

Issue Specific Hearing 2 - 12_3_26 - Session 2

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SUMMARY KEYWORDS

Development consent order, material change order, substantial completion, environmental impact, highway works, building regulations, sustainable transport strategy, mezzanine definition, access rights, traffic forecasting, protection provisions, construction programme, operational dependencies, carbon neutral campus, strategic importance, and action points.

SPEAKERS

Eventurous AV Team

 00:54

It's 25 past 11, so the hearing is resumed. Can I just confirm that the recording and that you can hear me at the back. It's taking place, and it's the live stream is taking place. Thank you. Right. We're moving on to schedule one, and I've read the comments from the applicants on that. I'm just wondering if anybody, any other party at this point in time, has any comments on it. Which case let's keep moving. Yeah. D 34 which is the maintained by the local plant Highway Authority, my understanding is the schedule of works was a description of works, not of who would maintain it. There's an equivalent in 18 AV within the strategic highway network, and I'm just wondering whether those should be deleted.

 01:56

Tony Westman for the applicant, yes, the wording was included, really just to provide clarification and a description, primarily to assist the Highway Authority. But I think in the circumstances, we're content to take that wording out.

 02:15

Do, just do either of the high either of the higher either of the planning authority or the planning authority particularly, has any particular comments on at this stage. And obviously you may make comment later, either on the works generally, or on how the what's included within the further works, or do you want to take it away and come back later? Jessica Allen,

 02:36

North West Leicestershire District Council, I think that's something we'd prefer to come back later, if that's okay. Thank you.

 02:42

Absolutely fine. So this was predominantly a discussion between myself, us ourselves, and the applicants. There was the AV charging points and in rd 36 on the fence adjacent to the A, 3453, it was the question of how the relationship with the building regs, whether it was specified in requirement seven, because it's indicated that the sustainable transport strategy confirms to provide greater than building regulations. It's just going to try to get the number right.

 03:32

And attorney Westman for the applicant, yes, I think as we responded at the procedural deadline, a we had noted that and recognise that it wasn't necessarily secured within the DCO, so we'll make sure that it's captured in the requirement at the next draft.

 03:49

Thank you. You might want to have a look. Get up the copy of the DCO itself. At this point, there's, I think there's something gone wrong with the numbering in schedule two requirements seven and eight. Eight, I don't think, is requirement on its own terms. I think it's, if you have a look, if you could dig it out, it says, refers to the above. Yeah, in this, in this requirement, some so that's, I think should be sub paragraph four rather than and then obviously all the rest of the ones there below drop loser number

 04:19

Tony Westman, for the applicant. Yes, we did spot that after we'd submitted a procedural deadline, a but it was too late to change it by then, so yes, we had some tussle, shall we say, with the statutory instrument template,

 04:34

not the only one.

 04:41

The next one is requirement 10, which, obviously we've been looking at the bit of a touring of fraying, as to whether failed landscaping should be included within the the Liam, or whether it should be included within the DCO, or both, or what, and I'm not quite sure between your yourselves as to where, where you've where we've got to

 05:06

Tony Westman for the applicant. So our view was that it should just be covered by the Liam. But North westicestershire District Council, in their comments on the draft, DCA were quite keen to see it mentioned specifically. So we agreed that we would add article 10 four,

 05:26

Jess Carl in North West Leicestershire District Council, the just for context, I understand that the background for that request was the failed planting, as I understand it in relation to EMG one, but that is something that we can obviously continue to review and go in light of comments and with the applicant.

 05:46

It's quite concerned. It doesn't probably need to be in both the DCO and the Liam. Yes, it needs to be covered off. Absolutely. That's not the issue. It's just trying to avoid duplication

 06:02

in a requirement 11, yes, now much clearer. Thank you very much, although it may need further because of the issue of amendments which we discussed earlier. More general, more specifically, things being amended pursuant to that I uh, moving down to requirement 18. So whether there's a slight fail water strategy find regards purpose, because only terms only used in this requirement, there's a foul water management plan, but that's to do with construction phase only. I'm just wondering on whether foul water strategy, because this is essentially the operational and how that whether that should be clearer and positively defined, and whether we need a document to set out what that is, or whether it's in one of the existing documents that is referenced to

