicant's position that in the absence of this article, if human remains are identified, the applicant would need to comply with section twenty five of the Burial Act eighteen fifty seven, which could stop the development whilst the applicant applies Secretary of State for instructions. Can the applicant explain the processes and timelines that would arise if this article were removed and section twenty five of the Burial Act applied?

00:52:52:15 - 00:53:29:10

Claire Brodricks the applicant. I don't think I have that information available to me at the moment. We'll just see if we can get it and perhaps come back in the break. I think as we've explained in our responses and in the explanatory memorandum, the applicant isn't able to rule out the presence of human remains within the order limits and therefore we consider that the provision is necessary. However, we do note that the Secretary of State has not always agreed with that provision and if they don't consider it to be necessary then they will remove it.

00:53:29:12 - 00:53:42:26

But the applicant still considers that there is a need to include it based on the fact that we cannot rule out the presence and our understanding of the processes that it takes considerably longer and would therefore have

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an impact on programme for the scheme, whereas this particular provision just sets some more specific timescales in order to carry out the same types of activities and the same protections that are afforded under the other regime, gives more definitive timescales for that happen such that we can then accommodate it within the construction program. Okay.

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I'll happily take in you know a written submission a deadline seven on this. But there were a couple of other matters that could be addressed in the same response. Specifically wanted to look at part seventeen of Article eighteen.

00:54:29:19 - 00:55:03:04

Just need to check it seventeen, I keep referring to the parts, because but I have a track changes version, some of the numberings arise. Forgive me if I keep looking at the paper copy. Yeah, so it is seventeen. It's in relation to section two thirty nine of the nineteen ninety act. This is the development of burial grounds of the nineteen ninety act. In responding on article eighteen generally, I would like for the applicant to be able to explain what those provisions are intended to do And that's that part seventeen.

00:55:04:10 - 00:55:25:29

And why it's relevant to stop lying down. And then similarly I would want to understand the purposes of disapplying the town and country planning churches, places of religious worship and burial grounds regs nineteen fifty, which is referenced in part eighteen. I think there's not enough information in the explanatory memorandum

00:55:28:04 - 00:55:42:20

that justifies the inclusion of the article generally, but also what those provisions are intended to do. So if I could leave just an action for the applicant to revisit the explanatory memorandum and come back on those points.

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Claire Brody, it's the applicant. Yes, we will come back on those particular points. I've just been told that there isn't an there aren't any specific time frames associated with the regime which is why DCOs that are considered likely to have an interaction with burials typically include this provision because that's what it does, it sets some time scales for the process, whereas under the existing regime the Secretary of State has an unconstrained time limit in which to act. But we will provide some further justification on its inclusion and we will also specifically give an explanation as to why those particular amendments to the Town and Country Planning Act and the nineteen fifty regulations are required as well.

00:56:31:20 - 00:56:37:20

Yeah, thank you. Just just a as a query, are there known burial sites?

00:56:40:04 - 00:56:41:10

On this land?

00:56:48:21 - 00:56:51:24

Mean, has anything come up from the archaeological investigations?

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Claire Project for the applicant, we believe there are isolated findings of burials but not a burial site as such but but with those

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isolated sites that you've identified, would they relate to remains that are more than one hundred years old?

00:57:11:09 - 00:57:14:15

Claire Project for the applicant, yes, they were the ones that have been found.

00:57:14:17 - 00:57:53:29

Yes. All right. Thank you. All right. Well, we'll wait for the responses in writing if there's nobody else has any comments on this article. Okay, well then coming on now to Article twenty five, private rights. This again wasn't listed on the agenda for discussion, but I still want to understand how Part four would be used in practice. So for clarity, part four of this article was included in the DCO at deadline one and in EXQ1 CA one point eight the XA asked the applicant what subclause four sought to achieve and how it differs from the powers contained in subclauses one to three, and thus why it is needed.

00:57:54:23 - 00:58:14:25

Now I understood from the applicant's answer that unlike subclauses one to three, which operate to automatically extinguish private rights. Subclause four is a notice based mechanism, which requires then the applicants to take deliberate action to extinguish a particular right or restricted government. And the applicant suggested that this was less onerous.

00:58:16:18 - 00:58:34:10

Rather than you just using a white slate clean of anything that, you know, any any right or covenant that exists. But as I see it, looking at article twenty five point four, you could still absolutely white slate clean if you wish do to so. Just have to give notice. So

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I guess I'm trying to understand how part four would be used in practice. And if we take part four forward, whether we actually still need parts one and three,

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Claire Brodick of the applicant.

00:58:51:04 - 00:59:25:13

If you look back at MAID DCOs, Article twenty five-one effectively extinguishes any rights where you are acquiring the land unless you notify the holder of that right that you don't need to extinguish it. So it's an automatic extinguishment unless you notify. Which may well be completely appropriate for certain types of schemes like a highway scheme or a rail scheme for example that you would where you're acquiring the land rather than rights over the land.

00:59:25:20 - 01:00:06:09

You would want to remove all rights in respect of that particular land. For some projects that's still very much the appropriate approach to take. For the solar projects, as we were talking about earlier, there are envisaged to be a number of rights that, don't need to be extinguished and can carry on because existing drainage can happen throughout the sites, individual cables, etcetera can continue, to exist. So rather than going through an administrative process and having to notify everyone that we're not extinguishing, their rights, the applicant sought to make it into a positive obligation.

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So where we've identified a right that does need to be extinguished, then we would notify that person that their right

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had been extinguished. So that was the rationale behind the drafting. It's less onerous obviously on landowners but it's also less onerous on the applicant because it is by exception that it's extinguishing rights rather than having an automatic extinguishment and then having to go through and write a letter to everyone and tell them actually that their right hasn't been extinguished. So that was the rationale behind So there's a change of approach from previous made decisions.

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But there's no conflict then between articles one to three with article four? Claire Brogic of the applicant, we

01:00:48:28 - 01:01:14:08

don't believe so. Obviously when you're exercising powers, it still does need to be necessary for the scheme and also there's the payment of compensation. If we are extinguishing a right, which we don't necessarily consider to be necessary but in the event a new right was identified and we thought it needed to be extinguished then that person would receive a letter of saying their right had been extinguished and then they would be entitled to compensation for the loss

01:01:14:10 - 01:01:18:29

of that. Okay. Any party have any comments on that?

01:01:22:20 - 01:01:37:02

Coming on then to Article thirty nine, I thought this may have come up this morning in the CA hearing when we were talking with one of the parties there about overlapping planning permissions.

01:01:39:02 - 01:02:19:18

Article thirty nine point three in the draft DCO is drafted to address the implication of the hillside judgement and intends to allow other developments with the benefit of planning permission to be able to be lawfully carried out and not extinguished by the DCO or not give rise to enforcement action or prevent either form of the developments proceeding. But the Secretary of State for Energy Security Net Zero hasn't found favor with these articles in any other solar DCO. And while I appreciate the applicant's position that Secretary of State for Transport may have found favor with this article, there's sufficient precedent in solar schemes for the Secretary of State to reject it.

01:02:19:20 - 01:02:25:01

So what compelling reasons exist for the retention of this article in the DCO?

01:02:27:04 - 01:03:01:27

Claire Project the applicant. So the the reasoning for it in terms of that issue of potentially the hillside decision meaning that there is a conflict between existing planning permission planning permissions and the consent that's being granted for this scheme, particularly on the cable route corridor we're talking about where it very much can coexist potentially with other development that's being consented, is still a live issue in in in the absence of any further statutory position on the point.

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The applicant considers that perhaps we hadn't explained the

01:03:07:20 - 01:03:37:25

rationale in enough detail on those previous decisions so we have expanded the explanation in the explanatory memorandum for why it's required here and so the applicant's position is that it is useful drafting to have both in terms of the applicant's scheme but also those others. We obviously were talking this morning about the planning permission for the slurry. We talked about

01:03:39:15 - 01:04:13:19

planning permission for BES Energy Project with a cable route that may interact with our cable route. There are other landowners that have put forward their intention to do development along the cable route corridor. So the applicant has significantly expanded the definition or the reasoning in the explanatory memorandum for this scheme compared to earlier explanatory memorandums. So we hope that the Secretary of State will understand the reasoning behind the request for it.

01:04:14:01 - 01:04:32:08

Okay. So just coming back to that example then of the slurry lagoon, got it out without slurring, this morning. In essence, is a live planning permission for that to be put in place by twenty twenty eight, think was the date.

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Would then if without article thirty nine, that permission in essence could be wiped out.

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Claire Projects the applicant. I think there is a potential risk and that's what the applicant is seeking to remove. So obviously Hillside was looking at whether a subsequent planning permission would render it impossible to implement the first planning permission. We obviously here think that they can coexist, so it should be fine, but the applicant considers that this drafting makes the position absolutely clear that this development consent is not seeking to remove or extinguish planning that permissions have already been granted for other types of development.

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Yeah because you'd have a statutory order which would in essence isn't affected necessarily but it's those other applicants. Exactly. It's the reverse of Hillside almost that you're trying to cover. Yes we're

01:05:24:13 - 01:05:44:18

trying to protect others and again that obviously also in terms of why it's in the applicant's interest to do so, the applicant is paying compensation to landowners and loss of development value is a heads of claim for compensation. So if they are suggesting that they can't carry out planning permission for a legal reason,

01:05:46:04 - 01:06:01:23

these articles give clarity that that's not the case. Do consider it a useful provision to have on both sides and we hope that we have given a better explanation to the Secretary of State in this explanatory memorandum as to why it's required.

01:06:01:25 - 01:06:06:17

Okay. Thank you. Anybody have any position on that? Nope.

01:06:13:09 - 01:06:28:05

Okay so coming on to articles forty and forty one felling and lopping of trees and removal of hedgerows and trees subject to TPOs. There are just still a couple of niggling issues which I think need to be covered in relation to Article forty.

01:06:29:26 - 01:06:53:19

In Wiltshire Council's relevant representation, which was RR4934, it was highlighted that the stipulation that hedgerow removal within the Bath and Bradford on Avonbat SAC consultation zone will be restricted to ten metres and has not been transposed into the relevant rows of schedule twelve. Can the applicant just advise the XA how and where it has dealt with this?

