



Planning Inspectorate  
Arolygiaeth Gynllunio

## Hearing Transcript

<b>Project:</b>	Morgan and Morecambe Offshore Wind Farms Transmission Assets
<b>Hearing:</b>	Issue Specific Hearing 3 (ISH3) – Part 2
<b>Date:</b>	31 July 2025

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FULL TRANSCRIPT (with timecode)

00:00:07:15 - 00:00:08:28

Okay. Thank you everybody.

00:00:11:03 - 00:00:26:17

So we return to the articles and we are up to just out with six, haven't we. The benefit of the order. So we are up to seven. Application and modification of legislative provisions.

00:00:30:18 - 00:00:58:00

Sorry we're not the benefit of the order have we? Let's go back to benefit of the order. We've done development, consent etc. granted by the order and power. Sorry, power to maintain the authorized project. That's where we were, isn't it? Um, so in terms of article six, first of all, there have been quite a few amendments to this article. Would you just like to briefly explain the changes that have been made in the latest deadline three iteration?

00:00:58:21 - 00:01:34:28

Laura Fuller, on behalf of the applicants. Yes. We made changes at deadline three in response to the examining authority's written questions that we've already referred to about. The changes are intended to provide further clarity about how this, um, article will work for the each undertaker. So we've separated it the drafting out. So it refers specifically to Morgan or specifically to Morecambe or relevant Undertaker just to try and provide some additional clarity, recognizing this is quite a complex article.

00:01:35:09 - 00:01:42:10

Um, when there's a single undertaker and a DCO. So it was just to try and provide aid, aid, interpretation and provide clarity there.

00:01:44:03 - 00:01:44:18

Okay.

00:01:46:17 - 00:02:23:10

Thank you. That is understood. There is an outstanding objection to the wording still from the m m o who consider that it should, uh, does not consider it should apply to any marine licence, including the powers to granted DML. Obviously the MMO are not here today, and there's a lot of written material before us on this matter, and as such, I don't propose to ask any questions on it, because I think we've got the information before us in order to proceed or not to proceed.

00:02:23:12 - 00:02:33:17

But, you know, I think it's down to us to sort of make a decision on that. And unless there's anything briefly you want to update on or any further discussions you've had with the MMO.

00:02:34:01 - 00:02:50:03

Laura Fuller, on behalf of the applicants. Um, no. I just want to clarify that our understanding is that the MMO will maintain their position, we will maintain our position, and ultimately it will be a matter for recommendation and the Secretary of State to decide upon us, as has been done on recent years.

00:02:51:05 - 00:03:04:14

Okay. And if necessary, we can ask the MMO questions. Uh, in the next round of written questions as they're not here today. So I propose we move on from article six, unless there's anything else anybody wishes to raise.

00:03:06:24 - 00:03:12:05

Okay, so article seven, application of modification of legislative provisions.

00:03:13:20 - 00:03:44:15

This is really just to get an update. Obviously things are moving along. This is particularly in relation to the Environment Agency and the dis application of APS. Uh, and also I think Lancashire County Council are considering whether or not to consent to the dis application of section 23 of the Land Drainage Act, but I think it's seeking an amendment to the protective provisions. Is that correct? Uh, negotiations are continuing on this.

00:03:44:24 - 00:03:53:03

Is there any further update you'd like to make before any of the parties would like to? I don't want to go into detail on these matters because obviously negotiations are continuing. But just to provide an update, please.

00:03:53:12 - 00:04:25:06

Uh, Laura Fuller, on behalf of the applicants. So we have had confirmation from the Environment Agency this morning that they are satisfied with the application of subject to us agreeing those protective provisions. Um, and we've we've had comments back from the Environment Agency just very recently on the latest draft with protective provisions, and we don't seem to be too far apart. There's no sort of substantive issues. There are a few drafting points we need to work through with them, but I would say we were well on track to get those.

00:04:25:08 - 00:04:56:24

Agreed. Um, and possibly even we'll try and aim for deadline five if we can on those. Um, and then once that's done, the Environment Agency would then be able to confirm themselves the consent to those application provisions. We are, as you've already noted, still in discussions with the, um, lead local flood authority in the same way. Um, we have had, uh, meetings and, um, uh, the Protect provisions drafting has gone back and forth and we're still working through that with the Alpha.

00:04:56:26 - 00:05:18:03

But again, um, we should hopefully be able to reach an agreement. Um, if, if at all possible, we're aiming for deadline five, but obviously that is subject to to going back and forth and agreeing those points. But we are in a, in, I would say in a fairly good place. There aren't many points outstanding. Uh, I think probably a maximum of about three on those, uh, protective provisions.

00:05:18:11 - 00:05:39:14

Okay. I would encourage strongly encouraged deadline five because that is otherwise we're getting quite close to the end of the examination should anything need to be, uh, asked about in those in those respects do. Uh, does the environmental agency or Lancashire County Council want to comment on on that?

00:05:42:28 - 00:05:59:16

Yes, sir. Yes. On behalf of the Environment Agency. Um, just to say that I agree with Miss Fuller's summary as to our position regarding this application of the wraps and agreement of the wording of the protective provisions. Thank you.

00:06:00:15 - 00:06:04:18

Okay. Thank you. And is that, uh, Mr. Schakowsky? Lancashire.

00:06:04:28 - 00:06:13:24

Yeah. Andrew. Andrew Schakowsky, Lancashire county council. I've had no further update directly from the for myself, but I believe that's an accurate, um, position as this will set out.

00:06:15:12 - 00:06:16:29

Okay. Thank you.

00:06:19:10 - 00:06:28:26

In that case, I think we can move on to article eight, which is defence to proceedings in respect to statutory nuisance. The.

00:06:32:17 - 00:06:42:20

Only point I wanted to raise at this time on this. I think Blackpool Borough Council have an outstanding, uh objection in relation to this in terms of.

00:06:44:23 - 00:06:55:16

Potential impacts of construction vehicles on residential areas in relation to Squires Gate Lane and Blackpool Paul Airport. Is this matter still? Disagreed or has agreement been reached?

00:06:55:18 - 00:07:08:01

Thank you, Sir Isaac Nicholson for Blackpool Borough Council. We understand that Squires Gate Lane is subject to the change request which will be coming in, so we will reserve our position subject to reviewing that once it arrives. Thank you.

00:07:09:05 - 00:07:44:11

Sir. Liz Dunn, on behalf of the applicants, can I just give a bit of an overview, perhaps, as to how this, um, operates? We can we can certainly. And there is a lot of detail in the, um, in the explanatory memorandum. I think it's just possibly to inform Blackpool Borough Council's review of this, um, under the Planning Act, under section 158. There is a statutory defect. There is a defence to statutory nuisance, uh, for the purposes of nationally significant infrastructure projects, so that defence is built into the Planning Act.

00:07:44:13 - 00:08:22:08

Uh, these projects are considered to be of national significance Accounts, and therefore under section 158 there is um. There is effectively what it says is this subsection confers statutory authority for the carrying out of anything else and effectively its defence in civil or criminal proceedings for nuisance. So that's effectively the starting position is that there is a statutory authority. Obviously the the applicants have worked hard through the through the application, through mitigation and other matters to ensure that those that the impacts of the scheme are suitably mitigated and managed.

00:08:22:12 - 00:08:57:26

But in the event, in the very unlikely event, there was a claim on statutory nuisance. There is a defence under section 158, in the Planning Act. Um, what article eight does is it effectively addresses a very, very narrow gap, um, where the defence under uh or the, the, the position under one five, eight uh is, is uh, the gap in respect of the Environmental Protection Act. So it is effectively a very, very small part of a possible claim for statutory nuisance that might be brought that is not covered by the provision under section 158.

00:08:58:14 - 00:09:43:13

And the applicants are put in the, uh, the, uh, such a nuisance statement. They've explained that actually they don't think any of these provisions will be triggered in any event, because of the way that the development is being carried out and by the mitigations that are in place. So I think when Blackpool Council will review its position on this, I just asked them to review it in the context of those statutory provisions, of the mitigations that are in place in respect of the project. Um, because, uh, it certainly the applicant's position that, uh, the position that I set out in this application is no different to, uh, to other applications in terms of that statutory authority and also the provisions, uh, that are set out in article eight.

00:09:43:15 - 00:09:46:06

So I just ask you to review it in that context.

00:09:46:26 - 00:09:48:04

Okay. Thank you.

00:09:49:16 - 00:09:56:20

Isaac Nicholson for Blackpool Borough Council. Thank you very much to Nizam for that explanation. We'll take that away and come back to you on at deadline four.

