

# Issue Specific Hearing 2 - 12\_3\_26

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## SUMMARY KEYWORDS

East Midlands Gateway, Development Consent Order, Material Change Order, DCO structure, Planning Obligations, Highway Works, Compulsory Acquisition, Temporary Possession, Discharge of Water, Logistics Definition, Advanced Manufacturing, Strategic Road Network, Public Sewer, Temporary Use of Land, Planning Memorandum, Explanatory Memorandum

## SPEAKERS

Panel, Eventurous AV Team

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 00:40

AV, good morning everybody. It's now 10 o'clock and it's time for this hearing to begin. I would like to welcome you all to this issue specific hearing on the draft development consent order for the East Midlands gateway and highway project, and an order seeking material change changes to the previously approved East Midlands gateway rail, freight interchange and highway order, 2026 2016 which we will refer to as the draft material change order, draft MCO. Can I just confirm that everybody can hear me clearly. And can I confirm with the case team that the live streaming and recording of the event has commenced? I can confirm that the live stream and recording has commenced. Thank you. My name is Robert Jackson, and I've been appointed by the Secretary of State the lead member of the panel to examine these applications. I'm now going to ask my fellow panel members to introduce themselves.

 01:46

My name is Liam page, and I've also been appointed by the Secretary of State to be a member of the panel to examine these applications.

 01:53

Good morning. My name is Gaurav Joshi. Likewise, I have been appointed by the Secretary of State to be a member of the panel to examine these applications. I'm also going to be keeping a list of action points, same as yesterday, and we can run through these at the end of the hearing, along with the action points from ish one. Thank you. Together, we constitute the examining panel for this application. Next, I'm going to deal with a few housekeeping matters for those attending in person, as we are now on the third day of the hearing, many of you are familiar with these arrangements. However, for the benefit of those just joining us, I'll run through them one more time. So can everyone please set all electronic devices, mobiles and watches, on silent? Please. There is no fire alarm schedule for the today, so if the fire alarm goes off, we should treat it as a real thing and exit through the sign. Fire exits follow the signage of the hotel fire point located directly opposite to the main hotel entrance. You can find the toilet just down the corridor on this side to accommodate the comfort breaks and manage well being. Of all, we will short break approximately every hour or so with lunch around 1pm for about an hour before we finish at 5pm that said, if we make a good progress through the agenda, we might even finish ahead of the schedule. This meeting will follow the agenda published on the national infrastructure planning website on 10th, February 2026, examination, Library Reference. PD, dash to do you have any questions?

 03:40

Sorry, sir. And that was me just giving a signal for the agenda to be put on the screen. Okay, no problem. What wasn't meant to be an interruption.

 03:52

So it would be helpful to have the copy of this agenda in front of you, and thanks for the applicants team to displaying the agenda on screen as we move the items today, the agenda is for guidance only, and we may add other considerations or issues as we progress, we will include the hearing as soon as all relevant contributions have been made and all questions asked and responded to. But if the discussions cannot be concluded, then it may be necessary for us to prioritise matters and defer other matters to written questions. Likewise, if you cannot answer the questions being asked or require time to get the information requested, then can you please indicate that you need to write in response? Respond in writing, as was explained in the preliminary meeting and previous hearings, the majority of planning inspectors are members of the prospect union and are currently participating in a period of industrial action short of a strike. This essentially mean that we are not working over and above our contracted hours. This has been accounted for the timetabling for this week, and we thank you for our understanding on this matter. We are continuing with our blended format today, with participant joining both here in the room and remotely via Microsoft Teams. Regardless of your chosen method of attendance, we will ensure everyone has a fair opportunity to participate in today's hearing, as with our previous hearings, a recording will be uploaded to the relevant project pages of the national infrastructure planning website. Shortly after we close, we will be producing an AI generated transcript to assist assist with its accuracy. Please speak clearly into the microphone and introduce yourself and your organisation each time before you speak, for those at the at the tables, please remember to press the button to activate your microphone. A red light will indicate that it is live. If you're not able, if you're not at the table, we have a roving microphone available. Please wait for it to reach to you. We encourage we encountered a few difficulties yesterday with the use of the microphones, but we are hopeful for a smoother experience today, to ensure everyone, including those joining us virtually, can hear you clearly. Please make sure your positions close to the microphone when you are speaking next a link to the planning inspector is privacy notice was provided in the notification of this hearing. We assume that everybody here today has familiarised themselves with the document which establishes how the personal data of our customer is handled in accordance with the principal set out in data protection laws. If you have any queries regarding this, please raise them with the member of the case team who is sitting behind in this room. So next I'm going to ask those of you who are participating in today's meeting to introduce yourselves. While many of you were with us yesterday, it is essential for today's specific recording that we establish the record clearly and at the start of the hearing. So when I state your organization's name, could you please introduce yourself, stating your name, who you represent and which agenda item you wish to speak on. If you are not representing an organisation, please confirm your name, summarise your interest in the application and confirm the agenda item upon which you wish to speak. Could you also state the title by which you would like to be addressed? So can we start with the applicant and their advisors? Please Good

 07:43

morning, sir. My name is Alexander booth kings Council, and I appear on behalf of the applicants at this examination. I'm instructed by Gowling Wlg. In the course of today's hearing, I'm going to be assisted by to my left, Mr. Richard thirling, also of Gowling, and also Tony Westman sat to my right, who will take the lead on many of the matters. I can confirm that I am content to be addressed as Mr. Thank you.