 07:07

Tony Westman for the applicant. I believe it is actually covered in some of the application documents already, but I don't have those immediately to hand, so I think we'll come back in writing on that

 07:18

just again. It's making sure it's clear how, how it can be followed through for enforcement purposes. Moving on to requirement 19, you've revised the two significant noise or vibration effects. I'm not the word significant gives me difficulties, simply because it's sometimes used in an EIA terms terminology and sometimes used in plain English. In that terms, it's not clear, not precise, therefore it's not precise, therefore it fails to test for the relevant requirement for the drafting of it. I don't think there's any dispute about what the what are the aim is. It's just how it's defined. Whether you could consider having a further look at that.

 08:13

Tony Westman, for the applicant, yes, noted your comments, and we'll, we'll review the wording. Thank you. I

 08:24

uh, again. Next one is 20. You've they've revised the one. I'm not this is really for whether the District Council has a comment at this point or wants to defer for to elect to a latest point Jessica and

 08:36

North West Leicestershire District Council. I think that's something that we'll need to review and come back, and if that's okay, thank you.

 08:42

I must. I'm assuming that that was also a situation for requirement 20, which is the next one down, because the there's there again. There's some revised wording that's been submitted Jessica and

 09:00

North West Leicestershire District Council. Yes, that's correct. Thank you.

 09:02

Correct. Thank you. Moving on to requirement 21 you've revised the word wording, but I'm afraid I'm still look got issues with it, because it opens with prior to installation, and you can't instal a vehicle, not in this car, not the way. This condition has been drafted, the requirements been drafted. Could you have another look at it, please? It's a do. It's to do with the hookups, which I know the District Council has been very worried about, is to make it so that they are associated. They come off the generators on the vehicles and go straight into into a mains electricity supply

 09:41

Tony Westman for the applicant. Yes, since procedural deadline a when we submitted this draft, there has been further discussion between technical leads on that issue, and we have drafted a requirement to go into the draft eco at deadline to just

 09:59

make a couple of comments. It's still got. It still at the tail piece in which we've discussed earlier, and you've made it common, becoming broadband. Everyone, I think Maurice, everybody sitting around this room said, What would you say common? What does broad down mean? I think we'd all say it's how we get our internet. I just don't think it's right, necessarily the right term, the white noise probably does work, but broadband probably doesn't.

 10:28

Tony Westman for the applicant, thank you. We'll review the wording and see if we can improve on it.

 10:36

The whole point of this is to get the DCO and the MCO, when we get to it into its best possible form, got that no comment as to whether, whether this seems to get consent or otherwise at the end, it's just a matter of date again, yeah, And the hookups just, you've had that discussions, right? I

 11:03

so the all their all their approved agent in requirements, 23 and 24 I'm just still slightly concerned about whether that's I just don't think it's necessary. I suspect it's come from the District Council and a fairly standard, a standard condition that they normally under use the town of Country Planning Act, that probably isn't, probably could, perhaps could do with some work on it. But can I put it like that?

 11:31

Tony Westman for the applicant? It didn't, in fact, come from the local planning authority. It came from other made DCOs. So there is precedent for the wording, but having reflected upon it, I don't think it really adds anything, so I'm content to take

 11:51

it out. And there's a couple of comments, which are when we get, when you get the opportunity. Very grateful the strict Council's comments on that in due course. Thank you. I Right? The infamous mezzanine requirement, as previously you've said mad medicine, has its everyday meaning, which meant me once again, reaching for my concise octave of English dictionary. Interesting selection. Noun, a low story between two others, typically between ground and first floors. Then we go to American, North America, the lowest balcony of a theatre or the front rows of a balcony. And then you're in an adjective, finance, relation to unsecured, highly yielding loans that subordinate bank loans, loans, loans and secured loans, but rank above equity. So I don't think it's that. It's don't think it's the balcony of front rover theatre which leaves us between a low story, between two others, which, given the main warehousing only has one floor. Means it can't be a mezzanine. I think we need a different term. I've not it may be that you can have X amount of internal floor space, which then use defined but mezzanine doesn't pass for me.