00:10:01:08 - 00:10:05:01

Okay. Thank you. Any further comments on article eight?

00:10:10:02 - 00:10:12:01

Okay. Let's move to.

00:10:18:28 - 00:10:50:28

The part three of the articles titled streets. And the first question that I have in this respect is in relation to, um, power article ten, which is power to alter layout, etc. of streets. Again, I asked a question on this. Uh x q2 one nine. So as I understand it, I think it's agreed. Is it this power to alter layout, etc.

00:10:51:00 - 00:11:22:27

streets applies not just to land within the order limits, but it applies to land also outside of the order limits. Presumably that could be anywhere outside of the order limits, I'm assuming, which doesn't need obviously particular justification, which I think you have provided in the response to your question or sought to provide. Obviously, we've got to decide if we agree to that or not, because this is not something that's included in all orders. So it needs to be specifically sort of argued for in terms of this order in some orders.

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

The power is just restricted to layout of any street within the order limits. Can you actually, from a legal perspective, can you actually have something which relates to effectively, presumably

00:11:36:21 - 00:11:50:19

streets across the whole country? Effectively? I know it wouldn't come down to that, but effectively, and it's obviously subject to the construction traffic management plan, but it is not within the order limits. How does that work? Does that work legally? Can you. Can you do that.

00:11:51:18 - 00:12:28:21

Lawfully on behalf of the applicant? So obviously this relates to streets. So it would be works within the highways. And there are obviously other statutes that would cover that ordinarily. Um, this is seeking to bring a provision into the draft DCO. Um, as you've mentioned, it has been done on on other projects, most recently at Highlight Grampian two. DCO has this, uh, provision in it. Um, also just highlight that the wording itself makes it clear that you can only use these powers, um, insofar as they may be expedient or necessary for the purposes of or in connection with constructing, operating and maintaining the authorised project.

00:12:28:23 - 00:13:01:11

So it's, you know, it would only be streets that you're actually the. Well, particularly for example, we discussed I think it's yesterday wasn't it. Traffic and transport, the routes that are identified. Um it's particularly in mind of that, with those accommodations that may be needed along the routes to to manage HDTVs. And I think we set that out in our, um, response to written questions as the purpose of it. So we do feel that it can be included in the development consent order, um, and that it is also necessary for this project.

00:13:01:24 - 00:13:39:24

And in terms of the in terms of the routing of vehicles, that's already been presumably considered, it has been considered to a to a degree. Why can't possible street works be identified prior to this stage in order that, uh, any works that are required can be included within the order limits? Because I've seen sometimes you have order limits. We have a section of the order limits outside of the the main part of the order limits, which cover with some highway improvements. And why why I should mention this because it's probably the most recent DCO, I think, on there a similar project.

00:13:40:17 - 00:13:48:19

Obviously, I don't think this was included in Mona. So what's the difference between Mona and the most recent one where the Secretary of State didn't include this and this project? What's what's the difference?

00:14:07:17 - 00:14:14:17

Phil Williamson, on behalf of the applicants. Sorry. Would you mind just reminding me the first question because I started concentrating on the second question.

00:14:15:27 - 00:14:31:12

Uh, I might have to rhyme myself with the first question as well. Um, the second question was in relation to why is it. Yeah. Why was it required for this scheme? Uh, but not in Mona and in some other way ones. And what was my first question?

00:14:34:12 - 00:14:35:24

Answered. I think I think, I.

00:14:35:26 - 00:15:11:10

Think, I think I recall what it was now. It is. It is related to the. I believe it was in relation in terms of why we didn't identify potential. Yes, that was it. Yes. Street works at that early stage. Um, so, um, in terms of the the root design of the project, we did not believe there was necessarily a requirement to identify those. Um, at that point in the design, um, the routes we believe were appropriate in order to, to manage. However, this provision is included for the simple engagement that we've been having with Lancashire in terms of managing, um, what they believe is required as part of the discharge of requirements.

00:15:11:12 - 00:15:56:16

In other words, the sort of detailed design stage which we we typically view as the detailed design stage. So those discussions are ongoing with Lancashire and as was identified with by the highway manager, they might believe that this might be required. Um, so that's why it's it's part of the ongoing discussions with the Highway Authority and therefore why it's applicable to include these powers Here in relation to why these weren't included in in Moana, we we did through very early engagement with the um, through the council, propose some of those early street works which we recognized, uh, we might need, um, and therefore we pulled those back slightly, um, as we refined that discussion with the Highway Authority.

00:15:57:03 - 00:16:00:28

Um, I would defer to legal colleagues on the wordings.

00:16:02:22 - 00:16:39:29

Uh, lays down on behalf of the applicants. Mr. Rawlinson is correct. Through the, uh, examination of the Moana, uh, application, there were very detailed discussions with the Highways Authority in respect of the way that those matters would be resolved and agreements in place in respect of how those would be done that differ from the discussions that are taking place here. And then the so the drafting, the final drafting in the DCO reflected the agreements that had been reached with the Highways Authority in terms of the way those works would be done and and any other approvals that would be needed.

00:16:40:01 - 00:16:50:23

And we're in a different situation here. Different highways authorities take different different views, and this is just reflective of the position that we're in where we are with Lancashire County Council at the moment.

00:16:52:16 - 00:17:27:15

Laura Fuller, on behalf of the audience. Can I just add that the drafting itself, you'll probably note, does include the provision for consent by Lancashire Lancashire County Council before we can undertake any works under any of those sort of accommodation works under this article. And also just to highlight, we have sought to be proportionate and measured in terms of putting this drafting in, because you'll have seen on the ramp here to DCO, for example, it includes a deemed consent mechanism and we have chosen not to put that in on the basis that we would, you know, we will be seeking consent and agreement with Lancashire County Council for these works.

00:17:29:18 - 00:17:32:11

Okay. Thank you. Doctor Morgan, do you want to ask a question?

00:17:32:13 - 00:18:05:13

Yeah, it was just a question when we discussed a similar issue yesterday on abnormal, indivisible loads. I think Lancashire was of the opinion basically that, um, that'll be handled by a section 278 agreement. I think I think you were in agreement at that time with that, that approach, a similar sort of issue, alterations to highway furniture. And I think, um, obviously Mr. Stevens isn't here today, but I think his opinion was that might be a section two, seven, eight, which obviously could apply to these works as well.

00:18:06:25 - 00:18:21:23

Phil Williamson, on behalf of the applicants, um, just, um, a point of clarity. I don't believe we were discussing abnormal, indivisible loads yesterday. Those are dealt with in a separate way to the movements of heavy goods vehicles. Um, in terms of.

00:18:21:29 - 00:18:45:07

Sections. Stop you there. We were actually discussing items yesterday. Uh, that was a specific question I asked. Um, and how the, you know, the modifications to infrastructure would be dealt with, and particularly removal of street furniture, which was indicated was necessary in the actual reports. So it was definitely that issue.

00:18:46:15 - 00:19:17:13

Apologies, Phil Williams on behalf. Apologies for misremembering. Um, in terms of the situation between us, the applicants and Lancashire County Council as highway authority, and we're not necessarily agreed as the section 278 as the appropriate method at this time. Um, obviously the DCO does have the option to to propose a method. Um, we're in those discussions with, with Lancashire. We're not at a point where we're okay to agree to a section 278, but we do recognise that that is a, uh, a method that can be explored post consent.

00:19:19:17 - 00:19:20:14



Okay. Thank you.

00:19:22:07 - 00:19:34:16

Thank you. Does either Lancashire County Council or, uh, Blackpool Council as the highway authorities have any views on this article? Yes. Lancashire County Council.

00:19:35:03 - 00:19:49:14

I have not spoken to Mr. Stephens since he was at the session yesterday, but as far as I know, what you've been, you've just heard is the case. Um, but obviously we can provide any further update in our submission next week.

00:19:50:25 - 00:19:53:24

Okay. Thank you. And Blackpool.

00:19:53:26 - 00:20:01:15

Isaac Nicholson, on behalf of Blackpool Borough Council. Um, our transport consultant is unable to be with us today, so we'll have to reserve our position for Liverpool.

00:20:01:28 - 00:20:32:19

Okay. Thank you. Again, just a reminder for everybody. If you could just, uh, make sure you speak, uh, reasonably loudly into the microphones, but keep quite close to the microphones, please. Uh, it's probably me as well. Uh, okay. So nothing else, then on article ten. So if we move on to article 12. If you do have a comment on an intervening article, then just put your hand up.

00:20:32:25 - 00:20:38:12

Uh. Article 12 is temporary closures of public rights of way.