01:07:04:29 - 01:07:36:25

Claire Project for the applicant. The applicant understands that through ongoing discussions with Wiltshire Council both in relation to hedgerows and trees, there have been a number of requests to update the management plans to make sure that these points are clear. My understanding is that the existing amendments that have been made and some further amendments that are going to be made for deadline seven version have now largely been agreed and therefore address these concerns.

01:07:36:27 - 01:07:51:04

The applicant's position is that it's all going to be in the management plans and therefore there's no need to amend the article forty itself. That's my understanding. I'll just double check whether Mr Barrett wants to come in.

01:08:05:22 - 01:08:25:08

Claire Brodrick the applicant. Mister Thurthill also spoke to Miss Tate just before the hearing so perhaps has a better update. I know that there is some amendments going to be made to the drafting to make it clear that the powers are subject to the management plans but specific that point about the

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limitation on the width, my understanding is that's dealt within the management plans rather than needing wording on the draft DCO in respect of that particular point. But I'll let Mr Thruffle confirm the position.

01:08:41:04 - 01:09:05:19

Will be thrilled for the applicant. I was purely going to suggest if we went over to Ms Tate just to check if she's got any final comments, just given that there have been emails back and forth. I've been across some of the points Kate's been speaking with her members of the team. I'm really seeking any final points of clarification from Ms Tate or anything that she feels we're not going to get to by deadline seven. I was just going to suggest we ask her first and then maybe we

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can Okay, do that one was going to come to Ms Tate from Wiltshire Council.

01:09:10:03 - 01:09:17:09

Kate Tate, Wiltshire Council. Yes, we've had lots of positive conversations relating to the management plans and for

01:09:19:06 - 01:09:49:11

the draft DCO as well. The main concern whilst we've been working through the management plans is that the article forty and article forty one had an element of contradiction with regards to treatment removal. So it's been agreed there's going to be wording in there that article forty and article forty one will work along in accordance with the relevant management plans and the schedule two of the draft DCO as well.

01:09:49:18 - 01:09:55:09

Okay and have we had sight of the final drafting? Kate Tate for

01:09:55:11 - 01:09:58:10

Water Council? No not yet. Okay. Mister Snuffle?

01:10:00:04 - 01:10:07:27

Well, probably for the applicant. No, I think we've we've been we've come to a conclusion on wording pretty much today. Okay. As was yesterday. So, it's all quite fresh.

01:10:07:29 - 01:10:12:19

Alright. There's some other questions in relation to management plan I'll get to in a second. So,

01:10:14:12 - 01:10:45:13

my next matter was Wiltshire Council suggested in Rep six dash zero six nine that TPO eight should be included in schedule twelve part three due to the impact on protected trees to the north of Grittleton House and the HHDD trenchless solutions and citing of temporary compounds. Can the council just clarify exactly what this means by the comment because TP-eight is already included in part three of schedule twelve.

01:10:45:15 - 01:10:57:15

Yeah, I think actually I should have said TP-seven because I think that is for part of the south side of Grindleton. So yeah, I'm very aware of that. I'll bring that out with the applicant if that's okay for

01:10:57:17 - 01:10:59:17

So it's Dunamatha that needs

01:10:59:19 - 01:11:19:09

to be resolved? Not TPO-eight. The TPO-seven? Yeah because I think TPO-seven is actually the one that's north of Grigleton and not for the Grigleton house and not TPO eight. So I think that might be

something that we can deal with quite quickly. Sorry yeah and that should have been reviewed sooner. So yeah we'll pick that up.

01:11:22:15 - 01:11:27:26

So then there was some, I wonder if these are the same things because the

01:11:29:24 - 01:11:50:26

examining authority wants to ask the applicant on a matter that was raised by National Highways in REP four thousand ninety eight and their position that N forward slash TP07, I don't know whether the N is, what the N means, but it was NTPO seven should be listed in schedule twelve. Is that the same matter?

01:11:51:11 - 01:12:23:08

Kate Tate for Wiltshire Council. The N represents north. So Wiltshire has been we used to be North Wiltshire District Council and obviously went unit three in two thousand and nine and so we are North Wiltshire. We also have South East and West as well. So the end depicts the the North. So this is where we're having to look at whether the T I think the TPOs are in the wrong way around. So I think that's where we need to have a little bit more clarification on that side of things.

01:12:23:15 - 01:12:27:27

Okay. And and if the applicant's happy then I'm we're happy to sort that out reasonably quickly.

01:12:28:02 - 01:12:39:13

Yeah. I mean we the XA a asked question of the applicant about this NTPO seven in EXQ two EB two point eighteen but no response was provided.

01:12:41:04 - 01:13:05:08

So, I think we just need to bottom out what National Highways were requesting, and whether there needs to be some further drafting in article forty one or schedule twelve in relation to that. I I mean, we've got miss Russell on the on the call for National Highways and wonder if she can shed any light on whether this is still a point which National Highways are pursuing?

01:13:09:12 - 01:13:11:27

Julie Russell on behalf of National Highways.

01:13:15:03 - 01:13:44:16

Is no longer a point that National Highways are pursuing on the basis that we've managed to agree our protective provisions that mean that any details of any head roads and trees that are required to be removed or anticipated to be impacted by the cable or road works along with details of replacement hedges, trees and details of

01:13:46:04 - 01:14:02:06

head road protective fencing will be agreed with National Highways. And we've also agreed some to the changes outline ecological protection and mitigation strategy and the

01:14:04:01 - 01:14:11:16

ecological sorry, sorry, just those changes to the ecological protection and mitigation strategy. So, so whilst

01:14:13:09 - 01:14:28:03

I have to say I'm not clear on the the detail of the location of that particular tree, it's my understanding that National Highways are content given the changes to the protective provisions and the changes to the EM EPMS.

01:14:30:13 - 01:14:33:26

Okay, thank you. Mister Duffel, please.

01:14:34:15 - 01:15:14:04

Will Throwful for the applicant. Just to add a bit of clarity that to now, most of the final location of it is a tree that's located adjacent to the M4 motorway and is obviously concerned that the works we would undertake to group to do the HDD in that location might interact with it. I think as part of, it's been discussed today about the works that have been going on about certifications and drill alignments and the technologies and things like that that are being certified by National Highways. As part of that we've essentially agreed that the entry pit that would be used to drill or the exit pit if we were come the other way and all associated works would be outside of any parameter.

01:15:14:06 - 01:15:21:22

And therefore with us drilling underneath there'd be no need for us to fell all up throughout the operation phase of the scheme. That's my understanding of that.

01:15:21:24 - 01:15:27:05

And so that commitment will be captured in one of the plans?

01:15:27:29 - 01:15:32:14

I'd have to check where that was. Believe, okay, I'll double check that.

01:15:32:16 - 01:16:05:05

Alright, Mr Tate, please. Hey, Tate, watch council. Yes, sorry. My apologies for the confusion. So, NTPO zero eight is the large North Grittleton TPO. I was looking to have TPO seven put on part three of schedule twelve, because that is the TPO that relates to the trees at North of the M4 that are directly affected by the HDD. I'm

01:16:05:07 - 01:16:08:26

I'm happy to discuss that with the applicant if that's okay with you, then we can get that.

01:16:10:09 - 01:16:28:21

All right. Well, I'll have a response from both parties at deadline seven you know, whether they'd need to include that in schedule twelve or some other capturing of the commitment not to affect tree. I hate take that for watch council. I think that

01:16:28:23 - 01:16:45:08

that for just for clarity because of the trees in TP oh eight are are listed on part three of schedule twelve. That for consistency purposes because the trees in TPO seven are also affected. They'll if that's

01:16:45:10 - 01:16:47:18

the case that they should be there as I

01:16:47:20 - 01:16:48:05

think

01:16:48:07 - 01:16:48:22

they should be there as

01:16:48:24 - 01:16:49:09

well.

01:16:49:11 - 01:16:49:27

Right. I'm going to

01:16:49:29 - 01:16:55:02

leave the applicant with an action to address that point. We

01:16:56:24 - 01:17:15:01

were talking ish seven about notification of works time frames last week and obviously we sort of parked some of that conversation whilst discussions could happen between Ms Tate and Mr Duffel over the intervening few days.

01:17:17:17 - 01:17:32:24

Within the outline operation environment management plan, the applicant has introduced this additional commitment to give five day notification period to trees within conservation areas.

01:17:34:14 - 01:18:04:03

And I know the council were requesting originally that commitment was put into the drafting of article forty one. And the applicant has said well it's in the OOEMP. That doesn't need to be in the drafting of article forty one. And I just wonder what difficulty would arise if that commitment was put into the article. Don't understand the applicant's reluctance to put the commitment there. Mister Barrett?

01:18:04:10 - 01:18:12:14

William Barrett for the applicant. If we go to Miss Tate first, I think she has a hand up and there's some email traffic that we've been exchanging that might clarify.

01:18:12:23 - 01:18:44:08

Hey Tate for launch council. Yeah. So we've we've had a lot of conversations over the last couple of days regarding this and we had a meeting on Monday as you're probably aware relating to the outstanding issues for all the management plans. So yes so the it is we've agreed on the five day

procedure that can be carried out for the two the four top category of trees which we are particularly interested in being informed of where works or felling actually specifically felling is to be carried out.

01:18:46:04 - 01:18:57:22

We were discussing whether or not we could have some sort of recourse but I think we've changed the recourse to representation which we're happy with. We're happy with the five days because when we don't anticipate it to be

01:18:59:07 - 01:19:21:09

frequent we also very aware that we don't want the lower category of trees to be included. We don't feel that it needs to be included within article forty one. Okay. Because of the fact that the wording in article forty one is now going to a change to be in accordance with the environmental management plans and so it will be included within I'm sure numerous of those.

01:19:21:11 - 01:19:25:16

Okay. So just that tweak to the drafting of that article would address that point?

01:19:27:07 - 01:19:29:02

Yes, we're going to

01:19:29:04 - 01:19:38:09

make a a specific reference to the management plans in those articles so that Welsh Council have that direct link between the management plan and the powers in

01:19:38:11 - 01:19:45:29

the articles. MS: Good. All right. So let's come on then to schedule two requirements.