 13:21

Sorry. Tony Westman, for the applicant, I think we'll take that away and review it and have some discussion with national highways and with Leicestershire county council, who are particularly interested in this requirement. I think everybody in the room kind of understands what they mean by mezzanine. So I'd be reluctant to take the word out, because I think people picking up the DCO in the future, if it's made, will understand exactly what it means. But I appreciate what you're saying, so maybe what we could do is provide a definition of mezzanine along the lines you've just described.

 13:55

It needs to be, I think mezzanine needs to be precisely defined. So what it is. And then there's a second element as to how they can be used. And we had that discussion yesterday about primary uses, nothing unless so it's there needs to be some precision as to how it can and can't be used. I'll bring national highways in Do you have any particular comments on the discussion Mrs. Westman and I have had so far?

 14:29

Thank you, sir. Rahul hack on behalf of National Highways, Sir, we're not attached to any specific wording. We have agreed some wording with the applicant, but it's the principle that we're attached to, so we're happy to look at in suggested improvements. Thank you.

 14:44

Leicestershire county council.

 14:45

Rebecca Henderson, Leicestershire county council, similarly, our issue is with the principal, but appreciate the wording needs to be absolutely clear and be able to be understood by all.

 14:59

As I said, my potential suggestion was to allow upset rates of internal floor, floor area within the and then defining how those could use might be easier.

 15:13

Rebecca Henderson, Leicestershire county council, there has been a suggestion that reference is made to vertical storage.

 15:22

Just some something which will clearly define what it was. And I just happened to while we're just sort of uses of yesterday, we had a discussion yesterday as to the substantial, carbon neutral campus headquarters might be Now, clearly, that might be the you don't want it on the face of the DCO, as it stands at the moment. But if you could produce, if nothing else, a without prejudice requirement, so that at least anybody could, we? Could there could be discussion on the wording of that, even if it is not your in your proposal, other part, others could make a comment upon it, and then we so that we could, then, in our report to the Secretary of State, make a comment on it, if appropriate, if we feel it's appropriate, and there was, if not an agreed wording for it, at least some putative wording for it, rather than having to make try, rather than to ask the x a, having to XP, having to write something which is never ideal.

 16:31

Tony Westman for the applicant, yes, we had some discussion about this yesterday after the hearing, so we'll make sure there's something in at the next deadline. I

 16:50

obviously you've changed. You've made a word in the Met. This is 28 moving down one on this is to do with the sorry.

 16:57

Sorry, Miss Allen . Leicestershire District Council, this was and so in terms of requirement 27 that was the matter that I indicated at the start, we would have a comment on as I understand it, and as explained in the accompanying text there, that wording with with highways has been agreed, and not with Leicestershire County Council, and the District Council does have concerns, however, with the drafting as proposed by national highways insofar as enforceability is concerned, because at the moment, we see it very difficult to understand how that could be enforced. And so that's a matter we just want to raise at this stage and can comment on at a later stage, depending on what wording changes or not, and so on.

 17:43

Absolutely it needs to be enforceable and clean and easy. And define easily enforceable in the sense of clearly, what is one side of the line on what side isn't the is the other side of the line? Then, sorry. Moving on to 28 and apologies for admitting that whether procure is to be against the secure.

 18:14

Does anybody at this point have any any word, any further thoughts on that particular wording on the delivery and the long term maintenance of the community Park, probably mostly for the district council. I suspect you

 19:14

going back to the different question, the different one of the was one of my comment things I was thinking about this was the difference between parking and store, parking and storage, and remembering some gold case law relating to get parking, parking, parking for people, parking their cars while they get on holiday down at Gatwick Airport, I'm sure some of us are old enough wife certainly am, to remember that in the in the mid 90s, there was a whole pile of Cape planning case law about the difference between parking and storage, and obviously that does will make a difference in relation to the amount of traffic that's being generated. I

 19:49

escrow. Jessica Allen The North West Leicestershire District Council, apologies for the slight delay there. I was just typing a note from the previous requirement so I'm instructed. Our understanding is that this would be managed by SEGRO in terms of then any further comments? I think we'd need to come back in writing just to clarify what the position would be.