00:20:41:14 - 00:20:49:19

And this is linked to schedules five A and five B, which lists public rights of way to be temporarily closed or restricted.

00:20:51:13 - 00:21:02:07

And my first question is just turn to the relevant schedule. So in the schedules five A and five B, it lists the

00:21:03:24 - 00:21:08:00

relevant public rights of way to be temporarily closed or.

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

Or.

00:21:08:29 - 00:21:36:26

Restricted. It's got the obviously the area and the actual public right of way to be temporarily closed or restricted, and the extent of the temporary closure or restriction. Just so I can sort of clear this point up, the actual article relates to closure alteration or close, alter or divert each of the public rights of

way. But then the actual schedule relates to closure or restriction, which doesn't seem to quite match up.

00:21:38:14 - 00:21:45:05

But there might be it might be a reason for that. I don't know if you could just, uh, respond to that, please.

00:21:45:18 - 00:22:02:09

Uh, Laura, for the on behalf of the applicants, um, I think it's probably just a drafting issue that we need to look at and take away. Um, because they can align. Um, so I can look at the drafting that's used and make that clearer.

00:22:03:02 - 00:22:07:08

I was going to ask, what is the difference between being temporary, closed or restricted?

00:22:08:10 - 00:22:24:09

Laura. For the applicants, restricted is is kind of just was is a shorthand way, potentially a shorthand way. One word for basically talking about alter, manage or divert instead of listing out all three. But if it's clearer, we can always just amend that to the wording that's used in the article.

00:22:25:12 - 00:22:56:18

Okay. Well, yeah. Would be helpful to get clarification on the drafting does need to be updated. And in terms of the fact that it's, uh, schedule five obviously leaves it open as to whether or not they can be temporarily closed or restricted. And there might be there's no actual. And there's the diversion we talked about yesterday by the substation, and that's a temporary diversion, as was explained yesterday in a bit of detail in relation to the construction works. Is is that the only diversion?

00:22:59:05 - 00:23:12:16

Laura Fuller on behalf of the applicants. Yes. That's the only diversion. Right. The other, um, public rights of way are sort of managed where they would need to be crossed, for example, by the the cable route.

00:23:12:24 - 00:23:13:12

Okay.

00:23:15:04 - 00:23:33:15

And does there need to be any further clarification as to which which public rights away are either closed or restricted rather than just leaving it to the. The option. The option between the two as it currently stands under this article. I know there's the public right away management plan, etc. which you might want to talk about in this respect.

00:23:33:26 - 00:23:46:27

Yeah. Laura Martin, on behalf of both the applicants. You are correct, sir. This is all outlined in table 1.2 of the outline Public Rights of Way Management Plan in terms of the, um, indicative management measures.

00:23:52:07 - 00:23:58:23

Okay. Thank you. Any comments from the councils or anybody on this article?

00:24:09:25 - 00:24:35:14

Just one final point for a minute. Then obviously a lot of the detail will come within the detail public right away. Management plans which will build upon the the outline will be based upon the outline. Obviously if there's anything in those that the councils are unhappy about for whatever or anybody else isn't happy about, then obviously provide details of that soon into the examination so those can be taken into consideration the mechanism, how how it works, etc..

00:24:56:07 - 00:25:06:14

Apologies. We can move then on to article 13 which is temporary restriction on use of streets.

00:25:10:29 - 00:25:31:15

We've not got National highways here today. They sought an amendment to require that prior to their prior consent is needed, which the applicants considered is not necessary. Obviously, they're not here to, uh, to talk about it or to justify the position. Uh, is there any update on that from the applicant's point of view? Has there been any agreement, uh, with National Highways in that respect?

00:25:33:18 - 00:26:07:27

Laura Fuller, on behalf of the applicants. Um, I understand that National Highways are satisfied with our response in relation to article 13. Um, there are a couple of drafting, um, amendments to two articles that we are looking at still with them. Um, but we have a meeting scheduled for next week to agree our position on the the drafting points that remain outstanding with National Highways. Um, so I hope to be able to resolve those ideally ahead of deadline for.

00:26:08:10 - 00:26:24:10

Okay, because I think they also have concerns, don't they, about article 15 and article 17 authority to survey investigate the land, which I'm assuming will be wrapped up into those discussions and I think obviously will await an update from that.

00:26:25:15 - 00:26:40:29

Phil Williamson, on behalf of the applicants in this, in that same meeting, I believe we'll be discussing those we more or less agreed on how it will be resolved. Um, and that will be reflected in an updated statement of common Ground submitted a deadline for. Okay.

00:26:41:17 - 00:26:48:18

Thank you. Any more questions from anybody or or comments rather on the

00:26:50:06 - 00:26:55:15

highways articles, street articles 9 to 15 that anybody wants to raise today?

00:26:57:17 - 00:26:59:20

No. Okay.

00:27:02:11 - 00:27:30:23

So we can move on or I wish to move on unless anybody has any comments on intervening articles 219 which is the removal of human remains. This is one where I think the Secretary state is tending to delete mostly from recent CEOs, uh, including, uh, the most recent Mona CEO. Um.

00:27:32:28 - 00:27:39:28

Could you just explain why, in this case, it still required for the proposed development?

00:27:42:05 - 00:28:16:16

Laura Fuller, on behalf of the applicants. Um, so. Yes, sir, I acknowledge that, um, it has been removed from recent CEOs. Um, it's still our position that this remains appropriate to include for this dco. Um, we've been considering this article and the interaction with the outline, um, written scheme of investigation. Um, and I think within the outline written scheme and investigation, it does set out that the, um, processes, they deal with two separate processes. So the outline of the scheme of investigation is for um remains.

00:28:16:23 - 00:28:48:10

Uh, there are more than 100 years old, and the human remains article is intended to deal with remains that are less than 100 years old. Um, examples. Although very rare of where this can arise. Is it to deal with that? Um, the situation where, for example, you could find a murder victims, uh, skeleton and on the route it is very rare, but there are examples of it happening. We have members of the project teams that have had this happen during developments that they have worked on.

00:28:48:25 - 00:29:17:23

So it is there, um, to cover those, those unknowns. Um, and I acknowledge, I think having looked at the drafting, um, in light of recent conversations, that I think we probably need to look at the drafting of article 19 and perhaps make it clearer how it is supposed to the process and when it's supposed to apply, um, and how that interacts with the outline written scheme of investigation. Um, because I acknowledge I think there are some elements of the drafting in there that that aren't clear in that regard.

00:29:19:02 - 00:29:44:21

Yes, I think the probably is and probably don't need to go into the detail of those today if you can have a look at that separately. So the the outline of the scheme investigation is for any human remains over 100 years old. Uh, for example, anything in relation to, I suppose, Quakers wood burial ground, for example, if that would be affected only saying it's not going to be affected. But um, but for example.

00:29:47:00 - 00:30:08:11

On Mona though didn't Mona. I've got, I've got the uh I'm sure you've got it to the Secretary state's decision what they said on this. And unfortunately I can't get my hands on it. Um. Didn't they? Didn't the Secretary of State say that anything that is less than 100 years old to watch this article relates, should just be dealt with the normal procedures, not through the article. Wasn't there wording to that extent? I can't find it.

00:30:08:13 - 00:30:08:28

You've done.

00:30:09:13 - 00:30:10:01

You've got it in front.

00:30:10:03 - 00:30:22:07

Of you was quite involved. Um. uh, so I there was questioning from the examining authority. I think the removal of the article was that the recommendation of the examining authority, it wasn't a it wasn't a secretary of state.

00:30:22:14 - 00:30:24:15

I thought it was the other way around. But you I.

00:30:25:12 - 00:30:25:27

I'll.

00:30:25:29 - 00:30:26:14

Check. It's gone.

00:30:26:16 - 00:30:45:04

Anyway, I remember it being a subject of discussion and, um, I think I think the applicant's position was, um, whilst there wasn't any evidence that it might be needed when you're going through agricultural land, um, and, uh,

00:30:46:21 - 00:31:17:12

these things can happen and that, that having the article in is a is a clearer and I think, more expedited process for dealing with human remains than is, than is required if you're dealing with the statutory process. So I think that's the reason for it being included. Um, I think the applicant's position on Mona was that it might be needed and it would be helpful, but it wasn't essential effectively. And, uh, I will check. And I'm sure you're checking.

00:31:17:14 - 00:31:38:03

My recollection is that it was the examining authority who sought to remove it. There wasn't a, um, a development consent order shared by the examining authority in the moment, in the Moana examination. So it wasn't something that, uh, there were particular representations made on. And I think the Secretary of State just followed the recommendation. I will check that.