 08:13

Thank you. Mr. Booth. Can we then move on to the north west Leicestershire District Council? Please?

 08:18

Yes. Good morning. I'm Jessica Allen Council, instructed on behalf of the district council, and today I'm joined again by Chris Elston, who's the head of Planning and Infrastructure. And I'm content to be referred to as MS, and I intend I expect to have one comment in relation to Item four in terms of the draft eco. Thank you.

 08:38

Thank you. Miss Allen. Next, can I ask Leicestershire county council please

 08:44

Good morning, sir, Mrs. Rebecca Henderson, Leicestershire county council available to answer any questions from the examining panel. Thank you. Thank you.

 08:55

Next, Can I request the national highways who is joining us online?

 09:04

Thank you, sir. My name is Rahul hack of TLT solicitors for national highways. Mr. Is fine. I don't have any specific submissions to make today, but I am here to comment on responses of the applicant and also to assist you with any of your questions. Likely at item four, I'm joined online by Mr. Jeremy bloom, who I'll allow to introduce himself now.

 09:28

Can you Mr. Bloom, good morning, yeah, yeah.

 09:31

Good morning, sir. Jeremy bloom, representing national highways, available to answer any questions.

 09:39

Thank you. Mr. Bloom, thanks. We'll also note that at this point we have representative of long Waterton and Diceworth Paris Council who has indicated that they wish to observe only. I won't ask them to introduce themselves now, but should they wish to speak later? Please put your hand up, and we will ask you to introduce them. Next. I'm moving on to the other interested parties. Can I ask the Prologis to introduce yourself?

 10:10

Please? Good morning, sir. My name is Harry Wood Philpott Kings Council. I'm instructed by Howard Basford, partner at DLA Piper UK LLP, who sat to my right. I appear on behalf of the Prologis companies and happy to be addressed as Mr. I may, but won't necessarily speak in relation to Item four, if it seems as anything where I can assist, and in relation to item seven and the carried over discussion of the list of actions from yesterday, I am likely to want to speak there, because we need to discuss what deadline to a might be in what's coming at deadline to a so that's that's one of the reasons why I'm here.

 10:57

Thank you, Mr. Philpott, we have taken a note on that one. Next, can I ask East Midlands airport to introduce themselves?

 11:05

Please Good morning. I'm John Riley, a partner at Pin St Mason LLP, representing East Midlands Airport. Happy to be addressed as Mr. I'm instructed today by Alice Carr, planning manager. I expect to say very little today, but may wish to speak to the same or similar items to Mr.

 11:26

Philpott, thank you. Now, could I ask, is there anyone else in the room who would like to speak today? No, is there anyone online who would like to speak today? I don't see any hands that said, this concludes the first agenda item, and I will now hand over to Mr. Page to deal with the agenda item two.

 11:59

Thank you, Dr Joshi, so the purpose of the hearing today is to consider the issues on the detailed agenda, which was published on the second of March 2026, and can be found in the examination library under reference ev 3001, the issues on the detailed agenda involve the applicants providing an overview of the draft development consent order and draft material change order, followed by some questions from the panel. It is important to note that these draft orders need to be examined in particular detail. So even if your position is that development consent or material change should not be granted, and therefore the orders should not be made by the Secretary of State. You can still make representations in this hearing on how the orders should be drafted without conceding your wider position that they should not be made on this point, whilst other interested parties are welcome to contribute today, you will not be expected to frame your own detailed positions till the submission of your written representations, local impact reports and participation in further issue specific hearings on the draft orders later in the examination, If such further hearings are deemed necessary by us. So the examining panel are under a duty to provide the Secretary of State with the best draft orders that we can even if we end up recommending that the Secretary of State should not make them. This is because we don't. We do not decide these applications. We make recommendations to the secretary of state, and they make the final decision. So even if our report to the secretary of state were to recommend that the development consent order and or the material change order should not be made, we must still append a draft orders, ensuring that the Secretary of State can decide to make them if they wish. As before, we are going to keep a list of action points from today's hearing, which we'll go through at the end and publish as soon as possible. Can I also ask that you keep your own lists as before, so that when we do go through them at the end, we can check we will have the same understanding of what is required in general terms, we would like action points, responses at deadline, one subject to agreement on a different deadline. Does anyone have any questions about the purpose of today's hearing? I don't see any hands. So that concludes this item on the agenda, and I will now hand over to Mr. Jackson to deal with Agenda Item three on the overall structure of the draft development consent order. Thank you.

 14:52

Thank you. Mr. Page, I'm going to ask the applicant to just go in general terms over the whole structure of the draft development dissent order, and also to clarify what if any matters are to be secured by alternative methods, such as planning obligations or other forms of agreement, including commercial agreements with third parties outside the development control process, which may or may not have an implication with any of the protective provisions that are proposed. Mr.

 15:24

Booth, thank you, sir. Alexander booth, on behalf of the applicant. Ms, Westman, to my right, is going to take the examination through this matter.