01:19:48:23 - 01:20:11:17

So requirement two. So it was listed on the agenda. I want to understand from the council why it would like the ability to be able to approve the construction phasing plan and I'd like to understand the applicant's reluctance to agreeing the inclusion of such a provision within requirement two. Stop lying down. We also have a position on this but I'm going to come to the council first.

01:20:12:01 - 01:20:14:25

Thank you. Isabella Bueno for the council.

01:20:16:15 - 01:20:45:24

So there's examples in many solar DCOs for this type of provision, the reason in essence why the Council says it's necessary here is that there's still uncertainty over the grid connection date, and that might have knock on effects for construction phasing. The kinds of things that the council would be looking to ensure are acceptable at the point in time in which there's greater certainty are that ensuring

01:20:47:14 - 01:21:01:08

there's correspondence between phasing of construction and the connection date once it's known to make sure that equipment's not directed and then left for a substantial period until connection which might result in greater environmental effects.

01:21:10:03 - 01:21:13:29

When it comes to the applicant stop lying down, do you have a position on this?

01:21:14:01 - 01:21:48:11

Thank you, Madam Deniker, stop line down. Yes, we agree with the council, it should be included essentially for the reasons that have been described and indeed that phasing will interact with other plans that the council have got to already to have approve under schedule too. So we think it's appropriate that that interaction should be controlled by the council rather than being essentially chosen by the applicant. This wording was included in Springwell and the most recently made DCO as well, which is of one surplus. We'd say the default is that this should be included unless there is a good reason for it not to be.

01:21:48:13 - 01:22:00:00

Yeah, thank you. I had noted that it had been included in Springwell. So, I'm going to come to the applicant as to why there is a reluctance to allow the council to approve the phasing

01:22:00:02 - 01:22:33:22

plan. Claire Project the applicant yes the applicant notes that there are a number of made DCOs that do include an approval element to it. The the DCOs of the applicants. Parent company Ireland Green Power, so the COSM and the West Burton, made orders don't include an approval mechanism and that is also not what has been included in the draft DCO for Greenhill, which is awaiting determination. The applicant is obviously trying to take a consistent approach across its projects.

01:22:33:24 - 01:22:45:19

In terms of the rationale, we've talked a lot about all of the factors that are taken into account when trying to come up with a construction program. All of the competing

01:22:47:04 - 01:22:53:09

constraints and demands across a whole range of environmental topics that will need to be factored in.

01:22:54:25 - 01:23:20:20

That's a very complex logistical piece of work. The applicant has included this to try and give visibility in terms of what work is going to be taken when. In terms of it being approved, the applicant doesn't consider there a planning reason for approval of that. It is the phasing of the works or what the applicants within the applicants control.

01:23:22:06 - 01:24:00:13

There are a whole range of other management plans that govern the actual carrying outs of those works. The council will have to approve all of those plans, but the applicant considers that the sequencing of events and the construction phasing is something that the applicant is happy to notify the council of but doesn't consider it should be an approved plan. That's the applicant's position. Obviously if the Secretary of State feels that it wishes to include an approval then it may well do so based on other MAID orders.

01:24:01:00 - 01:24:08:25

The applicant's position is that it's not information that the applicant considers the local planning authority

01:24:08:27 - 01:24:35:09

should have approval of. I certainly don't share necessarily the view that it wouldn't be relevant for the council to have an approval mechanism. I can think of a number of reasons why it would be relevant to planning, why it would be necessary. And clearly the Secretary of State has felt the same thing in including that in other orders. But I'm going to come to Ms Bueno because she had her hand up.

01:24:35:11 - 01:25:04:29

Thank you, Isabella Bueno, the council. Just to confirm briefly, agree with the way that point was put by stoplying down, that there are a number of decisions so the default should be inclusion unless there's a reason not to. The reason just given now in relation to logistical difficulty doesn't apply particularly to this project as opposed to any other, so in our view that wouldn't justify not imposing the requirement here. Because logistical problems would be the same in

01:25:05:01 - 01:25:08:01

those other schemes? Yes exactly. In essence. Yeah.

01:25:09:07 - 01:25:10:17

Claire Brodrick the applicant.

01:25:12:05 - 01:25:20:14

At that point's noted, obviously the applicant can't comment on why other developments have voluntarily agreed to have this to be subject to approval. As far as I'm aware,

01:25:22:19 - 01:25:53:01

in each of those cases, the developer agreed to have the phasing requirement subject to approval. It wasn't something that was imposed by the Secretary of State but we will double check at that point. Obviously the applicant can't comment on why those developers felt that they could agree to an approval mechanism but obviously the applicant is seeking also to ensure consistency of approach and obviously the Secretary of State didn't feel it was necessary to impose it on the Cottamore Westburton DCOs.

01:25:53:03 - 01:25:54:03

Okay, thank you.

01:25:54:05 - 01:26:27:18

I I I understand. Nothing from mister Kasarco. Okay. Coming on then to requirement three, approve details and amendments to them. This is a national highways point where national highways have made representations that they were seeking to be consulted part as of any amended plans. The applicant considers they've addressed this at deadline three by including a definition of relevant highway authority and that National Highways would be consulted on the discharge of fifteen, requirements sixteen and twenty.

01:26:28:19 - 01:26:35:06

I'm unsure where the definition of relevant highway authority sits in the draft development consent order.

01:26:36:24 - 01:26:55:09

Appreciating, however, that I do only have a copy since Rep three printed. So it may have made it in there, but the applicant specifically said they'd included a definition of relevant highway authority to address National High Point. And I couldn't find it.

01:26:57:02 - 01:27:16:19

Just on this particular point, what we were saying is that so in schedule sixteen in paragraph paragraph one under requirement consultee in little B, we've made it clear that where an application to amend a plan, so

01:27:18:18 - 01:27:41:01

requirement three relates to if we want to amend any of the plans. So if we want to amend the CTMP for example, 1B of schedule sixteen means we need to consult on that amended plan with anybody who was required to be a consultee under the original requirement. So requirement fifteen three

01:27:42:22 - 01:27:55:03

lists the highway authority as being a consultee. So if we wanted to amend the construction traffic management plan, we would have to it would trigger a requirement to consult with National Highways on that.

01:27:56:24 - 01:28:16:19

The applicant maintains its position that it doesn't consider it necessary to consult with National Highways on any amendment to any document which would be the consequences of including them as a generic consultee, but where they are, where it is relevant to them, then we agreed that they would be consulted on that. In

01:28:16:29 - 01:28:27:16

that regard, the construction traffic management plan altering or operation environmental management plans are those things? Yes, that's correct. I don't think we're going

01:28:27:18 - 01:28:36:17

to agree with National Highways on this point. It's a point across a range of DCOs. Okay. That's being made. But yes that's the applicant's position.

01:28:37:01 - 01:28:45:20

Okay so I'll come to Miss Russell for National Highways. Just to understand the latest position.

01:28:45:29 - 01:29:04:03

Yes, Julie Russell on behalf of National Highways. It is accepted that the applicant has made the change to schedule sixteen, which means that if National Highways are consulted on the original plan they will be consulted on any changes. And also,

01:29:05:21 - 01:29:53:15

where National Highways are specifically referred to in the requirements as a person to be consulted. Again, we accept that we'll be consulted in that scenario. National Highways issue, however, is that, if changes are made to the approved documents that are the certified documents, I. E. Perhaps the works plans or the access to works plans, and those changes have an impact on the SRN, then National Highways would not have any consultation, would not be consulted on those changes, and it is those changes that we say could have material effect on the SRN and therefore impact on our ability to maintain the safe and efficient operation of our network.

01:29:54:16 - 01:30:05:18

I note the applicant is correct. We have got this issue outstanding on another on on a number of DCOs with Ireland Green Power, but

01:30:07:06 - 01:30:40:29

there is an example of where these amendments have been approved in connection with a non solar scheme, and that's the London Luton Airport expansion DCO. So it's again, as we've discussed already this afternoon, we accept the applicant may well wish to have consistency over its suite of DCOs, but there are other wider examples where, where National Highways have been able to be consulted, on this changes to certified documents.

01:30:42:20 - 01:30:44:05

Thank you.

01:30:50:10 - 01:30:52:08

Broderick, will come back to you on that.

01:30:53:23 - 01:31:15:26

Obviously changes to the ES, if it was something that were material, would be a change request. Any changes to the documents which are in outline, there will be changes to the outline documents because they're going to be final documents. Changes to things like the works plans, I mean, that's not likely in this regard, is it?

01:31:16:27 - 01:31:49:25

Claire Brodgett, the applicant. No, so I think it's also important to take this on in terms of national highways, obviously it's a general position they're asking for, but I think on each project you need to consider the actual interactions with the SRN. Here we're talking about a cable crossing of the M4 and everything associated with that crossing has to be approved by national highways under the protective provisions. If we wanted to change anything about that crossing, we would have to again get consent from national highways.

01:31:49:27 - 01:32:25:03

I'm I'm not sure how it's relevant to national highways. What happens to the cable anywhere else on that route. I think that's the the ultimately, the point we're trying to make it. You know, I appreciate obviously, it doesn't seem like much, but it's you know, there is an administrative consequence to adding people as consultees, and and just adding them would mean for that something absolutely nowhere near the SRN network, the applicant would have a legal requirement to consult with National

Highways. I'm not sure they've necessarily thought through the implications of all of these DCOs having

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to

01:32:25:22 - 01:32:28:18
do that. Ultimately under the

01:32:30:11 - 01:33:03:02
regime, the applicant has to pay the costs of national highways, so there's a statutory cost recovery mechanism now that covers national highways, so the applicant would have to consult with National Highways even though it had nothing to do with the SRN network. It would then have to pay the costs of National Highways to read that document and confirm it has nothing to do with the SRN network and the applicant just doesn't consider it in any way necessary or appropriate to do so. More expedient, yes. More expedient. So that's the applicant's position but yes we have the same conversation on a number of I

01:33:03:14 - 01:33:09:16
think I understand the point. Ms Russell, unless there's anything further else you want to add, I'm going to move on to requirement four.