00:31:38:05 - 00:31:44:27

I've got it now, but we could probably both check separately. It was quite interesting wording, I felt, from the Secretary of State, actually, to some of the.

00:31:45:09 - 00:32:13:14

I think perhaps at the hearing, um, uh, we had slightly said, well, it's kind of for the Secretary of State to decide, um, in terms of there isn't a strong justification here, but it could be a useful article, I think is where we we ended up on Mona. Uh, and I think the, the, the Secretary of state's letter pulls the wording from the examining authority's report in the sense that they didn't consider in that case, it was specifically justified.

00:32:13:17 - 00:32:49:20

It should be obvious that this provision is only intended to deal with known and identified human was the last statement in the section of state was the second state will, for obvious reasons, want modern human remains that are not contained in public records or otherwise readily identifiable to be dealt with by the proper authorities, rather than being simply removed and reburied. So that statement, if you could not now but have a look at that statement in respect of the need for this article or any changes to this article. I think that's probably as far as we need to take it for today, because it takes a bit of getting the head around, actually, what is going on with whether or not it should be included or not in my opinion.

00:32:50:00 - 00:32:51:10

Any comments, Mr. Walker?

00:32:52:11 - 00:32:52:26

Yes.

00:32:52:28 - 00:33:23:21

Angus Walker for the parish councils. I understood that the rationale as to whether to include this article or not was whether there was any evidence for the particular project of any human remains, and if there wasn't, then not to have it, and if there was, then to have it. I mean, I acted for National. I was on the A63 Castle Street Improvement in Hull, which definitely did go through a disused burial ground. And so it was included. And I think because this one goes through the Quakers Wood burial ground, that perhaps it should be included.

00:33:24:07 - 00:33:27:11

Although this wouldn't apply to remains over a hundred years.

00:33:28:11 - 00:33:29:29

And it doesn't go through Quakers wood.

00:33:30:01 - 00:33:30:17

Sorry. No.

00:33:30:25 - 00:33:31:25

Near. Near.

00:33:32:01 - 00:33:40:16

I was using that as a. Yeah, maybe I shouldn't use that as an example. Okay, well, if when deadline for.

00:33:41:16 - 00:34:02:10

Uh, lets down on behalf of the applicants, we'll review the position. We may not. If there's complex redrafting to be done, it might not be, but I think we'll be if we can for deadline for clarify whether we feel it's helpful to retain it. Um, and on what basis, then at least we'll know that there's further drafting coming. Perhaps for deadline five.

00:34:03:06 - 00:34:06:09

Okay. Yeah. Thank you. Okay.

00:34:08:10 - 00:34:10:20

So if we move on to.

00:34:14:01 - 00:34:22:27

22. Any comments on article 20 or we move on to powers of acquisition now part five. Any comments on 20 or 21?

00:34:25:26 - 00:34:34:05

So 22 is the compulsory acquisition of rights to which we asked a question. XQ 2113.

00:34:39:14 - 00:34:41:03

Yeah I'll come back to that. Yeah.

00:34:44:19 - 00:34:49:07

Yeah I've got that to you. Sorry. Um, on 22,

00:34:51:07 - 00:35:00:01

we've asked a question at this iCSC 2113 so 22 whilst it does relate specifically in part.

00:35:05:17 - 00:35:32:21

Three. Actually parts two and three to schedules eight, which either list in which any new rights may be acquired for either either project. I think my interpretation is that I'm not sure this was picked up in the response to the question that the article still seeks to create a general power over the borderland to create or acquire rights or impose restrictions.

00:35:34:18 - 00:36:04:08

And normally, I think we need justification for why those general rights are included, if that is the. That's the first question. Is that the intention? Obviously it relates to schedules B and A and B specifically where the rights are all set out in some detail. That's unnecessary. But my reading of it, it also creates a general power to create or acquire rights. Is my understanding correct of that.

00:36:05:10 - 00:36:42:22

Lawsuit on behalf of the applicants? So it's probably worth noting that the vast majority, I think the whole of the cable corridor and the plots that are specified are all the ones that are listed in schedules eight A and eight B, um, and those are restricted to acquisition for the purposes that are set out in those schedules. The you're correct in terms of the the 22. One is a more general power. The reason it's there is to actually allow for in the event that there was a sort of downgrading of compulsory acquisition power.

00:36:42:24 - 00:37:24:09

So instead of using relying on article 20 to compulsory acquire land. So where we the only areas we actually have that specified are in relation to the substations or the mitigation areas that it does actually allow for the um, undertakers to to choose instead to seek just compulsory acquisition of rights. It's unlikely that that would happen for substation buildings, but it is, um, ordinarily included in

draft echoes to allow for that. But the rest of the, um, land is when you look at the land plans and the schedules and schedule eight, and also in schedule seven, the the plots are all restricted to either temporary possession only where that's specified in schedule seven.

00:37:24:11 - 00:37:26:11

And those ones are clear that that.

00:37:26:13 - 00:37:27:26

Could you just speak. Sorry. Can you.

00:37:28:04 - 00:37:29:10

Again apologies.

00:37:29:12 - 00:37:29:27

Thank you.

00:37:29:29 - 00:37:48:17

Schedule seven obviously specifies the temporary possession only plots. Um, and those are plots that that there are no compulsory acquisition powers sought over. And then the rest of the plots are in schedule eight. Uh, and any acquisition is restricted to specifically what is specified there.

00:37:49:04 - 00:37:55:29

So it is your intention to keep the general provision as well as those specified in seven and eight. That is the intention.

00:37:56:08 - 00:38:00:11

Laura, for the applicants. Yes, that would be the intention. Tension. Just.

00:38:00:19 - 00:38:02:09

Is that absolutely necessary?

00:38:03:29 - 00:38:24:23

It. If if it was removed, what it simply would mean was those areas that are shown as permanent acquisition of land on the the land plans, there would not be an option to downgrade those to, in effect, to use the alternative mechanism of simply acquiring rights and placing restrictions.

00:38:26:06 - 00:38:43:12

And in terms of those general rights at the moment, I think those are not really qualified. There could be anything presumably wouldn't would it not be helpful to actually indicate the types of rights that would be sought using the general provision, if the general provision was to remain in the DCO?

00:38:44:07 - 00:39:13:15

Laura Fuller on behalf of the applicant. So the general provision is linked, obviously, to the purposes for which land can be acquired under article 20, which specifies that you could only use them in relation to, Um require for the project a facilitate or is incidental to um and given the the the work's



plans, it's obviously also linked to what consent you have for those works. You wouldn't be able to exercise them for anything more than you've got consent for.

00:39:15:21 - 00:39:50:06

Okay. It might be. It would be helpful, I think, to get a clear indication of the sorts of restrictions that would be imposed using the general restriction, because it's obviously quite detailed in terms of schedule seven and eight, what is being sought there. But in terms of the general restriction, because because the advice is sort of I think as I read the advice on such articles, it throws a bit of caution on the use of a general provision in this regard. And the other question in this respect is just to be absolutely clear on have affected persons being made aware of this general power in consultations.

00:39:54:10 - 00:39:56:18

Implementation. Oh.

00:39:57:23 - 00:40:41:13

Sorry, Liz Dunn, on behalf of the applicants. We'll certainly take it away and look at it. Um, I think it's also important, um, just to stress that, um, that that right under, um, article 22 one is subject to paragraphs two and three. So, so in terms of as Miss Fuller's explained, um, it allows for the downgrading of rights where compulsory acquisition is sought. And as we know, those are very limited to the substation areas, landscaping, uh, and the, uh, biodiversity, um, uh, benefit areas insofar as uh, consent is deemed to powers are granted for those.

00:40:41:15 - 00:41:15:14

So it allows a downgrading of those rights if it's appropriate in the circumstances. But in respect of the rest of the order land and where rights are sought. Each plot, every single plot, where those rights are required is set out in the schedules and in the book of reference, and the reason for which those rights are being stored and are, and the extent of the powers that would effectively apply through the schedule. So there are cable rights packages which explain what can go in there and the restrictions that would then apply on those areas of land.

00:41:15:16 - 00:41:33:01

So I think the applicant's position is that when you piece all those bits together there, it isn't a general power. They are very limited, and they are very restricted to those matters that are set out in the schedules. If we if we need to explain that a bit further in terms of tying all those together, then we can certainly do that.

00:41:33:03 - 00:41:46:25

Thank you. I think that would be helpful, because I think you understand the point that that we're making some orders. The general power has been taken out, and there's a few quite well publicised orders where that's been been done. And it's covered in the

00:41:48:12 - 00:41:59:12

and the pins advice notes in this respect as well. So I think yeah something tying up everything in that would be useful. Please. At, uh. Deadline.