 15:37

Good morning. Tony Westman, on behalf of the applicant. So in terms of approaching the draft DCO and preparing that document for submission as about the application, we drafted the draft DCO using

the statutory instrument templates that are available, and we also had regard to other made DCOs in preparing it. We also had regard to the model provisions which exist. So we had particular regard to the EMG one DCO when preparing the draft. And we also had particular regard to Northampton gateway DCO. Both of those, of course, were SEGRO schemes promoted by the DCO applicant, and we were able to have regard to kind of what worked and lessons learned on those particular schemes in drafting this particular order, we also had regard to other made DCOs as well, including those relating to other types of DCO scheme, in terms of the overall structure, the draft DCO is in six parts, and it has 16 schedules. Part one of the DCO sets out when the DCO will come into effect, and contains the defined terms that are used in the document. Part Two sets out the principal powers, which include the grant of development consent for the DCO scheme and also then the power to maintain that scheme. It also sets out the limits of deviation for the DCO scheme to allow for lateral and vertical deviations from the lines and situations shown on the plans which accompany the application. Part Three of the DCO deals with streets so it deals with a number of matters, including how the new roads and street works. Act 1991 will apply to those works, and how new, altered or diverted streets will be constructed and maintained. It also deals with things like classification of roads on completion of the DCO scheme and speed limits, which will apply to new roads. There's also powers, including making provision for the stopping up of streets and public rights of way, and also for the making or modifying and revoking of existing and new traffic regulation orders. Part Four of the DCO is headed supplemental powers, and it contains a number of different provisions which relate to the discharge of water and also powers for the DCO applicant to enter onto land, to carry out surveys and investigative works. And part five of the DCO contains the powers which the DCO applicant will have to acquire land and rights by compulsory acquisition, including how long those powers are available and what restrictions will apply to the exercise of them. It also sets out the DCO applicants powers to take temporary possession of land for the carrying out and maintaining the scheme, and also special protections for statutory undertakers, where their land and apparatus is affected by compulsory acquisition. And then finally, part six of the DCO deals with the various powers and matters. I think most notably is the provisions relating to how the DCO applicant may fell and lock trees and remove hedgerows. It deals with the application of landlord and tenant law, the defence to statutory nuisance claims, and then makes provision for certification of documents in the documents that the Secretary of State will certify, which sets out how the DCO applicant will be able to carry out the DCO scheme. Turning now to the schedules to the DCO, most of these are referenced in the main body of the DCO but just dealing with the main schedules very briefly. Schedule One sets out a description of the works which will be authorised by the DCO. Schedule two sets out what the requirements are, in a way similar to planning conditions, the requirements that the DCO applicant will need to comply with when carrying out the DCO scheme, and this includes the process for how those requirements should be discharged. Schedules three to nine deal with highway matters, which are covered by Part Three of the DCO. Schedules 10 to 12 deal with compulsory acquisition matters and build on the articles in part five of the DCO. And then schedule 13 sets out the protective provisions in favour of statutory undertakers, which includes national highways and Leicestershire county council. Schedule 14 proposes changes to various legislative provisions, and this is necessary to enable the GCo scheme to be built and used. Schedule 15 sets out the arrangements for the sustainable transport working group. And then finally, schedule 16 identifies which documents will be certified documents in terms of planning obligations. There is currently no proposal for a planning obligation. No matters which need to be addressed in a planning obligation have been addressed or identified. We are in discussions with national highways and Leicestershire county council in particular about certain matters. But at the moment, we feel that those could be dealt with within the DCO rather than within a planning obligation.

 21:13

Are you able at this point to say what those certain matters might be? Appreciate, they might be confidential at this point in time, I would hope we'd at least get a

 21:23

flavour Tony Westman for the applicant. Yes, at the moment, the matters that have been raised are regarding payments. So it would be things like technical fees, supervision fees, inspection fees, which relate primarily to the undertaking of the highway works on the strategic road network and also on the local road network. There is also some discussion going on about how the things like the community fund will be secured, and some of the things that we talked about yesterday regarding, for instance, travel plan payments. But as I say, we have reviewed those matters. We haven't agreed the detail of them with the authorities, but once we do, we feel that they can be included within the GCo.

 22:13

Thank you. Okay, lovely. Does anybody else have any comment over the general structure of the of the order, we will have not quite line by line, but we'll go through it in much more detail in a second.

 22:28

Thank you, Jessica and North West Leicestershire District Council, I think I referenced enough in the first the preliminary meeting, when we were discussing deadlines, that the council has raised the possibility, from their perspective, of venturing into applying obligation, dcl obligation with the applicant, just in relation to the funding of what will require a significant amount of effort from the council in terms of the discharge of conditions, monitoring enforcement and so on. So that is something that's been raised by the council with the applicant, and no discussions have formally started as of yet. I understand that's something that will just need to be progressed, and we'll see where we get to in you know whether that's agreeable and

 23:07

whether that comes forward. Yeah, it's sort of a bit like a Planning and Performance agreement, but possibly under formal legislation, as opposed to essentially, bit more than a gentleman's agreement, but not much. Thank you. Does the applicant have any comment on that particular point?

 23:28

Tony Westman, for the applicant, I think just to endorse, really, those kind of points have been raised very recently, so we haven't really agreed the detail. And I think once we have a better idea of what the authorities are actually seeking, will be able to, obviously, make a decision on those matters.