01:33:12:20 - 01:33:16:10
Julie Russell, National Highways. No, nothing further from me. Thank you.

01:33:16:12 - 01:33:44:03
Okay, appreciate it. Thanks. Okay, I'll come on to requirement four which is the community liaison group. Obviously this has come up quite a lot over the last couple of hearings, and I know it wasn't necessarily on the agenda, but it issue specific hearing seven last week, stop line down, considered that there was some revised wording was required and we parked it until this hearing. So I'm going to come to Mr Kazzalko to try to expand on on this matter please.

01:33:46:15 - 01:34:22:26
Thank you Madam Danny Kazzalko stop for line down. So our concern with this wording is essentially threefold. So first concern is that the CLG is not established early enough. Second is that the CLG doesn't continue to be used at what we would say is all important times, which we would say is a bedding in period following construction and then all the major maintenance points in time. So you'll be aware that there's a number of maintenance times where batteries are replaced and there's one big replacement of the PV.

01:34:24:09 - 01:34:47:26
The DCO as currently written between requirement four and requirement twenty does provide the for CLG art construction and decommissioning. So there's that point about covering all important times, I'll just use our shorthand. And the third is securing the terms reference of or securing something that will become the terms of reference.

01:34:49:14 - 01:35:22:29

I should say as a starting point, we briefly spoke to the council about it, the council can obviously present their position as well. I originally had a wording in mind that would essentially treat a terms of reference like an outlined plan. So you'd have an outlined terms of reference that is then subsequently secured. I think that hasn't currently found favour with the council, but they may be able to speak to that. But they're the three concerns that we'd want to pick up. If I just go through each one of those in a little more detail, so the first is that the CLG is not established early enough.

01:35:23:04 - 01:36:00:12

The current wording essentially leaves it to prior commencement to of the authorised development. We say that's too late for a number of reasons. The principal one is that there may have been discharge of many, oh sorry, approval of many of the outlined plans as detailed equivalents by that point. And you'll remember that our position is that we're not saying the CLG should be consulted on every dotted I and cross t, but the CLG should at least be established so that for each plan where something is relevant, the CLG can contribute.

01:36:00:14 - 01:36:35:08

And so essentially we would say this provision should be written such that the CLG's terms of reference are agreed and the CLG is established before any document to be approved under schedule two is submitted to the council. So for example, before the detailed length is submitted to the council. I understand obviously the council can speak for itself. I proposed some wording, that wording may not be agreed, but the principal at least I think might be agreed on that by the council, but they can explain that.

01:36:35:10 - 01:36:54:08

Second point is important times. I understand the council from their deadline six submission agree with us, which we have this concern the first five years of a DCO are really important. So for example, are many different activities that are going on such as maintenance of new planting

01:36:56:08 - 01:37:35:09

is one of the big examples, where year free things may fail and locals feel may very concerned about that. And so it's valuable to have the CLG remain until those early days activities cease, and that's normally after five years. And so I think what we proposed originally was a wording of VCLG sort of ceases to be used on the sixth anniversary of final commissioning, but the precise year open to discussion. As I said, decommissioning the applicant already has a provision for that in the DCO, query it if should be dealt with under requirement four instead of requirement twenty.

01:37:35:14 - 01:37:50:13

We'd also say that some form of wording should be achieved to reuse the CLG at the relevant maintenance points. That could be done in an outlined terms of reference, that could be done in requirement four.

01:37:52:13 - 01:38:11:00

That will turn on this final point, which is securing a terms of reference. So there's been a number of references to where we can deal with that in the terms of reference. It won't be lost on you, the terms

of reference currently at least is not a certified document, the terms of reference is essentially left to be dealt with subsequently.

01:38:14:04 - 01:39:07:19

That's fine if some other document, which is a certified document, does secure the foundations for the CLG. And for example, that might be all of the outline plans providing for the CLG to be consulted, which I know is not the applicant's preferred wording, it's also not my preferred wording, I think we should have an outline TAR for the terms of reference. But that may be a way of achieving certain things about the CLG. The important point though is that you have the satisfaction that the things that you think the terms of reference are going to say, it will say, because it could come subsequently to the DCO that there becomes a dispute between the council and the applicant over what the CLG's role is and that all falls away and ultimately what's imposed is something a lot lower in stature than you as an examining authority had in mind.

01:39:08:03 - 01:39:39:00

you'll remember I said there is this concern on SLD's side that the CLG essentially becomes a talking shop rather than actually having any agency, which is different, would stress, to the applicant having to agree with everything or even anything the CLG says. So that's three the principal points, that's my explanation of them. As I said, we have previously drafted a wording but it hasn't found favour at least currently with the council, which is why we've not sent it to the applicant yet. But we will continue to try and produce a wording to achieve that as what I've just described.

01:39:39:07 - 01:40:00:09

Is the bank's not positioned though, if we can't find a way forward before the close exam, is the bank's not positioned that each of the management plans should include some reference to the CLG being set up before the discharge of any of those plans? I mean, have to have a backstop.

01:40:00:11 - 01:40:33:25

Yes, Dennis, I could stop lying down. Yes, so what you currently I think you'd have to change some of requirement four anyway on the timings. You could then achieve sort of what the idea of a CLG is through including that and saying, you know, where appropriate or as that the CLG will be consulted or something like that. Mean, I'm not sure what wording the applicant would have said except if it accept any, but something in those management plans council to insist upon this.

01:40:33:27 - 01:41:08:15

Because my concern currently being realistic is this isn't set out anywhere. The council try and compel the involvement of the CLG as part of detailed design and applicant, the which maybe may be cynical or whatever, instead seek to appeal under schedule sixteen saying this just isn't reasonable, it's not done on other DCOs, which to be fair to the applicant, this is more onerous than other DCOs are requiring, at least currently, and that gets appealed successfully, which realistically could be. So that's why we want to have something in some kind of secured document, which could be as you just described, Madam.

01:41:08:17 - 01:41:38:28

Sure. I mean I stressed, think it was a day or ago, we've had so many hearings in the last two weeks, forget which hearing we were at, but I did express my concern that with your position that it is too late

for the CLG to come on at the point just before the authorised amendment commences because then they've had no, she said, no agency into any of the detail, no opportunity even to be part of the discussion. So without a doubt, I think there needs to be some revision to the certainly the timing.

01:41:39:03 - 01:42:11:00

In terms of the length of time that the this CLG should exist, similarly we were talking about replacement of planting schedules in the sense in light of what would happen with another extended period of drought and things not taking. Hadn't quite picked up on the point until then, however, about your replacement period. It's really difficult to think that far into the future because without that, given my current age, I'm almost certainly not going to be around at that point. I just wonder how many people would be on a CLG that, you know, would even remember start the of this project of then still a CLG being in existence.

01:42:11:02 - 01:42:27:14

So I'm not saying there's no purpose for it because obviously there is another generation of people ahead that will have to deal with it. But in terms of reference, almost certainly I think getting that captured, but there's limited time to capture that. Ms Brodick, I will come to you, but Ms Buono had her hand up and Mr Kuzalco.

01:42:27:16 - 01:42:37:04

I was going to add one thing, madam, which is, so just on that point, the One Earth Solar DCO just provides for a continuing CLG for all sixty years, just as another way of doing this?

01:42:37:06 - 01:43:24:14

The one Earth? Yes. MS Ms Bonner, please. Thank you. Isabel Bueno for the Council. Just to clarify the Council's position, which is very much in support of ensuring that the CLG established is and involved at a time at which engagement with it is possible to make a difference, which after approval of the plans prior to construction wouldn't achieve that. In terms of the start of ten drafting that Mr Kuzelko very kindly shared this morning, the council's only concern was to ensure that any new trigger point is enforceable and workable in practice and doesn't have a sort of concluded view as to whether that would meet that test at the moment, but happy to take that away after the hearing.

01:43:24:17 - 01:43:25:02

Yeah

01:43:25:04 - 01:43:49:03

I mean it just I think my colleagues would agree that terms of reference that were able to be captured as a approved document in Schedule thirteen would be the way forward. But obviously it's not much time to craft that out and it would hate to see something that was rushed that really then wasn't fit for purpose on its terms. An outline in terms of reference would certainly

01:43:49:05 - 01:43:50:07

be the foundation.

01:43:51:25 - 01:44:39:29

Clare Projects the applicant. Yes, so just taking that point, the last point in terms of outline in terms of reference, the applicant is willing to amend requirement four to make reference to an outline terms of reference so that the final terms of reference would need to be substantially in accordance with that. We have prepared a set of outline terms of reference which we were just waiting for today's discussion to happen and then we can circulate to both Wiltshire and to stop lying down for comments on such that if it can be agreed then that could be added as a certified document and then made reference to which would then hopefully at least give some comfort to members of the community as to the involvement of them and the types of topics that they would be involved in.

01:44:42:16 - 01:45:18:27

Applicant did make an amendment to the outline operation environmental management plan in table twelve to make it clear that the community liaison group would be resumed as a formal forum during any planned replacements of the panels or the BES units. We think that commitment is best placed in OAMP. We've also included reference to that in the outlined terms of reference to make sure it's clear that it would come back into operation during any of those activities should they occur.

01:45:20:03 - 01:46:13:15

Throughout the rest of the operation there is a community liaison manager, which is a commitment in the OAMP. The applicant's position is that there will remain a point of contact for the community, so if people have got concerns about the establishment of planting or something like that, then there is an established point of contact that they can raise those with. We don't consider it appropriate to have this large forum in existence beyond one year. We've already extended it to cover one year post commissioning, so any initial problems that result at the very beginning of the project, the CLG would still be in existence then, but the applicant feels that twelve months is sufficient and then it would move to there just being this community liaison manager that's in place for members of the community to contact.

01:46:16:24 - 01:46:56:15

In terms of the trigger point, we are giving this some thought and the point that's been made is is very much recognised in terms of making sure that the group is set up such that they can input into the design of the scheme and the construction activities and mitigation measures that are being proposed, the applicant is just trying to give careful consideration to how that's worded. Obviously there's been reference made to it being in place before any of the other requirements are discharged, there could be some very minor works that are not covered by the permitted preliminary works.