00:42:02:07 - 00:42:09:19

Deadline four or deadline five? I don't mind. Which are the two deadline for actually could. Because then. Then we could come back on questions if necessary.

00:42:18:22 - 00:42:25:28

Lays down on behalf of the applicants. Um, we will try and do it for deadline four, but it may be deadline five.

00:42:27:04 - 00:42:28:12

Okay. Thank you.

00:42:38:21 - 00:42:41:26

Okay. Any comments from anybody on

00:42:43:14 - 00:42:45:12

22? Mr. Walker?

00:42:45:28 - 00:43:31:21

Thank you, Angus Walker, for the parish councils. I just had a question about article 22. And this also applies to article 29. In the book of reference, there are some parcels where both Morgan and Morcom have rights of air to acquire rights in the same parcel, and also to temporarily possess the same parcel. What happens if they fall out and are trying to do conflicting things at the same time? Um, it's it's been an issue in previous dsos where separate dsos have, um, given rights over the same land, but they're obviously the latest DCO to be granted would have the last laugh because their powers would last the longest.

00:43:31:23 - 00:43:47:16

Whereas here they're going to get them at the same time and they'll last for the same length of time. So I'm not sure how that will be resolved. Incidentally, I've thought of and I had to remember which of A and B is more and more Morgan more. Morcom has a B in it. And that's how you remember it's B.

00:43:48:23 - 00:43:49:16

Thank you.

00:43:53:00 - 00:43:56:19

The applicants like to respond to Mr. Walker's point. Please.

00:44:00:21 - 00:44:53:19

Note on behalf of the applicants. Um, we acknowledge, um, Mr. Walker's comments and obviously recognize and we've talked at length previously about the need for coordination and collaboration post consent. Um, and obviously, we've acknowledged that in respect of the requirements and the drafting there. Um, I think we've also previously mentioned that there are, um, there's an agreement, commercial agreement between the parties to deal with these matters. We've also included drafting, um, within the private rights article, which um, provides a clarification around how, uh, to basically prevent one project overriding the other projects rights so that there wouldn't be a situation where one project could prevent the other project from, from exercising the rights it needs to consider.

00:44:54:02 - 00:45:41:05

There's also it's worth highlighting that as the cable corridor is split almost entirely along its length, those are most of the compulsory acquisition powers are split obviously, between the projects. So, um, Morgan has its ability to compulsory acquire rights in the Morgan side of the corridor and Morecambe on the Morecambe side of the corridor. Um, Mr. Walker referred to the fact that there are some plots where there are temporary possession powers, and there are some plots along the route where there are temporary possession powers for one project, in the other projects corridor, that is solely where access is required to cross the other um undertakers corridor.

00:45:46:13 - 00:45:48:05

Gotta go. Come on. Take.

00:45:52:19 - 00:45:54:14

It like this.

00:46:01:11 - 00:46:13:27

Does it create any issues in the areas? Where does the center line approach being adopted? Where that line might move? Obviously either side is not fixed

00:46:15:24 - 00:46:17:07

in terms of the cable route.

00:46:33:00 - 00:47:05:02

Lawfully on behalf of the applicant. I think I just explained that the center line approach. It doesn't cause a problem here because each project has clearly has powers in its own corridors. Um, acknowledging that there are some element times locations where the projects need to cross. And that is why we've allowed for temporary possession powers, but also why there have been some some bespoke drafting included in the private rights article to ensure that that that these provisions work and that the projects can both be brought forward.

00:47:07:24 - 00:47:11:25

Okay. Thank you. We'll give consideration to that. Any further comments?

00:47:13:25 - 00:47:46:23

Thank you. So we move to 29 and 30. Any comments on the Inter intervening articles before we get to 29 and 30? 29 is temporary use of land for carrying out the authorised project, and 30 is temporary use for maintaining the authorized project. Again, there's been some amendments to these I think at deadline three related to the points we discussed Earlier in terms of clarification between the two.

00:47:46:27 - 00:48:07:17

The two projects, both both 29 and 30, contain general powers to allow temporary possession within the order limits and again, in terms of consultation. Have the landowners been previously alerted to this possibility in, in in consultation and in engagement? And is there evidence of this.

00:48:11:17 - 00:48:19:12

We provide this at deadline for review if you wish. Again it might be sort of might be useful to wrap this up into the to the note you're doing in terms of what we've just been talking about.

00:48:20:06 - 00:48:45:22

Laura Fuller, on behalf of the applicants. Also, I think we'll have people that can give updates at this requisition hearing tomorrow from from the land team so we can update there. My understanding is that, yes, uh, it has been explained to landowners that these powers exist in the DCO, um, and that in the event they were unable to reach agreements. Then. Then these powers could be used.

00:48:45:25 - 00:49:10:07

Okay, because I know it's in the DCO, but the DCO contains you know, I don't think that can be an expectation that landowners will have read the detail of the DCO, which I think is why, you know, that engagement and consultation has raised this possibility with them. And in terms of the period of notice for temporary possession in, uh, in 29.

00:49:12:09 - 00:49:19:16

For temporary use of the land in 29. I'm presuming it's the same in temporary use of the land for maintaining. Is it 28 days in both?

00:49:22:03 - 00:49:28:01

Laura. For another half of the applicants? Yes. Um, just without double checking myself, I believe it is 28 days in both.

00:49:28:11 - 00:49:59:25

Okay. And is this appropriate in the case of this scheme? I know another scheme is 28 days and possibly less has been included in some schemes. Is this appropriate in this case where presumably agricultural landowners and farmers perhaps might need longer notice in order to properly plan their farming operations, particularly given that the landowners may be subject to the process occurring on two separate occasions. In terms of the planning ahead as to where things might go, what crops they're going to use, etc., what cattle they might be grazing, etc.. 28 days on Facebook.

00:49:59:27 - 00:50:02:09

It feels quite short notice in that respect.

00:50:03:12 - 00:50:12:16

Laura Fuller on behalf of the applicants. Just highlight that 28 days is obviously a minimum period that where possible uh, a longer.

00:50:14:11 - 00:50:15:24

Sorry. Can you just repeat that? Sorry.

00:50:16:09 - 00:50:51:18

I just wanted to start by highlighting that the 28 days is, of course, a minimum period. Um, and where it would be possible, longer notes would be given. But also, I think this is probably something that we will discuss in more detail again tomorrow. Uh, and it's also connected to the note that has already been offered up, the one with the snappy title, which I can't remember off the top of my head, what we

call that. That was one of the hearing action points coming out of yesterday and that we will expand on tomorrow. But there is obviously ongoing engagement through the ILO and a whole load of processes and communications that would be followed.

00:50:51:20 - 00:51:06:29

So it's not anticipated that any such temporary position notice would ever come out of the blue, so to speak. Um, it would be part of an ongoing process of communication and engagement. But I suggest there are others who can speak more to the detail of that tomorrow.

00:51:07:01 - 00:51:25:23

Okay. And if longer can be given more, because obviously 28 days, as you say, is the minimum, but it's still in the DCO as being a possibility. So it would still be there. So I don't know if consideration needs to be given to a longer period in this respect. Uh, but happy to consider this, uh, through your notes, etc..

00:51:26:07 - 00:51:55:02

At least on behalf of the applicant. It is just worth noting that, um, um, I'm not entirely unusually, but a draft development consent order was consulted on as part of the preliminary environmental materials that were provided. So it's not always done, it's not required. But a version of this article in terms of the provisions was certainly included, but we'll we'll discuss in more detail how it's been, how the landowners have been engaged with it.

00:51:55:27 - 00:51:56:14

Yeah.

00:51:56:19 - 00:52:02:02

Thank you. We've got a hand up on line, which is Mister Picker Vance, please.

00:52:03:26 - 00:52:04:11

Uh.

00:52:04:22 - 00:52:20:28

Yes. Yeah. Adam Picker Vance, SP values on behalf of Hornby's foundation charity. Um, could I just clarify this temporary use of land? Is this is this to maintain cable routes and substations throughout the the the life of the project?

00:52:24:14 - 00:53:00:04

Laura Fuller, on behalf of the applicant, the article we're talking about here is the temporary possession of land for construction of the authorized project. Um, and we've set out in the statement of reasons. How the intention is to in the event. Agreements were reached with landowners and were relying on the temporary possession and compulsory acquisition powers in the DCO. The intention would be to construct under the temporary possession powers, and then only take permanent acquisition of the actual cable corridors and areas required subsequently for access.