 23:44

Thank you. Anything else on Item three before we move on to Item four to move on to Item four on the agenda, which is questions on the DCO, as you'll be aware, we set out in Annex e1 a number of points on the rule six in the rule six letter questions about rate of the DCO, and it's my intention to go through them. Now the application applicants have very kindly been through the most, most, if not all of them in their debt procedural led Lane a response. And so therefore, where responses have been dealt with to our satisfaction, we'll probably skim straight through them, however, and very importantly, there's still some mistakes, including typographical errors, that do remain. So I'm going to have to go through those individually. If any other interested party wishes to make a comment at any point, please indicate either by raising your hand, or if you're in the room, or similarly, on Ms Microsoft Teams that will give you the opportunity to comment on maps which we were otherwise going to skim over. We do our best to keep an eye on both. But if it's clear we missed something, then please let us know. As we said in the agenda, the primary purposes of this agenda item will be for us to rename and raise our initial questions. Other interested parties are very welcome to participate, but we're not expecting you to refrain your own detailed positions until the submission of written representations, local impact reports and participation in a perhaps later developed consent order issue, specific hearing later in the examination process, while the discussion will deal with the points in Annex e1, of the rule six letter, as this was drawn up over four weeks ago, and we've had discussions yesterday, there will be some additional points which we will raise. So please just don't move on to the next item down, because there are some intersect in things that have gone in between the lines, as it were. So there may be additional matters we need to discuss, right? So moving on to hopefully, the reference numbers, I hope still remain the same. So r6, d1, the definition of tribunal that needs to be moved from Article Two to article 45 that hasn't happened as yet. Could that please happen in schedule two? You've inserted a new definition in there. Can't think it's non working day, doing it from memory. But that not, they're not. It's not in alphabetical order.

 26:25

Yes, Mr. Sterling, Thank you, Sir Richard. Thurling n behalf of the applicant, I just wondered if I might clarify, would you like Annex E to the rule six letter on screen? Or would you prefer our response that was submitted at procedural deadline.

 26:43

A Yeah, I think that probably would be useful, because other people, whilst I've got a copy of it, I think other people in the room that of use, the nature of the conversation is like you do, mostly today, between myself and the applicants, anyway, but yes, if so, if you could put that up through there, as I say there. So in schedule in ask in schedule two, we're down now to the next page that I think it's working days gone in it's not, not a forgot right place. Keeping scrolling down our 62 the these approvals, I was wondering if you had any further thoughts on how to deal with these issues of approvals in writing, and there's also coming a little later, a discussion over amendments and approvals and approvals in that sort of sense. And I was wondering if you'd had any further thoughts at this point on that

 27:49

Tony Westman applicant, yes, we noted your comment, and we are content to incorporate provision to clarify that all approvals will be in writing, and also to permit electronic transmission. We are obviously keen to try and agree that with the other key stakeholders first, and as long as they're content with that, then that

 28:10

we will adopt those provisions. It may be that you, if you do end up with but one who isn't, for some reason, that you can put it in, it can be drafted a form, the standard, the standard provisions about provided imposed or in electronic, electronic transmission, which obviously can then be with, can therefore be worn back, won't Run back if necessary. Yeah, okay, the deemed approvals. Thank you. Thank you for doing the change to the various additional provision in the draft article consent order. We do, we are fully conscious for those interested parties who would be agreeing matters under those that you may or may not agree with the time periods that this, that have set out, there will be an ex, an ex q1 coming out next week, essentially asking you individually to go through the Go, go through this, and if you disagree with the applicant as to the period of a deem, can a deem consent to let us know and give us what your alternative what is and why, just from future, from previous experience. Can I just make a comment along the lines of, but we've got a contract with the third party to do this of in x, in X days, and we can't do it in less than that tends not to be at very much favour the Secretary of State was has been quite cast caustic about that. This is these would be a nationally significant infrastructure project and appropriate contract agents need, will need more, need to be put in place. If that is your scenario, I'm making that as a general comment, rather than names anybody in particular. Thank you, moving on. Dealt with and or typographical errors, I'm afraid, in article 38 there's still one free. You took out two, but not the third.

 30:22

It I was most unimpressed when I found that it does show a lack of attention. Sorry, in schedule two, schedule 12, paragraph four, four, there's a new line, there's a comment along the lines, and there should be new line after common land, then the next line needs to be moved over to the left margin isn't quite in the right place. Formatting wise, if you could have a look at that. And as again, previous note, we have, we haven't checked schedule, 13, r6, d6, I'm tail, provisions and amendments you've made the comment that you're happy to take, essentially take them all out, which is good, and deal with the amendments through That is the tail. We are hoping the tail. Sorry, around you've said you'll deal with the amount, deal with the amendments. It's the question the tailpieces, because obviously they shouldn't be appearing. Is that correct? Is that all they all coming out?

 31:33

Tony Westman, for the applicant, I don't want to promise just yet that they're all coming out, but I feel like most of them will come out, I think there may be a couple of instances where we do need to retain them, but we are doing a thorough review of that, and we also going to speak to North West and others about kind of, obviously, their view on those things as well. There are some places where actually having a tail piece is is appropriate and suitable.

 32:01

If it does remain, it should be fully justified in the explanatory memorandum.

 32:05

Yeah, noted, okay, the

 32:16

consistency of drafting you've done, which is our 67 is generally far. We appreciate the difficulties because you've got different triggers, but it does make life easier for anybody reading the order. If they've got them, it's probably too much of an ask to try and get to put them in in order as it were, so that they work into if you look at the planning practice guidance on these conditions, they the idea. It suggested you work them in chronological order. Essentially, you start with the pre commencements, then you move. You start with the plans and things like that, and then and the time limits, you then move into the development pre commencements, before you get above certain ground points, and before first occupation and then operational. It's probably a bit much for the very DCO. It would be nice, but I think it's probably a bit much simply because of what it is. You might want to have a think about that, though, whether there is it, whether it is possible to sort of at least group them in a slightly different way.