01:46:58:10 - 01:47:28:26

I don't know, for example, the road is being closed and for a different reason and it would make really good sense for the passing bay that we're proposing to be carried out at the same point in time as the road is being closed for another reason. At the moment we could do a CTMP for specifically those works and not the wider development and that would enable those works to take place. But that would be prevented if we hadn't had the community liaison group set up.

01:47:28:28 - 01:48:06:18

So there are there are some genuine practicalities to including a blanket prohibition on discharging any of the other requirements until the community liaison group has been set up. So but we do take on board very much the principle of the point in terms of making sure the community liaison group is set

up in good time to do that. But obviously getting that right from a drafting perspective we're just trying to work through how we could word that so we don't preclude doing very specific works that wouldn't merit necessarily wider involvement.

01:48:06:20 - 01:48:40:11

That's I think what we're just looking at but the point is accepted that and I think as I mentioned at last week's hearing as it's currently drafted we do recognise that we could discharge every single requirement and then set up the community liaison group last if we if the applicant was so minded to do so. That's very not the intention. And but it's just how we capture that and don't inadvertently cause issues for other types of activities that might

01:48:40:13 - 01:48:44:04

be required. Mr Kaczarco, I'm going come back to you first, please.

01:48:44:20 - 01:49:19:08

Thank you. Thank you, madam Dunning, because I could stop lying down. That sounds then like we've got a direction externally to discuss behind the scenes. I mean, as I said, I think we favour an outline plan secured as a Schedule thirteen certified document, but then a detailed plan is provided to the council. See the point that some things may be so soon after a grant to the DCO if one is granted and a minor point in the way that Ms Broderick describes that we wouldn't want this to essentially operate as a total Grampian condition for the entire development.

01:49:19:10 - 01:49:27:09

So to be honest, I'm not sure there's much really we would disagree with there as long as we do then move this forward quickly in the four weeks that remain.

01:49:27:11 - 01:49:32:24

Yeah, I mean, think we as an ex A would prefer it to sit in schedule thirteen.

01:49:34:10 - 01:49:43:08

So there's clear a direction on the steer that we would like you to follow, but time is of the essence. Ms Bono, anything to add?

01:49:43:10 - 01:49:44:17

No, nothing to add.

01:49:44:19 - 01:50:17:25

The only other thing I would add before closing out at this point, again another direction of travel for the XA's thinking, is that we're probably not in agreement with the applicant on the one year post commissioning. We think could be that extended to five. I think there's a reasonable case to be made that there will be teething troubles. There will be issues around planting and and and ongoing adjustments and I think the to to cut the legs off the CLG at one year may just be a

01:50:17:27 - 01:50:27:16

bit too soon. Clever to the applicant. Yes, understand that. I think obviously we also are conscious that

01:50:29:28 - 01:50:35:25

we don't also want this to impede on people's lives for too long or people to feel obliged that they have to seven

01:50:37:16 - 01:51:13:21

years worth of contributing to a community liaison group is quite a commitment as well in terms of those parties that are being asked to participate. So it's not just members of the community. It's obviously envisaged to include parish councillors, members of the local authority, other community groups. If we're saying it's going to be in place five years then I'm sure those groups would feel obliged to potentially continue to participate. So I think we're just trying to balance what's appropriate. Obviously noting that any of those teething issues that you've mentioned that's entirely the role of the community liaison manager.

01:51:13:23 - 01:51:24:24

But to have these forums where there is a mixture of community organisations, parish counsellors for potentially a seven year period is quite a commitment for everyone to make.

01:51:24:26 - 01:51:52:14

Yeah, can show that, but certain participants can choose to opt out, whereas if they're not already opted in, then they don't have a say at all. So there's nothing that compels a parish council to continue to attend the community liaison group if they feel that the matters are settled from there. But I mean the terms of reference could almost pick up on that, that it within is the power of those parties to opt out of an ongoing obligation to turn up at those meetings or? Clairvoyant for

01:51:52:16 - 01:51:59:13

the applicant. I guess it may, we'll give it some thought. It may well be that the terms of reference could include a review mechanism at the end

01:51:59:15 - 01:52:03:10

of one year, such that if the parties feel that it's done what

01:52:03:29 - 01:52:04:14

If there isn't

01:52:04:16 - 01:52:26:14

isn't anything ongoing that people want to contribute to, then it can end at that point. But if there obviously are ongoing concerns then perhaps it could be extended. We'll give that some thought. I just didn't want to compel organisations to feel that they had to represent their communities or their groups by attending for quite a significant period of time.

01:52:26:16 - 01:52:32:23

Think the review mechanism, something along those lines drafted in, could work. Mr Kiselko?

01:52:33:03 - 01:53:03:25

Thank you, Dominic, I've stopped lying down. Yeah, I mean, we would agree, I mean ultimately you could just put it in the outline terms of reference to allow the group to agree if they want to shorten

their life ultimately, so that I think makes sense. The only other thing I was going to flag that if we are going to have a certified document, it may actually assist the applicant, but it will mean that some of the other drafting of the DCO actually could just be moved to the certified document at that point. So I'm thinking, for example, the decommissioning provisions refer which to the CLG wouldn't necessarily need to be the DCO anymore.

01:53:04:29 - 01:53:11:25

May give more flexibility as well in how some of these other issues are dealt with, just from a drafting perspective.

01:53:12:27 - 01:53:14:05

Okay, thank you.

01:53:16:00 - 01:53:32:25

All right, so I'm just going to get an indication for the party in the room. If anybody wants to just grab a glass of water, go to the toilet, because we're going to come on to requirement twenty decommissioning and this might not just be a little five minute exercise. We're making really good progress on this,

01:53:34:15 - 01:53:40:08

are parties wanting to press on or do they feel like they want to have a very short comfort break of ten minutes?

01:53:42:08 - 01:53:47:26

Clare Podge of the applicant, I think we might need a break before we go on to protective provisions.

01:53:47:28 - 01:53:50:20

We definitely will. I think we can get through the rest of this item.

01:53:50:22 - 01:53:53:22

I can continue this item if everyone else is happy to

01:53:53:24 - 01:54:07:03

do it. Oh, perhaps. Kate Tape from Welch Council. Yeah I mean at the schedule thirteen for agricultural impact assessment and agricultural method statement. Very very short because it's after the conversations that we've been having.

01:54:07:05 - 01:54:07:20

Yeah.

01:54:07:22 - 01:54:14:02

This has pretty much been agreed that it's not going to be, it does not need to be included within schedule thirteen.

01:54:14:14 - 01:54:45:14

Oh, okay. So, that that that could that could pretty much falls away. Yeah. Yeah. Okay. Well, let's press on then with requirement twenty. Obviously the requirements that we are going through are the ones which the XA is wanting to talk about, and there may very well be other matters from the articles and requirements, which the other parties may want to raise that we haven't. So we do have factor to in. We we may have a little bit for discussion but I do agree. We could press on to protective provisions and then and and then come back after comfort break then. Okay so let's come onto requirement twenty.

01:54:47:07 - 01:55:27:27

We discussed decommissioning at issue specific hearing four relating to decommissioning bonds, and the applicant explained that decommissioning would be 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 any insolvency of the applicant. Now the applicant explained the nature of the security depends on the contractual terms included in the relevant land agreement. These effectively require a form of security security to be put in place and this would be regularly reviewed over the lifetime of the scheme to ensure that it is of an appropriate amount.

01:55:28:02 - 01:56:07:00

Although the exact nature of the security was not confirmed and obviously we're not privy to your land agreements. The council's concerns were that without further information of the details of the landowner bond or the size of it, its concerns were not addressed. And this is because even if the landowner has the money, the obligation for decommissioning is on the undertaker, and the council couldn't prosecute the landowner when the obligation's on the undertaker. So therefore there would be no form of redress available to the council to guarantee decommissioning and restoration in the event that the undertaker disappeared or became insolvent.

01:56:08:06 - 01:56:45:24

Now I carry on. The applicant's position was that a decommissioning requirement in the DCO is sufficient because compliance with that is statutory a requirement and failure to comply is a criminal offence. We issued action point seven to the applicant at Ish four which required it to confirm the provisions in the Planning Act, the decommissioning enforcement powers against landowners in the event the undertaker became insolvent. And the applicant came back in Rep four thousand and eighty seven and referred to sections one hundred sixty and one hundred sixty one of the Act, which sets out how a breach may occur and what defences and penalties may apply.

01:56:46:18 - 01:57:04:21

And then the applicant added that sections one hundred sixty nine and one hundred seventy of the Planning Act two thousand and eight contained the council's powers to seek compliance and recover cost. So in essence, the applicant's position is that the council could take action against the landowner in the event the undertaker defaulted because some form of bond would be retained.

01:57:06:27 - 01:57:35:12

But I suppose really where my concern rests with all of this is that although there's a provision for the local planning authority to take action and try to recover the costs of undertaking direct action. That would necessarily mean the costs associated with the action would be recoverable. This is because the

party responsible for paying the recovery costs may not necessarily continue to have the finances to do that. So what assurances can be provided by the applicant on the matter?

01:57:38:11 - 01:58:05:27

Claire Bodge of the applicant. Just before I respond to that specific point I just wanted to confirm that the I think we mentioned last week that the the applicant and Wiltshire Council are in advanced discussions on a section one hundred six agreement that's to cover monitoring costs for monitoring compliance with the requirements during construction operation and decommissioning. That section one hundred six agreement

01:58:07:25 - 01:58:34:27

will also include a provision requiring the applicant to provide to the council the details of those decommissioning securities that have been put in place. So the council will have therefore the information about the nature of those securities, who they are held with, So that should they need to take enforcement action and the applicant or the undertaker at that point in time

01:58:36:15 - 01:58:54:01

is not complying with that and it needs to undertake the action itself and recover those costs via the landowner, it would have details of those decommissioning securities available to it. So that's, I think, just to deal with

01:58:55:16 - 01:59:49:11

that first point in terms of making sure the council has sufficient information available to it and to give reassurance to the council that those decommissioning securities have been put in place, which was part of the concerns that had been raised previously and the applicant considered that the Section one hundred six agreement was a more appropriate place to put those than a requirement in the DCO because the nature of those securities are confidential and the feeling was that if it was as a requirement, the council would be obliged to publish those documentations on its website as part of the discharge of the requirement, whereas confidentiality of those securities could be kept confidential if they are provided under the Section one hundred six agreement.