00:53:01:10 - 00:53:11:03

Yeah, okay. Yeah. I just wanted to confirm that. Um, yeah. Landowners all certainly my clients have been consulted on temporary working areas.

00:53:12:09 - 00:53:14:09

Thank you. That's that's helpful. Thank you.

00:53:18:22 - 00:53:20:02

Okay, so, Laura.

00:53:20:26 - 00:53:59:08

Can I just add we we were just going to explain that, um, obviously we've we've been listening during the examination and prior to that and recognize there are quite a lot of landowner concerns around the land, uh, the use of the land and the length of time that, that would involve. Um, and we've also looked at the recent decision on Moana and similarly on Sheringham and Dudgeon, and note that there is some additional wording that is included in there that we would intend to also include at deadline four, which will explain that the temporary procession that that an undertaker can only remain in temporary possession for as long as reasonably necessary.

00:54:00:04 - 00:54:00:22

I see.

00:54:01:08 - 00:54:05:24

Thank you. And that will be provided at deadline for. Okay.

00:54:06:02 - 00:54:08:02

Yes. That will go in at deadline for.

00:54:08:12 - 00:54:18:12

And in article 30. Article 3012. This is the maintenance period. Uh,

00:54:20:08 - 00:54:30:23

maintenance period means this is the definition of the maintenance period, isn't it? In article 3012 means the period during which the authorized project exports electricity to the network. Uh, in.

00:54:35:22 - 00:54:48:00

I think I'm ramping too. This was amended by the Secretary of State ten years for landscaping. Otherwise five years on. On Mona, I think it was changed to five years. Should that be the case here, too?

00:54:49:19 - 00:55:08:00

Laura Fuller, on behalf of the applicants. Um, yes. We have been reviewing this ourselves in light of particularly light of the recent Mona decision and have looked at other precedents and will be, uh, are prepared to amend that to five years to reflect the drafting as it is in Mona so that maintenance period will specify five years.

00:55:09:12 - 00:55:10:18

Okay. Thank you.

00:55:14:07 - 00:55:20:18

Moving on to article 33, which is funding.

00:55:24:25 - 00:55:31:16

And this is the one I think the representative from Savic might want to.

00:55:33:18 - 00:55:36:01

talk about this. Uh.

00:55:40:09 - 00:55:42:02

Obviously you've got from Suffolk.

00:55:42:14 - 00:55:54:02

Thank you. Uh, you've got concerns about compensation and consequences of extinguishing rights. And I think you outlined your concerns at deadline three.

00:55:56:11 - 00:56:02:20

Has there been any movement from deadline three? And if not, could you just briefly set out your concerns?

00:56:03:25 - 00:56:36:13

Okay. So, um, as you be aware, sir, the article provides the Secretary of State must approve a guarantee of security and the amount of that security before the powers are used by the undertaker and the applicants confirmed in its response to our written representation. And that's correct. 2-031. That process is designed to allow the Secretary of State to assess the adequacy of the security based on financial information provided by the applicants.

00:56:37:14 - 00:57:13:17

So article 33, in its current form, doesn't provide what information must be supplied to the Secretary of State, and it also doesn't require the applicant to make inquiries of landowners as to the knock on effect of acquisition of rights. I think subjects rights within the order limits are perhaps slightly unusual compared to some of the other, um, uh, affected parties, just on the basis of the likely consequences and the likely level of loss that could be accrued.

00:57:14:12 - 00:57:43:02

So Savage is concerned about two main issues. One, a situation where the applicant undervalues the likely compensation due to Suffolk because it doesn't understand the compensation consequences of suspending or extinguishing its rights. And secondly, a situation arising where the applicant doesn't anticipate taking subject's rights when the amount of the security is approved, but then later requires them due to engineering difficulties.

00:57:44:25 - 00:58:06:07

Um, following a call with the applicants earlier this week. I do think that we have a way forward to address this issue, and we're going to continue to discuss them in the coming weeks. But there hasn't

been time yet to work out the detail of this. Um, I did want to briefly raise it this morning, though, just in case it's necessary for us to make, uh, further submissions, future deadlines.

00:58:08:08 - 00:58:25:04

Okay. Thank you for updating us. And is there a a timeline for when you might reach? It sounds as though you are moving in the right direction. I'm sure I'll give the applicant a chance to respond in a moment. Is there a timeline, uh, for reaching an agreement on this matter or these matters?

00:58:25:28 - 00:59:06:12

Not at present. So, um, the the discussions have obviously taken place very much in the shadow of these hearings, and therefore it hasn't really been possible. Um, once we've worked out the principle of how we think we're going to address it, then to go away and take instructions on both sides and to begin to, to put kind of concrete proposals back, uh, to each other. So, um, at the moment, at the moment, it is perhaps not as firm as we might like, but we do need some more time to, to explore, because at the moment I think we can get to where we need to be in relatively short order.

00:59:07:11 - 00:59:15:27

Okay. Thank you. Well, that sounds promising in terms of coming to a potential agreement. Miss Fuller, would you like to update from the applicant's perspective?

00:59:16:04 - 00:59:49:29

Laura Fuller, on behalf of the applicants? Um, yes. As Mr. Dagg referred to, we had a meeting on Monday to try and better understand the concerns and consider how we could address those. Um, what the applicants are proposing is that we can make amendments to subjects, protective provisions to to deal with the concerns that they have raised. Obviously, as Mr. Dacus highlighted, we're still in the early stages of agreeing how that would work, but I'm confident that we can come to come to a resolution on this with appropriate drafting.

00:59:50:05 - 01:00:09:03

Following our conversation on Monday. Uh, but that, uh, the applicant's position is that would actually sit within SABC's protective provisions. And obviously, once those are agreed that that could be explained and confirmed by the parties. Um, we'll also be working hard to try and agree that as, as quickly as possible.

01:00:09:05 - 01:00:11:19

The timetable deadline five.

01:00:11:21 - 01:00:20:17

We will do our best to aim for deadline five. I think it is. It is feasible. Um, but it does just depend on some further discussions.

01:00:20:19 - 01:00:51:03

And it's a good example of hopefully you'll come to an agreement. But if you don't come to an agreement, then it might be the case that, uh, Sabic might want to put alternative drafting in as necessary. And of course, you'd need time to consider that. And we would need time to consider that. So that all needs to be wrapped up into the time remaining in the examination. There still is time. But



we're you know, we're moving on. We're halfway through now. Okay. Okay. Thank you for those representations

01:00:52:23 - 01:00:56:15

on funding. Anything else on article 33.

01:00:58:10 - 01:00:59:29

So moving on to article.

01:01:02:18 - 01:01:08:29

35 which is the felling or lopping of trees and removal of hedgerows.

01:01:11:06 - 01:01:14:29

I think this has been has this been amended? It's been amended hasn't it, to

01:01:16:19 - 01:01:29:06

take out the bit on or near any part of the authorised project. So it's just now any tree, shrub within, overhanging or encroaching upon land within the order limits. Uh.

01:01:31:11 - 01:01:37:20

Rather than or near any part of the authorized project. So that's been noted. Uh. Thank you. Um.

01:01:40:18 - 01:01:42:08

Again, just for my clarification.

01:01:48:09 - 01:02:00:23

We discussed the preparatory works earlier on, and that hopefully will be covered. Is is the approval will still be needed for the removal of any

01:02:02:09 - 01:02:08:09

tree or shrub or cutting back of roots, etc., under this article.

01:02:11:09 - 01:02:22:07

And if not, I think it might be linked to the landscape environmental management plan. And if it is in the landscape environmental management plan, does that need to be cross-referenced in this article.

01:02:26:15 - 01:02:35:02

And I was going to ask, perhaps before you come back, I was going to ask the local authorities to if you've got any comments on this article as well.

01:02:42:27 - 01:03:03:14

Shall we say, for the Borough council. So I think we've responded in writing on this point already, but our point essentially is about notification and or approval, because we want to be aware of where this power is exercised and have some sort of decision making process so that it's not entirely a self-monitoring exercise of the power.

01:03:05:26 - 01:03:15:26

Okay. Thank you. I think that relates to my question in terms of is there such provision included either in this article or even associated? How does it actually work?

01:03:18:12 - 01:03:29:08

Or is it a case that all the trees and hedges within the order limits? The applicants can just decide which ones they want to remove, depending on, you know, the extent of the land needed and the extent of the project, etc., etc..

01:03:30:16 - 01:03:50:16

Laura Fuller on behalf of the applicants. Um, just in relation to hedgerows, I just highlight that um, there is provision, uh, if you look at paragraph three of article 35 that links the removal of hedgerows to the hedgerows that are specified in schedules 11 A and 11 B.