 20:26

Then absolutely fine. Clearly, it may be that if there is a section 106 it might be to do with something else. It might make more sense to put it in there, because it could be clear, more clearly dealt with. I'm not saying it should be but just that might be an option, Mrs.

 20:42

Westman. Tony Westman, for the applicant, the community part will be managed by SEGRO. But I think the distinction, and the reason why the wording is in there is obviously the undertaker is SEGRO properties limited, but certainly in the case of East Midlands gateway one, there are other SEGRO entities that are responsible for the management and maintenance of landscaping and the estate generally. So we would expect the same thing to happen at East Midlands gateway, too. So it might not be the Undertaker, it might be one of their subsidiaries that deals with it, and that's why we have the flexibility in the wording, thank you.

 21:21

I think the next one, which is on Modi 50, we're going to do the sheet, one of the access and rights of way plans, which is as 00, 4d

 21:35

Thank you. And it's, it's the, it's a, yeah, you can. It's what we're looking at is down on the west, west side, the general west side of the drawing. But it does go for quite a bit. Schedule five, part two, row two, the proposed quote, the proposed public right away between the points, A to H, sorry, eight to hyphen, 12 on the access and rights play plan doesn't quite work, because eight to 12 isn't it's not clear whether it's between between eight and 12 or eight to 12, because you've got 910, and 11, which are also partly whether they're part of the proposal. I read it as eight to 12, but 889, 1011, 12, as opposed to eight and between points eight and completely separately, 12. And I think it might be how it's been drafted. I'm not sure. Could you have a look at that please?

 22:44

Tony Westman, for the applicant, yes, I've made a note of your comments and we'll review.

 22:50

Thank you. Yeah, it all if it was because nine to 10 is a reclassification point. It's a reclassification rather than a new one, and that this and schedule five is a new, new public right away. Thank you. Yeah, I think we still need that one back up again. Sorry, be just taking it away, but we up in the other yes, we're up in the other corner. But I was just wondering whether inset a because you have this, this noun, which is used to cut line, this, this first of the cut line between sheets one and sheet two, and whether there should be a cut line. Put it straight through the middle of the inset. One A just for clarity, to make sure, make it quite clear that it's only referring to the area south of the line, as it were.

 23:53

Tony Westman, for the applicant, yes, we can certainly do that.

 23:56

And going back over to the other side of the drawing, sorry, there's it's between 1010, and 11, bit further down on my on my version. Some of that line has gone a bit fuzzy. It's the same problem we had on a different thing. I think it's something, may well be something to do with the software. I think the version which I've which I've looked at on now you may be putting it in from a different version, rather than we upload look it off the internet. But one of those got a bit fuzzy. That's right, there's a couple of points you can see on those drop down. And just gone past that, one of the next one down, our next couple down have gone very slightly fuzzy on the edges, on the versions that we've I've seen it may be the rendering on my computer. They're much fuzzier than they in the same way as the other other ones are clear square blocks. That one's they've got fuzzy. So I think it might be something to do with the rendering. If you can have a look

 24:55

at those, please. Tony Westman, for the applicant, yes, I'm looking at it on my screen, and it's quite fuzzy. So yes, I

 25:02

suspect it's something to do with how they've been converted into PDFs

 25:16

at procedural deadline, a the in the

 25:36

white man can wait right and then, as I said, as I said, to put a comment on about the expanse. Remember a memorandum, just making sure it's why each one is required of the peculiar circumstances of this case, rather than just being, oh, it's, it's in everyone, yeah, it's the why, rather than the what it does, which I think is the point. And if you could make sure that gets to the end of my points on the draft runner consent order. Does anybody else have any other questions or comments before we move on to the material change order? No, in which case, let's move on to the material change order. And the next item on the agenda is to ask the applicant to in the same way as they did, a quick canter through the material change or the development consent order to do a similar on the material change.