01:59:49:13 - 02:00:08:07

The Section one hundred six agreement obviously is publicly available so people will be able to see that, But in terms of actually supplying the details to the council it was considered through discussions with the council that they would be able to receive that information and keep it as confidential and not be obliged to publish it.

02:00:08:09 - 02:00:36:03

Okay. So the provisions of the section one hundred six would include the requirements to divulge that information. Obviously, the section one hundred six sits on the planning register, which also sits as a charge on land, in essence, if you were to do a planning search. But what you are saying is the information that would then be provided as part of that one hundred six requirement would sit in confidential forum? Claire Poirier, that is correct. Whereas obviously if it was a requirement, there

02:00:36:05 - 02:00:46:15

was a concern that when we applied to discharge the requirement, then the documents would be uploaded as part of the discharge of the requirement. My understanding is the council is happy with

02:00:48:09 - 02:00:54:13

that mechanism that it's clear to the community that we have to provide that information to them.

02:00:55:15 - 02:01:05:13

Then when we do provide it, it will obviously be for them to view, but not to publish. Okay, just taking that a step further,

02:01:06:28 - 02:01:37:12

in our conversation at Issue Specific Hearing four, and I think I just said it as I was reading off my notes there, it was there was a discussion about those securities would continue to be revisited over time. So obviously there would need to be an update mechanism included for the councils because the information they would receive as part of a one hundred six would just real be time information at this point in time. But obviously over if those securities had continued to be revisited that would need to be revisited.

02:01:37:14 - 02:01:59:21

But then also one of the questions I asked issue specific hearing for was whether if if if the land sold, if a landowner sold a parcel of land, whether those requirements and those bonds carried on to the next owner and you assured me that they did, but again, there would be a change in who would hold those securities. So again how does that information then pass to the council?

02:02:00:20 - 02:02:16:03

Claire Boshick for the applicant. So my understanding is that the when when the leases are entered into the lease would bind the land and the obligations to have those securities in place are under the lease. If there was a new freehold owner,

02:02:17:29 - 02:02:34:11

they would just take over the benefit of those securities. The security is provided by, for example, a financial institution and they would just become the beneficiary of that automatically by being the freehold owner. As I understand, there isn't a transfer that needs to

02:02:34:13 - 02:02:47:25

take If the financial institution and I don't know enough about how these securities are held and who holds them, but is there a possibility that the financial institution that holds these securities may change?

02:02:49:13 - 02:02:59:25

Claire Bosch of the applicant, I don't think we could rule that out. I think that is a good point at the moment. The section one hundred eighty six agreement doesn't specifically require

02:03:01:27 - 02:03:14:10

us to notify. There's no specific provision in there about notifying if the the nature of this the the holder of the security or the provider of the security sorry changed. But that's something we can add in. Yeah. Okay.

02:03:17:06 - 02:03:26:07

So I'm I'm understanding then from that that the Council is no longer intent on pursuing the need for decommissioning bonds?

02:03:27:22 - 02:03:33:17

Isabella Bueno for the Council. Yes, subject to final agreement of the one hundred six.

02:03:33:19 - 02:03:37:07

Okay. Mr Kasarco, do you have a position on that?

02:03:37:12 - 02:03:45:19

Thank you madam Danny because I'll stop lying down. I think our going down miss Rue, I think our residual concern

02:03:47:10 - 02:04:21:12

there are others, on this point is one, will the council in the information that will be provided to it be informed of the value of the bombs, to which the answer may be of the security, the answer may well be yes to that. And two, what, if any, mechanism the council would have if it's unsatisfied with the quality of the security. Now I appreciate ultimately it is the landowner that is at in risk that situation because of the enforcement mechanism in the Planning Act, the applicant has previously explained.

02:04:22:08 - 02:04:48:25

But it comes to the same place, if it all goes as badly as it would have to go to get to this scenario, the council would still, in that situation, not have the requisite money to itself remediate the land without spending its own money or whatever. So I don't know the terms of section one hundred six, save to what I've been told, that it looks similar to what the effect of the Helios DCO was.

02:04:51:26 - 02:05:05:00

If this is the approach that's going to be taken and going to be agreed, that would be the concern there that would remain, which is you know, what happens if the council isn't satisfied? Or if if the council's even addressed its mind to that question?

02:05:05:26 - 02:05:35:16

Yeah, because it's all well and good having the terms in a section one hundred six agreement that you'll be provided with the information, but if the information is then received and it's unsatisfactory. Certainly the issue about the value of of of the bonds would be my number one question but you're absolutely right. If the council's then unhappy with what they receive, there's no going back because you've signed up to a section one hundred six agreement and that's where the the point rested. So, miss Bueno, do you know if that conversation is is taking place?

02:05:47:10 - 02:05:49:10

Isabel Bonick for the Council.

02:05:50:28 - 02:06:10:15

The Council notes those points and doesn't have an objection to the proposed way forward and as the applicant has said is in advanced discussions on that drafting, it'll give further consideration to that specific point and hopefully seek to accommodate that within the agreement.

02:06:11:11 - 02:06:47:23

Okay. Obviously you would have been shared more information than we can be divulged in the room because it is a conversation between two parties over signing a one hundred six agreement. There will be obviously more discussions in light of this. Section one hundred six agreement for it obviously to have any weight in this examination has to be signed before we close examination. And that's not certainly wanting the council to sign up to something very quickly that they're not satisfied with. But that that those are the you know they know that's the position in in in NSIPs for us to give it weight to record to the Secretary of State.

02:06:48:19 - 02:06:53:17

Miss Broderick I want to come back to you on the points Mister Kozelco raised.

02:06:54:25 - 02:07:02:01

Claire Broderick the applicant. So my understanding obviously we've we've noted the point about including a

02:07:04:06 - 02:07:46:29

a specific obligation to provide the council with so at the moment, as Mr Kaselko correctly says, it mirrors the wording that was used in the Helios DCO. That obviously just provided a requirement to provide information. It didn't include any review mechanism. We do take on board that point. Is correct what I'd said previously that the amount of those securities is regularly reviewed under the terms of the landowner agreements and so we are happy to add in a provision that requires the applicant to provide updated details to the council as and when they get as and when that is reviewed under the property agreement.

02:07:47:07 - 02:07:50:00

The applicant's position is that

02:07:51:21 - 02:08:22:28

the combination of those two thing, the combination of the decommissioning security and the provision of the information that's or the security that's being made available to the landowners is sufficient and we wouldn't be agreeing to have the council request that the amount is increased in any way. That's not what the applicant is proposing. It is a provision of information as to what's been put in place with the landowners to give the council confirmation that should they wish to take enforcement action and the applicant has become insolvent.

02:08:23:00 - 02:08:29:22

Then the the landowner would have access to those funds. But we're not proposing for the council to be able to.

02:08:29:24 - 02:08:47:29

Yeah to to have it put into the amount of the fund. Yeah exactly. Okay. Does any before I move off this point does anybody else have anything further to add? I think that there's this is obviously still on gathering and pace unfolding. But at least it's moving in a more positive direction than yeah than no bonds.

02:08:48:02 - 02:09:21:20

A clever idea for the applicant. We have discussed with Wiltshire Council the mechanisms and timings required for them to be able to execute the Section one hundred six agreement. If we can get the agreed form of Section one hundred six confirmed by deadline seven, we would be able to submit that as an agreed version and then it would be out for signature. My understanding from the council's in house solicitor is that they able to sign, they don't have to wait another week to sign those documents. We are confident that it can be signed before the end of the examination.

02:09:21:22 - 02:09:24:00

It may well be a document that

02:09:24:07 - 02:09:25:23

Oh no, not another one.

02:09:25:25 - 02:09:28:07

Another one to add to your deadline, ain't list,

02:09:29:03 - 02:09:30:14

but I'm sure if it

02:09:30:16 - 02:09:37:10

was signed and available you would use your discretion to accept that in that circumstance. Gazakaram, I'm coming to you.

02:09:37:17 - 02:09:41:12

Thank you madam. I do have two points on other bits about the details.

02:09:41:14 - 02:09:42:01

So should I.

02:09:42:03 - 02:09:56:00

Yeah, so I won't make that. Just very one short point, that's the applicant's position which I thought it would be that. That obviously does mean that the council should consider it as a residual risk that it will be left holding the bag. It may be a very small risk, but it is a risk.

02:09:56:12 - 02:10:09:22

Yeah, noted. Thank you. Okay, so yeah, I have other points on decommissioning. So just some drafting queries and me just find requirement twenty.

02:10:14:04 - 02:10:22:12

Actually it would be beneficial if I opened up rep six, not the paper copy from rep three. That would be very stupid.

02:10:28:15 - 02:10:30:22

Oh no, can't read it from that far. That's too far.

02:10:32:14 - 02:10:37:24

Thank you. Apologies everybody, I should have been prepared with it on the screen.

02:10:49:06 - 02:10:51:20

So

02:10:54:22 - 02:11:17:02

specifically I just want to talk about the word 'intends' So it features in article twenty two twenty bracket two, and it features again, in subpart three, in the in the in part subpart three, which again it says intended.

02:11:20:13 - 02:11:40:08

So the whole premise of paragraph requirement twenty is written on when the applicant intends decommissioning will take place, but we may find ourselves in a scenario where you have a period of extended outage. And I'm not talking just a couple of months, it could be much longer than that.

02:11:44:06 - 02:12:00:01

Where you're not generating any electricity commercially for an extended period of time, it may not be your intention to decommission but the you know, the infrastructure is sitting there and it's not actually doing what it was put in the ground to do. So, in that scenario,

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should we not have a provision

02:12:07:02 - 02:12:42:01

that requires decommissioning for lengthy periods of extended outage. And the reason I raise this is because in looking at other DCOs, the Oakland's farm DCO specifically had a requirement, its requirement was decommissioning requirements requirement sixty four and its part four was that the undertaker must provide notice to the local planning authority once any part of the authorised development stops generating electricity for more than six months.