01:03:53:00 - 01:03:54:15

Sorry. That's paragraph.

01:03:54:26 - 01:03:55:24

Sorry for.

01:03:56:02 - 01:03:56:17

For.

01:03:59:15 - 01:04:08:18

But that but the article still creates a general power doesn't it. That other hedgerows might be able to remove removed as well. Unless you're saying that that.

01:04:11:02 - 01:04:17:24

Schedules 11 A and 11 B contain every single hedgerow that's within the order limits.

01:04:18:27 - 01:04:53:17

Laura Fuller, on behalf of the applicants. Um, all hedgerows that would be removed have been listed in schedule 11 A or 11 B. Um. The wording in paragraph one is refers to any tree or shrub, uh, obviously within or overhanging. Um. The control is through what is specified under schedule 11 A and 11 B in terms of hedgerows. And then that also connects to the um tree and hedgerow. I think it's called the tree and hedgerow plan um, which shows the locations of those hedgerows and also the extent of any removals.

01:04:55:28 - 01:05:08:10

But is there any still goes back to the point, is there any provision for the approval of the relevant local authority in this respect? It relates to to requirements six and seven as well, in terms of whether or not it would be caught within those requirements.

01:05:09:10 - 01:05:32:28

Phil Williamson, on behalf of the applicants, um, the discharge of requirements associated with each stage of of the construction. The transmission assets would essentially identify those trees. As part of that discussion with the discharging local authority. So those would be identified and discussed and obviously need to be justified in agreement with the local authority.

01:05:34:04 - 01:06:08:01

Okay. Thank you. I think the wording might need to be updated just to make reference, to make it clear that the, uh, the details are provided of trees, etcetera, to be removed so that they can be considered as part of the overall landscape works, because I'm not sure it's included at the moment. I'm not sure there's anything, even in the landscape environmental management plan which would cover that. Or I mean, sometimes in the requirements, you get something that says, and, you know, includes a list of the things that should go in the landscape environmental management plan and it specifies and trees to be removed, for example, which isn't included here.

01:06:09:01 - 01:06:10:04

Could that be looked at.

01:06:10:23 - 01:06:40:25

Lawfully on behalf of the applicant? Um, certainly. So we'll take away your your point and have a look at it. Just like to highlight the reason it's not the article. The requirement doesn't set out, uh, individual things that would be included in the included in the detailed plans is because obviously they have to record with the outline plan and the it would it would be unnecessary duplication to then list everything out in the requirement as well. When you've got a outlined plan that is a certified document. So, uh.

01:06:41:03 - 01:06:44:03

The very least it might be that the outline needs to be updated to.

01:06:44:05 - 01:06:47:05

We'll certainly take that away and look at that, sir.

01:06:49:12 - 01:07:21:08

Farnborough Council. Yes, I think we welcome a review of that because I think as it's currently drafted, our concern is that, um, article 35 sits outside of the control mechanisms, otherwise under the requirements etc.. So there is an overarching power to remove um or cut back, um, trees, for instance, that are overhanging. And our point also is that article 35 does although there's been removal of near any part of the authorized project. There is still reference to overhanging trees, so there would be trees that are outside of the order limits but overhanging um, within the order limit.

01:07:21:10 - 01:07:31:10

So our point is, is the same that um, either that needs to be dealt with through discharge of requirements, or we would like to see some sort of notification or approval mechanism.

01:07:33:13 - 01:08:09:02

If I may as well, at John Borough Council, just to very quickly make the general point that this is particularly important, um, given the, the, the long length, um, of the works through the files and the

fact that Fylde has very low tree coverage and by authority area, it's one of the lowest in the country. So trees are a much more valuable resource in that area. And we would ask you to be mindful of that. Um, alongside the requests we're making about the wording of this particular part of the DCO.

01:08:09:20 - 01:08:16:19

Okay. Thank you. That's that's noted. And I think that's something that we've noted on our site visits as well. Thank you.

01:08:18:28 - 01:08:20:03

And on to

01:08:21:21 - 01:08:54:25

article 36 trees subject to tree preservation orders. And I presume this means tree preservation orders that might not exist now, but might exist by the time the project is implemented. Just for class. Right. Isn't it just for clarification? Um, and I think, again, I think Fylde, I think Lancashire County Council. I think South Ribble have got some concerns about the wording of this article. Uh, I think you're saying it's not actually necessary. Do you want to explain your position or if that's been updated?

01:08:57:10 - 01:09:17:19

Again, I think one of my points is where are the control mechanisms in the outline landscape? Environmental management plan for if there was a tree, a tree that had a tree preservation order on it and there were to be works to it. Where are they? Uh, where where is the controlling mechanism for that, if that's necessary?

01:09:19:21 - 01:09:55:09

For the council. So I think our point firstly, in respect of practically speaking, um, our view is that there are a limited number of trees covered by TPO, so we're not sure a blanket power is necessary. That's also a cause for the point I want to make about the drafting of this and advice. Note 15 and it's good practice. Point six specifically paragraph 22.3, which deals with blanket powers, um, and the removal of TPO trees. So it says trees subject to TPO and or otherwise protected and likely to be affected should be specifically identified.

01:09:55:17 - 01:10:07:26

It is not appropriate for this power to be included on a precautionary basis. Um, so our point is that as currently drafted, article 36 doesn't align and accord with the requirements set out in advance. Note 15.

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

Okay. Thank you,

01:10:12:12 - 01:10:13:01

Miss Fuller.

01:10:15:03 - 01:10:47:16

Laura Fuller, on behalf of the applicants. Um, I know the point in relation to advice. Note 15. Um, which is guidance and I think has been cited by in the responses. But I'd also like to point out that,

um, other local authorities have agreed with the applicant's position as to why this should be retained in order to deal with any potential future tree preservation orders. Um, we've obviously set out our position, and we don't expect that to change in terms of, um, retaining this article in the DCO.

01:10:47:18 - 01:10:58:22

But what we can certainly look at, so is your point, um, relating to sufficient controls. Um, and I think, uh, someone else on this team is going to just come in on that point.

01:10:59:19 - 01:11:00:04

Okay.

01:11:00:06 - 01:11:11:27

Laura Martin, on behalf of both the applicants, we note your points. As Miss Fuller just said. Um, and we will look to submit an agricultural method statement, um, by deadline five.

01:11:17:03 - 01:11:24:03

And that will include how will that relate to the points about getting or requiring the mechanism for consent?

01:11:29:18 - 01:11:36:11

Laura Martin on behalf of both the applicants, it would be become part of the um Code of construction practice.

01:11:36:29 - 01:11:41:12

Right. And I'm presuming at some point when all the landscaping details are or

01:11:43:01 - 01:11:58:09

are submitted for approval, that there'd be some mechanism for that to include the removal of trees or hedgerows, because that's what normally you consider in a landscaping scheme. There'd be proposed landscaping, and then they'd look at the landscaping that's being removed. Uh,

01:11:59:29 - 01:12:02:25

to get the full view on the overall effect of a landscaping scheme.

01:12:08:21 - 01:12:52:26

Phil Williamson on behalf of the applicants, um, we take the point, uh, in relation to the landscape management plan. The landscape management plan does primarily focus on the onshore substation. I am conscious that it does mention about the onshore cable corridor and its essentially temporary landscaping impacts, and therefore restoration of those, um, removals. Um, I think the point that my colleague Miss Martin was raising is in terms of an overarching, um, uh, methodology for removal of trees, that that would be appropriately be controlled by the Code of construction Practice, notwithstanding the fact that the two documents, the Outline Landscape Management Plan and the Outline Code of construction practice will need to speak to each other in relation to any works relating to trees.

01:12:54:17 - 01:12:55:06

Okay.

01:12:55:14 - 01:12:58:20

Thank you. Any further comments.

01:12:59:08 - 01:13:12:15

For Borough Council? Um, so the only additional comment is if the applicant's concern is in respect of future potential. TPO is that there are other echoes which indicate that the power is in respect

01:13:14:02 - 01:13:15:08

in relation to.

01:13:17:28 - 01:13:37:10

Trees that might be protected in the future, but then specifies the schedule in relation to trees that are currently protected. So it's not a blanket power for current TPO, but it is a blanket power in relation to any that of future Tipos. So that might be a mechanism that we would agree with. We can certainly review that if that's put forward by the applicant.