 26:39

Tony Westman for the applicant. So in terms of the overall structure of the draft material change order, the draft order has been prepared based on, again, using the statutory instrument templates, and having regard to other similar variations to development concern orders that have been made, particularly the ABLE marine material change order. We did have a look at the way that was drafted in to inform our draft in terms of the main body, the draft material change order, there is formed a series of articles. The first article deals with citation and commencement. The second article sets out the amendments to the East Midlands gateway one DCO. So it provides for changes to existing definitions. It introduces new defined terms, and then it goes on to amend a number of the articles and schedules in the East Midlands, Gateway one DCO. So there's amendment to Article four to introduce reference to the additional parameters plan, which sets out the details of plot 16. There's an amendment to article five of the original DCO to refer to the new works which are then going to be added to schedule one of the original DCO to provide for delivery of the plot 16 works and the other works that sit alongside it, including the access works. There's provision within provision made within article 12 of the East Midlands gateway one DCO for the device diversion of a public right of way. And this is necessary to allow plot 16 to come forward so the original public right of way was provided as part of the original DCO but now needs to be varied to accommodate plot 16 and.

 28:55

That those will be certified documents. There's an amendment to schedule two of the original DCO, to insert a new requirement five A, which is to secure delivery of the pedestrian crossing works, which are works number eight A, and that they will be completed prior to occupation of plot 16. There is an amendment to requirement six one to provide that it won't apply to plot 16, and this is because a new requirement six one A is introduced to deal with the approval of details of plot 16. There are amendments to requirements 810, 14 and 17, and this is to make provision for plot 16 to be delivered in a call. with the MCO documents and not the original DCO documents which have been superseded. And then there's a change to replace requirement 16 with a new requirement, which deals with flood risk. Matters for plot 16, and that's obviously to recognise that there have been developments and changes since the original DCO was made. There's a new requirement introduced, which is requirement 27 and that's to provide for an occupy a specific travel plan for plot 16, obviously noting that quite a long period of time has passed since the original DCO was made, so it makes sense to have a specific provision. There are small changes to schedule 19, which is the national highways protective provisions, and this is to ensure that they apply to the carrying out of the pedestrian crossing works, which is works number eight, a, in terms of a planning obligation, there isn't currently any proposal for a planning obligation, the planning obligation which was originally entered into in respect to the original DCO, which was dated June 2015, will still apply. It applies to the development as Authorised by the DCO. Most, if not all of the obligations that in the original DCO have been complied with now. But as I say, there is no provision for a new planning obligation at this time, noting the comments that I made in the context of the DCO application, where that there has been some suggestion by some of the authorities that maybe some technical fees and other fees might be due in respect of these works. And we just need to agree the detail of that to decide whether it can be accommodated within the MCO, or whether there will be need for a planning obligation,

 31:42

thank you. Right. Probably the best is to go through what is now give. To get the right one to go through the in the same way that we did with the annex E1. One, we go through Annex e2 to deal with those and keeping an eye on those and so forth. Again, if you want to calm. Please stick your hand up.

 32:23

There was a question in r6, m3 there was a point about duplications and rationalisations of the English my feeling is, yes, please, please do rationalise them. We don't want to head into the awfulness of some legislation where you end up, I think the worst planning ones in the general committed development or that's got a quadruple negative in it, which is really just doesn't help anybody. I think I would go for rationalisation, if wherever possible, to just make it as clear as you possibly can, rather and avoid duplication. So if you could take that in mind in board, that would be appreciated.

 33:10

Tony Westman for the applicant, yes, we'll certainly do that, and we'll address it at deadline two in the revised draft.

 33:19

Moving on to m5 which is this question about the EMG exit road. Clearly, there was some discussion yesterday about obviously now known as Wilder's way, and the point we had yesterday about the highways design document. This may needs some amendment, and depending on how those negotiate, negotiations continue, you'll appreciate the discussion we had yesterday over whether other works might be necessary if given the comment in the highway design document.

 33:54

Tony Westman, for the applicant. Yes, we've made a note of your comments yesterday, and obviously in the context of this description as well. So we will continue our discussions with Leicestershire county council and aim to address that at the earliest possible deadline.

 34:11

County council have any comments on that?

 34:15

Rebecca and Leicestershire county council. We'll welcome the discussions with the applicant team. We do think it'd be neater if the access works were all wrapped up under one order, rather than split between the two.