02:12:42:10 - 02:13:13:14

And then if by expiry of the period of twelve of twelve continuous months beginning with the date of the notice and unless otherwise agreed in writing between the undertaker and the local planning authority, part that of the authorised development that does not regenerate electricity within three more months should be decommissioned. So that was included in Oaklands. And then in looking at Pear Tree Solar Farm, there was a similar provision to require decommissioning after a twenty four month period of outage.

02:13:13:28 - 02:13:39:29

And that wasn't captured in the DCO, but it was captured in one of the management plans. It might have been the operational environmental management plan. So this is clearly XAs have clearly turned their mind to this on other DCOs and the Secretary of State have accepted both of those as options to deal with. And so that brings back me to that, the wording in here which is intended, or some things are not intended,

02:13:41:27 - 02:13:51:06

but we shouldn't allow this development to continue to be in situ if it's not fulfilling its purpose.

02:13:57:23 - 02:14:30:21

Claire Project for the applicant we weren't involved in either of those two projects so I'm not familiar with the drafting but we can take it away a point to look at that. We do have in requirement twenty sub paragraph seven an obligation to notify the relevant planning authority in the event that any part of the authorised development it permanently ceases to be in commercial use. To the extent we've definitely decided that something's not going to come back into operation, we've got a report.

02:14:30:23 - 02:14:40:10

I noted that, but that still comes back to almost a decision of the applicant for you to decide it's no longer permanently required.

02:14:46:11 - 02:15:09:26

Action which you're able to take. So the words intended and the wording within there, something is permanently ceasing. Well, it might be that the majority of the site still functioning. is It's therefore not permanently ceasing, but one component of it has ceased for whatever the reason for the outage. I'm not sure that necessarily picks it up.

02:15:37:05 - 02:16:16:06

Claire Brozick, the applicant. So I guess as an initial point, obviously the applicant was seeking sufficient flexibility to allow for scenarios where, for example, there's a major grid issue and the whole project is taken offline, for example, for an extended period of time whilst I don't know if there was a major fire at Melksham substation. There have been other national grid substations that have suffered a fire like the Heathrow one, for example. If there was a major fire at the substation, then it could conceivably be a significant period of time that the scheme was unable to generate electricity

02:16:17:21 - 02:16:58:20

and the applicant would not be seeking to obviously decommission the scheme if there's if it's likely that the substation would be repaired and and come back online. Equally there may be scenarios whereby part of the scheme when I suppose if we're talking more towards the end of the life of the operation of the scheme, there may be a part of the scheme whereby that ceases operation, but other parts of the scheme are still functioning and the consequences of fully decommissioning one element in terms of reinstating access roads and those sorts of things.

02:16:58:22 - 02:17:31:10

It may be considered not appropriate to it will be more appropriate to put in the road decommissioned part and then take out that road again rather than doing all the decommissioning in one go, for example. The applicant is seeking flexibility to decommission the scheme as it seeks fit, albeit noting

that obviously it has to decommission it within the the time limit that the applicant has sought which is the sixty years. I think we just need to take away the point about whether we could add

02:17:33:22 - 02:17:53:15

some further information is some an obligation to provide further information to the council about why in terms of that notification that you know that we provide the reason for it, for example, and, you know, a sort of a review mechanism as to what's appropriate to happen. But I I I think I haven't looked at those particular

02:17:53:17 - 02:17:54:02

Of course.

02:17:54:04 - 02:18:03:01

PCR drafting. And I'm I'd I mean, obviously, three months to decide whether you want some of those timeframes seem very short in terms of making a final decision.

02:18:03:09 - 02:18:12:18

I certainly would obviously the reason I've referenced both of them you have two to look at, two different methods. They've been used. They're very recent.

02:18:14:28 - 02:18:51:21

They're worth looking at. I think there is something that there is I think there's a case to be made for including some type of provision like that. But I know for the Yokelins one as I said there was a there was you know an in the wording of of R64 four. There was an ability for the council and the undertaker to agree you know, different timeframe, over decommissioning, or as you say, submitting further information. If the worst case, Melksham grid went down, of course it would take a, you know, time for that to get up and running, and it might be then that shouldn't have a knock on effect

02:18:53:06 - 02:19:18:11

For for lying down. It could sit there whilst it was waiting for that grid connection to to so I I understand the point. But I think there is also a point to be made for including something so that we don't have infrastructure left there until applicant the intends to decommission because it shouldn't all it shouldn't always be about intent. But coming back to the point you raised about being bound by the time frames.

02:19:20:02 - 02:19:40:17

I know I've raised this before, and it may be it was in EXQs, and it was about a backstop date for removal of infrastructure. And I still don't see within requirement twenty where it says once you start decommissioning you have to do it by a certain period of time. And

02:19:42:07 - 02:19:58:06

if again if I go to Oakland's in their R64 subpart eight it had a, it notes a completion period of decommissioning of two years following the approval of the decommissioning plan for each part of the scheme, for any each part of the scheme.

02:20:00:11 - 02:20:16:00

I'm not seeing that stop back date here. So yes you have to submit your plan. You have to decommission at sixty years. But decommissioning you know is do you get to take five years to remove the equipment from the land? So then we're at sixty five years. So where's the back stop? Claire project of

02:20:16:02 - 02:20:52:12

the applicant. So requirement twenty sub paragraph four states that the the final decommissioning plan must include a timetable for its implementation. So the timing of the decommissioning works have to be set out in that plan. We've obviously assumed for the purposes of the environmental impact assessment that decommissioning will take place over two years. If we were to submit a decommissioning plan that staggers that decommissioning over a longer period of time, we would have to confirm whether that would result in materially new or different effects as part of the discharge of the requirement.

02:20:52:14 - 02:21:05:09

There could be a good reason to do the works over a longer period of time, depending on all kinds of other reasons or other works that might be going on in Wiltshire at that point in time.

02:21:08:20 - 02:21:42:04

Don't consider it appropriate to fix to a particular time period on the face of the order because the control mechanism is via not doing anything, having to constrain it by whether it would result in any materially new or different effects to those reported in the S, but there could be very good reasons for it to be done over a longer period of time that present a better environmental outcome for whatever reason. But in terms of that plan, it obviously includes the timetable and then requirement subparagraph six says we have to implement it as approved.

02:21:42:06 - 02:21:52:08

So if the timetable in the plan is over the twenty four months that we envisage it to be, then subparagraph six says we have to do it within that time period.

02:21:52:10 - 02:22:23:01

Yeah. I take your point, but I wonder if in sixty years time somebody's going to dig out the yes and work out that's what it said. Oh, only if we don't do anything that's materially different that we need to seek a different approval. There could be a backstop date included with a caveat unless otherwise agreed in writing by the local, with the relevant planning authority, you know, whichever planning authority exists at the time. There is still room to be able to put in unless otherwise agreed.

02:22:24:12 - 02:23:04:10

I'm not sure that wording is necessary in the requirement, but I do wonder whether we can have a look at the outlined decommissioning plan and see whether we can include a statement in there to make that point clear so that obviously it has to be substantially in accordance with the outlined decommissioning strategy. Taking on board your point that somebody looking at this in sixty years time may only have in front of them the outlined decommissioning strategy. Then maybe we could make clear on the face of that document that the environment I can't remember if it does include it but we could make clear in the introduction that the environmental impact assessment had assumed that the works would be undertaken over a two year period.

02:23:04:12 - 02:23:05:21

Okay. Such that it's clear. Alright,

02:23:06:06 - 02:23:13:00

I'm going to come to the other parties now because mister Kazako you you may want to comment on any of that but you also said you had some other points you wanted to raise.

02:23:17:26 - 02:23:21:02

Thank you madam Dunning because I'll stop lying down.

02:23:22:29 - 02:24:03:08

Actually I think Matt in part picked up one issue that I was going to pick up. There's two other things that I wanted to address very quickly. One is a point of principle that I'm not suggesting that we get into now, it's been discussed before, but I just want to highlight to you that we still consider it active, which is this point about what is the reasonable worst case for the scheme given we know as a matter of fact that at least currently this scheme doesn't have the land rights for sixty years of development. I'm not going to make all the points again, we dealt with it in Para 6.3.3 of our written rep, which is rep one point one seven six and para seventeen of rep 1A-twenty two.

02:24:03:15 - 02:24:47:18

It's an intractable point and I'm not going to take more time on decommissioning here now, but I just wanted to flag that we will make a point in our closing about it. The second point was just the point I raised earlier, which is whether in light of taking an approach where we have a certified document for the CLG, whether 2B of twenty is now better placed within that framework rather than being in twenty twenty. And I say that because if the CLG is going to be revived on other dates as well, for example, maintenance, large maintenance events, which I think applicant the is open to, given the comments earlier, and is provided for in a plan, I say open to, it's in a plan.

02:24:48:19 - 02:25:03:13

It is a slight oddity, but it's there separately and I don't know what precisely that's achieving over having outlined terms of reference. Aside from that, our point was concerned about a bond but that's it.

02:25:03:23 - 02:25:06:05

Thank you. Miss Bourneau, please.

02:25:06:07 - 02:25:53:14

Isabella Bourneau, Fairwater Council. A related point is that the council considers that requirement twenty should include additional provision at a minimum for the undertake to notify the council when it has completed decommissioning. So that is a minimum request and potentially also for the council then to certify that decommissioned decommissioning has been completed to its satisfaction. The council's concern as as the requirement stands is that it could leave it in something of a limbo where it's approved the plan but then doesn't know whether the applicant considers it's reached the finish point and it's only at that point that the council might be considering whether or not to take enforcement action and and try to find out for example where things lie with the surety.

02:25:55:11 - 02:26:19:29

The suggestion of a long stop within the requirement itself is welcome but wouldn't go the full way to address the council's concerns because if, for example, the requirement said twenty four months as a long stop, If the undertaker thought it had finished at the eighteen month mark it would be better for the council to know then rather than wait another six months and delay its decisions on enforcement and that kind of thing.