 33:25

Tony Westman, for the applicant, yes, I know what you're saying. I think perhaps it would be helpful just to explain that obviously the DCO has been drafted over a long period of time and has been informed by comments that we've received from other parties. So it has kind of revolve evolved, and because of that reason, sometimes things don't appear in chronicle logic because they were added later. And that's also partly why some of the wording differs slightly. Obviously, when we engage with, say, national highways or North West assure about a particular requirement, then they may have their own view about how it should be framed and worded, but we will review it and do our best to address your comment.

 34:05

Thank you. This slightly odd one in if, if you move just into the next, top of the next page on the working days issue in schedule, two parts, 2124, and five, there's still working days in there, but you've defined non working days. Whilst it could be inferred that it's the a working day is the opposite of a non working day, that does seem a bit upside down. Can I put it like that? It might be worth reconsidering the non working days back, turning it back into working days, and then excluding to allow consistency through throughout the order

 34:50

on the future proofing point the three which is still left Are Chief Officer of policy of police, national highways, seven Trent and cadent, silly, clearly, national highways, because essentially, it's, there's, it's the company appointed under the shed to the relevant Act, the others, they often are deemed as common, common sense. I'm not going to push it, but I just think, it's just a general point is there was a mixture, a bit of assist mess, on how that might work. So just gonna make that point. Yes, you've dealt with the drafting right now. Moving on to moving on to specific queries, R, 6d, 11, I'm assuming, hoping nobody's got any problems with the anything up to this date, the definition to maintain is often one of those ones which has exercised various examining authorities and various secretaries of states as to how that should be drafted. My understanding is you've essentially using the one in the as in the A 46 commentary. Well, junctions version is that correct

 36:21

Tony Westman for the applicant? Yes, that's correct. It was the most recent order that we found which had a

 36:27

suitable information. Fine. Yeah, that's fine. It just makes sense. And again, if you make sure that's referenced up in the expansion memorandum, right Article Five, the term logistics. I got my concise Oxford English Dictionary out, and you're going to hear it referred to a few times in this and the definition of logistics in that document is noun, the detailed coordination of a large and complex organ operation, the activity of organising the movement equipment and accommodation of troops, the commercial activity of transporting goods to customs, the first and second I did a coordination of large and complex operation is not a use of land, neither is the activity of organising the movement equipment and accommodation of troops, because that's specific to the military, so that the only one you've got is the commercial activity transporting goods to customers, and that track the word and the verb in there is transporting, which isn't storage. So I'm really having difficulty understanding why Logistics is the correct term. You've referred to the framework. And paragraph 80 6c of the framework, but that deals with planning policies, not with decision making. And the 30 section, 35 direction, which puts the product of the project, not the use. And they're different. The project is a logistics and manufacturing hub, and with all the rest of it, so it seems to me that is related not to the operation, rather than a use, in strict planning terms, with the greatest respect to the Secretary of State's the courts who have held it's for them and not for the executive to determine what a word means in policy or in legislation. We obviously report your case to the Secretary of State. I'm very happy so to do. But my feeling is it'd be best to use a known term that's known, understood in the use classes order than a term which has not yet been subjected to judicial scrutiny. Obviously, the word I picked up in hearings yesterday and on Tuesday, my feeling is logistics, and we'll come to the arts, manufacturing bit in a minute is that is coming out of tax legislation, which, of course, nothing, has nothing to do with planning legislation. They're independent. And I'm just wondering, for the purposes of this article, is logistics the right term, or should we be using warehousing.

 39:23

Tony Westman for the applicant. It probably wouldn't surprise you to hear that we've had a lot of discussion about ourselves. The section 35 direction obviously refers to logistics, but I take your point as regards to kind of a description, as opposed to a use per se in the pre application engagement that we had with the planning Inspectorate. This issue was raised as well. And I think we did start from a position of storage and distribution, and then we were encouraged to perhaps consider logistics, because that would be in accordance with the section 35 direction. And so the draft order then talk about logistics, but essentially then refers to warehousing. So I don't think we are particularly wedded to the term logistics. Obviously. You know, if you are comfortable that we don't need to be fully kind of word perfect in terms of aligning with the section 35 direction, then we would be content to kind of adopt the language of storage and distribution, which is more conventional.

 40:24

Yeah, Mark, that's my that's my feeling. We've discussed this amongst ourselves. Clearly, we make it abroad to the Secretary of State, we would make, you know, we would make the point that the article was as originally drafted, referred to logistics. It was that for the following that because it flowed out of the article 35 direction, we had a discussion, it's changed the story to distribution. Assume that's what does happen. We think that clearly, if the Secretary itself felt that was necessary to pull it back, then they the option is there for them to change it back again. But that was my feeling on that I

 41:05

um. The second one is whether or not it should have permitted development rights to change to other uses removed, which essentially is used by such inserting the word only normally after Yes, you can go through the whole performance of notwithstanding the provisions of the standard Country Planning use, task is order, but there are quicker ways of doing it, the course of health. So I'm just wondering whether, given the need as your as your case, is that there should, is, is for storage of distribution and advanced manufacturer. We'll come to that in a minute. Whether it should be just restricted to those particular uses.