01:13:38:10 - 01:13:58:25

And review a supply detail separately to the applicant about that, because things don't necessarily need to come through the examination, you know. But if in your deadline for, uh, round up comments, you could refer to which dsos those are. And obviously the uh article and or requirement requirement number.

01:13:59:13 - 01:14:34:02

Five Borough council. Yes. So we can certainly do that. I think the other point is just in relation to control mechanisms, obviously, we're quite happy to look at the extent to which it would be controlled by discharge of requirements. But the point is we'd also like to see that reflected in the draft wording of the article itself, because otherwise, although it might be subject to control mechanisms elsewhere in the DCO, one might read this and think that there was a blanket power under article 36, which is not quite right, and then it would be difficult to understand. So I think we'd welcome some update in terms of drafting as well.

01:14:34:14 - 01:14:39:08

Yeah, I understand that. Yeah. Thank you. Can that be taken on board, please?

01:14:44:02 - 01:15:05:29

Laura Foote, on behalf of the applicants. Um, yes. We'd welcome engagement from Fylde. And, um, if they can point us in the direction of the drafting they're looking for, we can obviously consider that, um, and take that away. Um, I imagine that may not be in time for deadline for given. There will be some engagement required, so I suspect any updates to those articles are more likely to come in at deadline five.

01:15:06:24 - 01:15:13:05

Okay, as long as good progress can be made in the meantime on on those. But I think the points are understood by everybody. So.

01:15:14:09 - 01:15:14:26

Okay.

01:15:16:02 - 01:15:16:23

Thank you.

01:15:18:17 - 01:15:34:16

Okay. Uh, so that was article 36. I intended to go all the way through now to article 45. Unless anybody wants to raise any issue on it. Any intervening articles? No. So 45.

01:15:38:12 - 01:15:46:02

Is what I'm not clear about. I'd like some explanation on, to be honest. Uh, because obviously there's the, uh, schedule.

01:15:48:23 - 01:15:50:18

Is it 12? Which covers.

01:15:53:05 - 01:16:06:09

Schedule 12 covers the approval of matters specified in requirements. and article 45 entitled requirements, comma repeals, etc..

01:16:08:27 - 01:16:21:18

Appears to seek to relate to other articles. I think we asked the question in our written questions two 118 as to why is this actually necessary at all? Uh.

01:16:24:25 - 01:16:51:06

Noting that it was I don't want to keep referring back to Marina, but I will again. I'm afraid that it was taken out of Marina. Uh, because removed the moment on the Mona decision to remove the ability to apply section 78 of the town of an act from the article, a separate schedule provided the mechanism, and it would otherwise it create ambiguity. So my question really is, and I can't quite understand it from your answer to our written question as to

01:16:52:24 - 01:17:10:23

why is it still necessary, and which other articles does it refer to? And why not just have one process for all, which seem to be the sort of the Secretary of State's thinking in the moment of decision. Unless it was one where the examining authority deleted, I can't, I don't know.

01:17:13:24 - 01:17:51:09

Searle is done on behalf of the applicants. Can we take that one away as a question, please? I think we're still digesting the only decision in respect of this. It is a complex. Yes. Drafting and how it interacts with the schedule, how those measures, in terms of ensuring there is an expedient process for dealing with appeals, how that's clear. So if we can take that question away, I think the question is can we consider the need for this article, article 45, how it relates to the Mona decision and how it obviously how it's whether it duplicates what's in effectively schedule 12.

01:17:51:11 - 01:18:05:21

Anyway, if we can take that away and respond on it. Um, again? Uh, I'm not going to promise it'll be for deadline for. But we'll aim to do it for deadline for as far as possible, I think, because this one wasn't on the agenda.

01:18:06:04 - 01:18:06:19

Sorry.

01:18:06:21 - 01:18:14:10

It was that. Yeah. It's fine. It happened. Um, we haven't we haven't brought it all together in terms of our thinking. That's fine. This stage, that's fine.

01:18:14:15 - 01:18:23:03

It's one that I have asked the question because I can't quite understand it, to be honest. So that would be very helpful. Any more comments on 45?

01:18:25:07 - 01:18:56:06

Borough council. So it's just a point about consistency. Um, in respect of our submissions, uh, in relation to schedule 12. So discharge requirements, obviously we're seeking that the time is extended from eight weeks to ten weeks for that will obviously raise that later on the agenda. But if if that is amended at any stage and article 45 was retained, we would obviously see that there would be some consistency in the timeframes for general discharge of approvals. Um, whether that be being a requirement or some other approval.

01:18:57:06 - 01:18:58:07

Okay. Thank you.

01:18:58:13 - 01:18:58:28

Thank you.

01:18:59:01 - 01:19:19:01

Laura. On behalf of the applicants, I can confirm we've we've discussed. Fylde Borough Council's request to extend from eight weeks to ten weeks in schedule 12. And we'll make that update at deadline for, um, and obviously on the the in relation to the article, we'll be looking at that more generally when we do our review and submit our response on that.

01:19:19:07 - 01:19:21:12

Okay. Thank you.

01:19:25:13 - 01:19:48:18

Okay. Article 47 the last article is inconsistent planning permissions. Again this one's been deleted by the Secretary of State on recent dsos including ramping to. And Mona, what's the justification for uh, any particular circumstances while why concerning white needs to remain in this DCO.

01:19:50:24 - 01:20:44:14



Laura Fuller on behalf of the applicants. Um, again, so yes, we're aware of the fact that this article has been removed or not included, although the wording of the article was different on ramping two was different. Drafting. Um, we we have had a number of concerns raised about other developments and planning permissions being sought along the route. Um, and obviously in some of our responses have come back and we also adjusted the drafting to, to, to properly reflect, um, the protections that were required for both the planning projects, with planning permission and for the DCO themselves, so that those both any projects can come forwards and that there wouldn't be any, um, uh, consequential issues around inconsistent planning permissions, um, and the implementation of those.

01:20:44:20 - 01:21:12:12

So we do we do think the drafting is, um, required here, given the number of people who have raised concerns or responses that have raised concerns. And also just note that South Ribble recently confirmed that they welcome the approach to, um, the drafting that we've put forward and the amendments that we have recently made to article 47, in relation to concerns that they have raised around, um, I believe it was a solar solar development there.

01:21:14:11 - 01:21:20:05

Okay. Thank you. Is that in the South Ribble deadline three response, or is that in a separate response to you outside the examination.

01:21:20:09 - 01:21:32:01

Laura Ford, on behalf of the applicant, uh, I believe that was in response to question 5.1. 28. Um, and the reference I've written down is rep 3109 um, which I hope is correct.

01:21:32:22 - 01:21:35:23

3109 okay. Thank you.

01:21:37:29 - 01:21:46:06

Okay. Obviously we've not got South Ribble here today. Do any of the other councils have any comments on the updated wording?

01:21:49:26 - 01:21:52:19

No. No. Okay.

01:21:53:12 - 01:21:57:18

Thank you. So is there. That completes all the questions that we.

01:22:01:03 - 01:22:02:17

Uh, have, I think.

01:22:02:19 - 01:22:03:07

Hang on.

01:22:10:21 - 01:22:14:07

Actually, just going back to 47, sorry, I think.

01:22:16:17 - 01:22:31:01

Blackpool Borough Council's local impact report had made a representation in terms of may present instances of conflict with the article at this at the slipway area or within the airport. Is that something that Blackpool still has an issue about?

01:22:34:07 - 01:22:43:23

Isaac Nicholson on behalf of Blackpool Council. We thank you, sir, for raising the question. Um, it's something that we're still considering internally, and we will include a submission and our deadline for submission.

01:22:43:26 - 01:22:44:12

Okay.

01:22:44:26 - 01:22:45:17

Thank you.

01:22:46:06 - 01:22:54:29

Laura, for that. Can I just clarify that the local impact report was put forward before we made the amendments to the drafting in an article.

01:22:55:02 - 01:22:55:29

Yes, I understand that.

01:22:56:05 - 01:22:59:27

Seven so Blackpool Borough Council can just take that into account when they're reviewing it.

01:22:59:29 - 01:23:02:00

Yeah. Okay.

01:23:02:11 - 01:23:12:07

Good. That takes us to the end of the articles, unless there's any further comments from interested parties, uh, on the proposed articles or the need for any further proposed articles.

01:23:14:15 - 01:23:15:00

No.

01:23:15:02 - 01:23:39:17

Okay. Should we have a slightly early lunch then? I think, uh, as we've got to that point in the agenda. Uh, so if we break for the usual one hour's lunch and we will return and we'll be considering, I think, scheduled one, which is the authorised, uh, project, etc.. So we'll adjourn for lunch, returning at 150. Thank you.