02:26:20:03 - 02:26:24:19

Right, yeah, understand that. Ms Broderick?

02:26:27:06 - 02:27:06:18

Broderick, the applicant. We've obviously set out our position on the forty versus sixty years point previously, I won't go over that point again. In the outlined decommissioning strategy, which is Rep six-thirty three, it does refer to already picking up that other point about decommissioning being expected to take between and twenty twelve four months, so that's already in there in paragraph one point two and paragraph two point two of that document, so anybody looking at that in sixty years time will have understood that was what that the intention was.

02:27:06:28 - 02:27:39:27

In paragraph 6.2.3 of that document, which deals with monitoring and reporting, there is a requirement to provide a report to the Welch Council on a quarterly basis and following completion of decommissioning. So there is already an obligation in the decommissioning strategy for us to confirm to the council when we consider completion of decommissioning has taken place. I that think addresses the comments that were just raised. So we don't consider there's any need to add that to the requirement itself.

02:27:41:03 - 02:28:12:04

And it also goes on to say that we've we in that report will summarize the monitoring process. Any issues that have taken place, and any any corrective actions that have been taken. I also mentioned earlier that the section one zero six agreement covers the costs of ensuring compliance with that monitoring. With the decommissioning monitoring sorry compliance with the decommissioning requirements. So the cost of the council for both of obviously you've got the approval of the plan but then ensuring that the plan has been implemented.

02:28:12:16 - 02:28:24:16

The section one hundred six agreement provides further council's costs to be covered at that point in the future as well. It's not just initial costs, it also specifically deals with monitoring costs during decommissioning.

02:28:26:05 - 02:28:35:03

The applicant's position is that there isn't a need to amend requirement twenty because that's all captured in the outlined decommissioning strategy.

02:28:35:23 - 02:28:38:00

Ms Bordeaux, did you have a position on that?

02:28:39:26 - 02:29:01:10

Isabel, I'm waiting for the council. Other than the the second part of the request was a an amendment within the requirement for the provision of certification by the council which would then provide certainty for both parties if if if this council satisfied that decommissioning's been properly completed. It'd be preferable to specify that at that time.

02:29:01:15 - 02:29:07:00

In the requirement as opposed to in the decommissioning plan? Yes. Okay.

02:29:11:05 - 02:29:18:13

Okay. Unless there are any further issues on decommissioning, I'm satisfied I've covered my points. Before I move

02:29:20:26 - 02:29:35:24

on, I know we need a break for protected provisions, but is there there any other issues around articles or requirements that my issues didn't pick up that parties want to raise? Mr Kazzalko.

02:29:36:16 - 02:29:48:25

Don't you Kazzalko, stop lying down. I mean, we do. I don't know if the council has any and wants to go first because I know there's some overlap. But the ones that I had, they're two small ones.

02:29:50:23 - 02:30:28:26

One was just we agreed with the council's points that it made in its deadline six submission about the length of time provided for in Article forty seven-four, which is currently six weeks for the automatic discharge provision there. And similarly agreed with the council on schedule sixteen, which again is where the council asked for an extension of various time limits in there. I don't know if the council are pursuing that, but we do think that, I mean, the windows are short and misses automatic discharge for a large, well, an NSIP, which ultimately has a lot, you know, significant effect.

02:30:30:10 - 02:31:00:26

The discrete point that we had is schedule fourteen paragraph eight. So we welcome that the applicant has made a number of changes to this provision. So this is the confidentiality provision in the arbitration framework. And I should preface this with this now reflects the number of MAID DCOs, what the applicant has currently put in. So in a sense, that is in line with what the Secretary of State has been ordering.

02:31:01:08 - 02:31:20:21

My concern really was to highlight that currently what this provision now does is says that there can be confidentiality in respect to commercially sensitive information. You may have picked up in our correspondence that essentially the parties discussed other circumstances where you might need confidentiality, which

02:31:22:10 - 02:31:54:29

wouldn't be a commercially sensitive issue but would be an issue which requires confidentiality. The one that came up in the correspondence was about badgers and badger set locations and whether,

because that would require confidentiality, confidentiality, but query whether that's commercially sensitive. And so we just wondered if a wider wording for confidentiality, which didn't sort of highlight commercial sensitivity as some more important feature than any other would be a better way of drafting this, but it's a very minor point.

02:31:56:22 - 02:31:57:19

Thanks.

02:31:59:21 - 02:32:15:19

I guess when we were originally talking about this particular schedule, we could almost go too far and then allow anything to fall into confidentiality. So almost keeping it commercially sensitive actually tightens, you know, the issues.

02:32:16:10 - 02:32:47:28

Derek, I've stopped lying down. Yes. So that did occur to me as well. I mean, the concern there would as well be that an arbitrator reading that provision would view that as saying, well, the Secretary of State is accepting that commercial sensitivity is just the reason to allow for confidentiality. So the other concern going your way was that it would make it easier specifically in the circumstances of commercial sensitivity. But I mean, I take the point. It's just the concern was there may be environmental reasons for sensitivity.

02:32:48:00 - 02:32:59:28

So did you want to propose some revised drafting to that? Because it's rather than the applicant put some revised drafting in its final DCO, it was even considering doing so and then we're still toing and froing.

02:33:00:12 - 02:33:06:00

Danny, because I can stop mine down. I mean, we can do I I mean

02:33:08:19 - 02:33:28:07

yeah. I mean, query whether it's a a point that we we want to change. Well, my concern would just be it comes down the line. You have an arbitrator who for some reason thinks they have to reveal information that could cause harm to animals, for example, is the sort of concern. But we could deal with it before deadline seven if we want to push it with GAPCON

02:33:28:16 - 02:33:29:01

and

02:33:29:03 - 02:33:29:25

we'll go from there.

02:33:30:14 - 02:34:00:03

I suppose my feeling at this point would be this is the the redrafting of of this schedule. You know there is precedent for this wording. So almost be reluctant to to start tweaking it and then trying to have to justify that tweaking. So unless you have specific drafting and, you know, support for that drafting, I'm not necessarily sure it's a matter to to be pursuing with the

02:34:00:05 - 02:34:33:09

applicant. Trevor, strongly. I was just going to say my understanding is this didn't this provision wouldn't allow for the disclosure in public of information that is prohibited from disclosure in public by other legislation. It doesn't override any other legislation that might apply. We've obviously said in three that it doesn't prevent disclosure where the disclosure is required. If it would be helpful we can also say it doesn't allow disclosure where it's not required.

02:34:33:11 - 02:35:07:15

Yeah. And if that would make everyone happy to do so. And it's likely that badger information wouldn't go through the arbitration process anyway. It'd be the appeal process under schedule sixteen. But in the unlikely event, we have an arbitration dispute with a statutory undertaker on the location of her and we want to talk about the reason being because of badgers, then we can make that clear that it doesn't override that. I don't think it does anyway, but the avoidance of doubt, we can just add that in paragraph three that it doesn't allow for it where it's prevented by any other enactment.

02:35:07:17 - 02:35:13:10

I can't guarantee the Secretary of State will allow the tinkering of that wording, but we can add

02:35:13:12 - 02:35:14:04

it in. Thank you.

02:35:15:00 - 02:35:20:13

Thank you madam, I don't want to make a difference Albemarle Hill too, but it's different animal.

02:35:23:09 - 02:35:43:15

Yes, madam Bueno for Walter Council. Not on that specific point but on schedule sixteen generally, I just wanted to confirm that the council's position is as it set out in writing in response to the examining authority second written questions, so the two points on period for discharge application and also fees in the Much main

02:35:44:12 - 02:36:03:01

appreciated. Okay, so I have no further matters under that item and I think Ms Tate said that from Schedule thirteen, really the only issue to embrace was about the arboricultural impact assessment and the method statement and where they sat and you seemingly suggested that was resolved. Kate Tate

02:36:03:03 - 02:36:24:15

from British Council. Yeah. So the agricultural method statement and agricultural impact assessment are currently secured through the outline plan and the wording. I was more concerned really that the agricultural method statement with being in the outline plan was a construction issue and not something that was over the entirety of the scheme. But

02:36:26:05 - 02:36:56:02

elements of where it's decommissioning and replacement of solar panels has also been included within the operational environmental management plans as well. So we've got that sort of covered as

well as tree protection, ground protection and sort of yeah basically what's needed within the AMS. So we I'm happy we're happy that it's covered within the outline camp within schedule thirteen rather than as a standalone document.

02:36:56:04 - 02:37:15:06

Okay. Thank you. Alright. So it is now four thirty six. We've obviously got to go through protective provisions. extremely It's important matter. We have some other matters which we deferred from last week, which was about the mitigation route map. So we do need to revisit that. And then we're at review of actions. We have the ability

02:37:17:05 - 02:38:00:00

to come back tomorrow and I don't want to transfer to do that necessarily with National Gas because they've been waiting to be heard at this hearing. And National Highways if they wish to come back and comment on anything in light of the earlier conversation at CA hearing. It is possible we could conclude this hearing today if we sat as we have done with a number of other hearings until beyond six o'clock And I'd like to get a feeling in the room for that whether we come back, have a ten minute break, come back after the break, hear from National Gas and National Highways, let those parties then be able to take their leave and then park everything until tomorrow or do we want to press on?

02:38:00:29 - 02:38:25:16

Claire Bodge of the applicant obviously happy to hear from Wiltshire Council and and stop them down from the applicant's position. We're happy to stay later to get the agenda completed today as we have done for the previous days if that's an option rather than coming back tomorrow. But obviously I'm happy to go with the preference of Wiltshire Council and Stop Lime Dam. Isabel Bueno, Wiltshire Council,

02:38:25:18 - 02:38:27:11

that would be our preference to Okay. you.

02:38:27:13 - 02:38:40:24

you. And stop lying down. I'm getting the nod. Right. We do need a comfort break. Let's break until ten to five, and then we'll come back and we'll plough on with the rest coming specifically when we come back

02:38:42:13 - 02:38:43:14

to National Gas.