 41:50

Tony Westman for the applicant, I think considering, since we submitted our response to Annex E, we have had a discussion around this, and we are content

 42:00

to remove those. Okay, fine. Okay. And then we're moving on to the discussion between manufacturing, advanced manufacturing. And this seems to me to be unnecessary as a word in planning terms. It's you either manufacture something or you don't what it doesn't. It's not a term of art in planning. What was advanced manufacturing in the 19th century is very different from what is advanced manufacturing in the 21st Century. Things change. I just think it's a bit unnecessary. Your thoughts

 42:40

Tony Westman, for the applicant, the term advanced manufacturing was kind of it started following engagement with East Midlands Freeport. They were quite keen to see site deliver advanced manufacturing, as opposed to just manufacturing. And we too have kind of scrambled, really, to understand the differences between the two. I mean, obviously we keep to hear the free ports views, if we were to remove the term advanced, but if they're content, then we're content to just adopt the term manufacturing.

 43:17

I would feel that if it this is sort of thinking out thinking out loud, almost is whether or not if advanced, the adjective advance, were to remain in the term advanced manufacturing may need specific, a specific definition, rather than just advanced manufacturing just Sitting there.

 43:40

Yes, Alexander booth for the applicant, yes, sir, that's entirely right. And of course, I think what we can all anticipate is there would be some difficulty in drawing up that definition and where one draws the line between manufacturing a semiconductor on the one hand and a spade on the other, and where we're going to, as I say, distinguish so yeah, so we'll give that

 44:01

some further thought. Thank you. Does anybody else, particularly at the DR Council, have any comments at this stage? You've got the opportunities to like to come in late, I'm going to say. But there are one or two times as we go through things which I think your comments might be useful.

 44:20

Jessica and North West Leicester District Council. I think that's something that we'd need to reflect a bit further on. If that's okay and come

 44:27

back in writing. That's fine. That's absolutely fine. I think the fact you're here today and hearing the discussion again the same to apply with the county council, you'll get what, probably brains going, which will, which will at least allow you to have, rather than necessarily, the thought processes may help to help take it forward in your representations as well. You don't have to agree with me, by the way, you are very much entitled to disagree with me and give your reasons for disagreeing, and I will take it into account, instead of quite happy to change my mind. Transfer of the benefit given the transfer the benefit, I'm just wondering whether, particularly the statutory undertaken, will be undertaken by themselves. The question to my mind was, does that include national highways, particularly, and Leicestershire county councillor for the highway work, for the works in the highways,

 45:21

Tony Westman, for the applicant? No, it's not intended to so when we were referring in our response to statutory undertakers, it was more the utilities. The intention has always been that the DCO applicant would deliver all of the highway works. But in accordance with the protective

 45:36

provisions, it was just, it wasn't quite clear for the response in national highways, are you content with that? That response?

 45:49

Rah hack, on behalf of National Highways, so I think we are. I saw Mr. Bloom just unmuted. I might just pass over to him, if that's okay, just in case he has anything else

 46:00

to say. Jeremy bloom, for national highways now I am in agreement with Mr. Hack on that point, with MS Westman, it's always been envisaged by national highways that the applicant would deliver the works on the SRM,

 46:21

thank you and Leicestershire county council. Do you have any comments on that?

 46:26

Rebecca Kenson, Leicestershire county council, similarly, so it's always envisaged that the applicant will deliver the works on the local

 46:33

road network. That's fine. The moving on to articles eight and nine, I'm just going to make ask at this point, do either the highway authorities or the district council have any comments on that particular provision at this point in time? No getting shakes of head in the room. Mr. Hack.

 47:10

Thank you, sir. Rahul Hack, on behalf of National Highways, I just wanted to pick up the comment on our just disappeared from my screen. But the point about Article Nine, and the typo. So apologies for that. So that quote actually came from the Northampton gateway, Ralph rate interchange, DCO. And so the point that we were trying to make is that, so that Article Nine in the Northampton DCO is effectively item to Article Nine in this DCO, the Northampton DCO, makes clear in the EM explanatory memorandum that the art that the article itself only applies to private streets. I see from the applicant's response that Article Nine does not applied to the SRN, that all the works on the SRN are under Article eight. And so we would appreciate some sort of clarification, either in the end or otherwise to make that clear for these purposes. I think this might be a point that we would just respond to in our written rep there. Thank you.

 48:16

Thank you, Mr. Hack. I'm getting nods from Miss Westman, but say, could you just because obviously he won't be able to Mr. Hack, may Mr. Hack might

 48:23

be able to see your nods Tony Westman for the applicant. Yes, we're content to amend Article Nine to make that clear.

 48:42

Again, on Article 10, I'm just wondering whether the highway authorities North West Leicestershire District Council had any comment in relation to Article 10, given where the applicants response.

 49:07

It's to do with if they're stopping up a highway or that it's on, if they're on, they on both sides, they could essentially acquire the subsoil underneath of the land and allow them to deal to take that over fully, just if they only ended on one side. What's the situation? Was essentially the situation the applicant saying the situation won't arise. And it would have had that there would be specific provision within the order to allow for that to take place. Is that correct? Mr.

 49:40

Thinning, on behalf, yes, so that mirrors my understanding

 49:50

article 13, which is the axis, is the problem, which is reading. It is that my reading is that it would lead to allow new accesses onto the strategic road network. The comment I had, we had a couple of days ago about the area

 50:17

of the junction of a junction 24 about coming in through it through aside to allow potential temporary works. Slightly concerned me as to whether that was involved, going to involve works on the strategic road network. And that's whether actually what you had said here, that there was no proposed access to and from the whilst it says permanent and replacement accesses from the private land to this dred network, whether that would be you need temporary at works. And clearly, my reading of the article, when I first read it, was that it would, could you, could you clarify that? And then we'll ask the national highways for its views.

 51:01

Tony Westman, for the applicant, as I understand it, there are no new, permanent or replacement accesses from private land on to the strategic road network. But we do anticipate that we might need to take access we're carrying out roads, sorry, works to the strategic road network. So it would be a temporary duration, and because it would be contained within a works area, while work highway works have been undertaken, we don't expect there to be any issues or conflict with kind of the operation of the road network.

 51:33

Thank you. Is national highway content with that? Mr. Hack,

 51:41

thank you, sir Rahul hack, on behalf of that. Unless Mr. Bloom has anything to add, I think we might have to take that one away and respond in writing.

 51:49

Thank you. That's no problem. Please do so.

 51:56

The next one is R 6d, 18, article 15, classification of highways. The response was, there was this only related strategic rail network. Are just checking that Leicestershire content with what's being provoked proposed here,

 52:18

back hence the Leicestershire county council. I think we'll, we'll take that away and provide comments further.

 52:24

It was the fact it's a classification of local highways, as opposed to classification of highways in the title which was giving me was given me the confusion, I think. But if the council, county council, will take that away and have a look at it, that would be appreciated in moving on to article 18 signish, obviously the procedural deadline, a the wording in the DCO has extended the works proposed to include signage I'm just making again, just checking that national highways is content with that, because obviously those signs would be on their land. Mr. Hack.

 53:11

Royal hack, on behalf of National Highhams. So again, I think I might have to take that away. June writing, if that's okay, it's

 53:17

absolutely fine. Thank you.

 53:25

In moving to article 19, I'm still not content with the answer, sorry. My reading of it is that the discharge of water could be made to either at a foul or combined sewer. Of this is surface water, which clearly is non desirable for whole host of reasons. And I was just wondering whether or not the drafting of that could be made clear that it didn't allow such drainage, I'd have no idea that whether this Nick of the woods is on a combined system or or a totally separate foul and surface water system, such as they do exist. Obviously, modern development is goes to generate drainage system so it becomes less of a problem. But everybody's been aware of the problems of misconnections over the years. And there is the possibility, as it's drafted, that some bright idea, oh, we can get reading this. Yes, we can look. We could put the put the surface water, whilst it's all supposed to be going south, some right at the top, going so that could end up where it shouldn't. Can I put it like that?

 54:41

Tony Westman for the applicant, I think I will take that away and respond in writing. Okay, just because I'm conscious, drainage is not my area of expertise. And in formulating the response and procedural deadline, I did speak to the technical team, so if I take it back to them, and then we come back with revised wording at deadline two.

 55:03

You've got my concerns, which is the widget, which is the fundamental point? And

 55:24

the discharge of to a public public sewer or drains is subject to consent of the owner of the apparatus. I'm just wondering how that interacts with section 106 the water industry Act, which is the right to communicate connect to a public sewer.

 55:44

Tony Westman, for the applicant, again, I will take that one away and respond in writing, conscious of your note, your

 55:51

comments, and we'll have it's a well known problem in the development industry. Generally. It normally basically relates to housing developments, but I see no reason why it shouldn't equally well apply that right? Shouldn't also well apply to this development as well. So if we could have a look at that, because that's not what the aim of the exercise is, not easily. It should be controlled through article 19. Thank you.

 56:24

Okay, I article 20 rt 21 the in the comment about the you've made the chat half the changes, probably I would describe it in the relation to the art a 46 commentary, junctions, DCO, but the land, which may be effect, I think still there, obviously we want to keep it. That's fine. But could you please, obviously, we didn't see a revised exact exam explanatory memorandum at that point. So could you make sure the experiment, remember, memorandum is enlarged to explain why you've taken a different view to that which was used in the Coventry junctions.

 57:09

DCF, thank you. Tony Westman for the applicant, yes, we will be submitting a revised explanatory memorandum at deadline to

 57:28

next one is article 24 private rights. Obviously, the question I've raised relates to the possibility of third party rights being the way that was drafted, it was to my reading was only it was rate to third party rights on not owned by the applicant in the first place. And what there are interests clearly, in the land, which you you have got a main, main, main interest in appreciating lots of development consent orders, compulsory acquisition is used to essentially get clean title. But obviously that wouldn't occur in this particular scenario I just went you had any further thoughts on and if, whether appropriate changes to the DCA would need to be made, obviously, because further people would be affected, possibly

 58:29

Tony Westman for the applicant. So we are in the process of reviewing your comments and also the land plans against the book of reference and identifying which plots are affected. We believe there are potentially 10 plots, although three of them are only temporary possession plots, so that would just leave seven. So we are just investigating the introduction by to those seven plots, and we expect to be able to come back at deadline one to set out whether the provisions required, and if it is required, kind of what the implications are, and how we would deal with those implications.

 59:03

It would be, it is possible, obviously, whilst it's not compulsory acquisition, clearly those who affect who had, whose land would be temporarily possessed, they clear, clearly would their rights would be effectively only in short term. So they they need to be considered as well.

 59:19

Tony Westman, yes, I came to the same view. I guess the in the impacts on them will be less, as you say, because the rights would be suspended rather than extinguished. But yes, we don't intend to

 59:31

disregard those plots. Good. Thank you. Article 27 it wasn't on the list. It's a nut. Is a new one, courtesy of last week might have been the week before the Secretary of State's decision on the Fenwick solar farm project. You might want to have a look at this. This discusses periods for compulsory acquisition and temporary possession in the situation where it's a legal challenge to the grant of a development consent order, not for discussion now, clearly, but you might want to amend the DCO and then explain that in the explanatory memorandum. I think it would also apply to articles 28 and 29 as well as 27

 1:00:15

Tony Westin for the applicant, thank you. I wasn't aware of that decision, so we'll have a look and come back. Thank you.

 1:00:31

I was just wondering, because we had the discussion over the question, R, 6d, 25 articles, 32 and 2033 on temporary use of land, whether disputes should be dealt with under to be positioned to deal with disputes of a condition of land and things like that. You've said, Well, this would be covered by arbitration. I'm just wondering whether that should be explicitly referenced in this in this provision, it might be implicit, but if somebody was looking at somebody whose land was affected when they're thinking, well, actually, how do I ensure I get it back into the condition in which into which I lost it from, as it were, whether, if you wouldn't, but if SEGRO came back, gave back something wasn't in the position, wasn't as it should be, there would be an opportunity to challenge it, to make it explicit how that would take place.

 1:01:35

Tony Westman, for the applicant, yes, I know your comment. The article deals with disputes relating to compensation but not to restoration of the land. So I agree that it would be appropriate to put something into the article to make it clear. Thank you

 1:02:00

again, a comment which I made earlier about the whether or not it might extend the rights people are seeking, and therefore other people might be affected in the same way as we were talking about clean title on the applicant, the applicants controlled land, Whether that make a difference or not. Double recovery. It sometimes it's out. Sometimes what I was my comment I was going to make it is, please. Could you make a full justification as to why you think it's needed for the in the explanatory memorandum, one of the things which read, if you read that Secretary of State decision letters on development consent orders as a as bedtime reading, which notices bedtime reading, but I'm afraid I do on a regular or too often basis, one of the one of the most reason, frequent reasons for excluding a provision From the from an order is it's not just not fully justified in the explanatory memorandum. So if you, if they, if you want something which is contentious, which is sometimes contentious, make sure you get do give the full reasoning for it in the explanatory memorandum. Otherwise, experience sends to be the red Secretary of State. Gets his red his moment. Red pen out

 1:03:24

Tony Westman for the queue. We're in the process of reviewing the explanatory memorandum, so we'll be sure to cover that point, and that will be at deadline two.

 1:03:35

The next one is relates to the uprating, to the felling and lopping of trees up to 25 metres from the I'm struggling with any distance at all bluntly as to how a you can justify it in the sense of, how do people know it's going to be I'm talking about human rights terms, which I think, and normally, and If it's overhanging, it's dealt with under conventional landowner rights common law.

 1:04:07

Tony Westman, for the applicant, yes, we are aware of that. Your comments on this provision, and it's something that we have been looking at. We we didn't kind of so the the article that we included in the draft DCO does have precedent. It was provided in other DCOs, including, I think, the Northampton gateway DCO. So that's where it's from, but we appreciate 25 metres does seem a bit arbitrary, so we are looking at whether we can kind of change that or make it a little bit more precise and clear. So that work is undergoing at the moment, and we expect to revise the article at Deadline, two

 1:04:47

brains going on. Would that anything to do with railways? Because clearly, keeping vegetation clear from railways is very different thing, because the influence leaves on the line, which wouldn't clearly apply, which clearly doesn't apply in relation to this scheme. I'm not recalling it from many, if any, high waste development consent tools

 1:05:19

Leicestershire County, sort of making, making movements which could indicate they might wish

 1:05:26

to speak Rebecca, unless she can concur with your points. And ultimately, we'd have concerns as well if it was removal of trees within the highway that didn't need removing, which intrinsically have a value as well as an amenity value.

 1:05:44

Also might you would also need to go into your bng calculation, because you'd have to assume that we're coming out, which I suspect hasn't happened to date. Question Mark

 1:05:54

Tony Westman for the applicant, I'm not sure, so I think I'll take that one name and respond. Thank you. Does

 1:06:04

the district council have any comment on that?

 1:06:08

And Jessica Allen, North West Leicestershire District Council, I think that's also something that we ought to reflect on, if that's okay and come back in writing. Thank you. Thank you.

 1:06:21

Um, article 42 planning permission. Again, this isn't on the list, as it were, obviously we had a discussion yesterday, Millbrook power and whether or not there might be worth putting some sorts of cross protective provisions in between this order and the into the EMG one order in the same way that was done onto the rookeries south. I've done it with you. Had any thoughts of that overnight?

 1:06:52

Tony Westman, for the applicant, we did have a brief think about it in the time available. And yeah, we're going to have a look at our DCO, we can see the sense of including that provision. So again, we'll consider and pick that up at deadline two.

 1:07:08

It would be useful if at deadline one, you could at least give an indication to us as to how your thoughts were at that point in time. Thank you. Yes, we will thank you. Article 43 obviously, has been significantly amended since North West Leicestershire Council. Have any comments on the revised as said, not. You're obliged to this point in time since, obviously it's still early days. But have you had any thoughts?

 1:07:41

Jessica Allen, North West Leicestershire Council. The councillor didn't have a problem with the initial drafting of review the revised drafting, just to double check that position hasn't changed, and if it has, I can come back in writing

 1:07:52

on that. Thank you. Right? I'm thinking, since we've now end of the articles, it might make sense to have a break at this point in time for 15 minutes before we come back to have a go at the schedules and then move on to the material change order. So if it's now seven minutes past, shall we adjourn until 25 past? So we'll have an adjournment now until 25 past. Thank you.