 34:31

We obviously get the fun bit of material, of changes to material and material change, but we're sure it's not beyond the wit of man getting this through within the since we're right at the beginning of a of the of the examination period,

 34:44

Tony Westman for the applicant, we are meeting with Leicestershire county council next week, so we will add it to the agenda and have a discussion and Then come back on that at the next deadline. I

 35:14

there, obviously the other one of the other things is the fair few of them have got saved for that phase comprising plot 16. And that may well, obviously, may well be amended in light of the discussions we had yesterday on what, when was substantial completion had or had not occurred. So there may if, if it's complete, it doesn't become OTOs, but if it's obviously what there was, there's an action point on your good selves from yesterday, which will come to shortly over a substantial completion, and where we are on that. So that was the that was our that theory for comments on that.

 35:59

Tony Westman for the applicant, yes, we will take away the comments yesterday and review the MCO in light of that. I think I agree. I think some of the drafting in the MCO perhaps is a little bit clunky, but I think the reason for that is that we were trying to address the issue that you raised yesterday yourself, which is that things have moved on since 2016 so we are trying to obviously amend the original DCO in a way which accommodates New standards and requirements, and it can be quite difficult to do that without rewriting large sections of the original DCO, which I don't think any of us would welcome.

 36:46

No, I just put it on. There are some some written questions coming out on this area next week as well. On that. There's also one thing also simply is whether or not there should be a because of my authority, can tell there is an addition, a current requirement in relation to light which obviously there is one in relation to in the DCO, I think it's quite 14 to do with, As operation particularly, and things like that, because that the environmental statement has got various lighting effects which are reliant on hours, which aren't necessarily reflected in the MCOs, therefore need to be imported into the MCO.

 37:34

Tony Westman, for the applicant, yes, lighting wasn't something that was flagged when we drafted the MCO, but we'll revisit the ES chapter and make sure it's picked up. Thank you.

 37:46

And the the travel plan, obviously we were having a discussion yesterday as it stands this, this is only again for a five year period. Again, things have moved on. We're looking at second, second and tertiary and subsequent occupiers. Again, could I ask you to ensure that what is find out that finalises in the MC is consistent with the DCO?

 38:09

Tony Westman for the applicant, yes, we will review what's in the DCO and the MCO in terms of travel plan provision. I think it's worth perhaps just noting that the five year period applies to the monitoring as opposed to the actual operation of the travel plan, which which does.

 38:26

And again, with the Explorer explanatory memorandum, though, again, if you could revise it up so that it is very much more to do why the provisions are required, rather than necessarily what they occur? I've realised I didn't, we didn't have a discussion about the protection provisions on the DCO, and equal that applies to the MCO Now, clearly they are hopefully progressing between yourselves and the various bodies. I did, for example, did a compare and contrast between the national highways protection provisions and the applicants protection provisions, and a fair few of them are bluntly typographical. And I'm wondering why people are spending so much time. And this is aimed at people generally, not at anybody in particular, arguing the toss over whether somebody should say national highways as to post saying NH it does seem somewhat unnecessary to have arguments over that general point, rather than anything else. Can I just national highways? Can I just confirm how things are going? As far as you're concerned with protective provisions.

 39:43

Ruh hack, on behalf of National Highways, sir, on the material change order, we're not proposing any further amendments to the protective provisions. Thank you.

 39:54

But on while you're still there, but on the development centre to how's that? How are the negotiations going on that

 40:00

we're all hack on behalf of National Highways, so we are engaging with the applicant. The applicant has marked up our protective provisions and given us some comments which are with us for review, and we'll go back to the applicant quite soon.

 40:14

Thank you. As I say, things like NH versus national highways. Yeah, Leicestershire county council. Do have, could you have, do you have some comments on how the protective provisions are going as far as negotiations, as far as you're concerned, at this

 40:29

point in time, Rebecca, Leicestershire county council, Leicestershire county council is concerned the way the protective provisions for the local highway authority are drafted in the current order, which appear to be based on Northamptonshire gateway, based on Northamptonshire County Council's provisions. At a point in time we're concerned they don't reflect Leicestershire standard, 278 requirements. We've pointed the applicant to the draft DCO in England, national rail freight interchange, noting there was an outstanding matter with fee recovery on that, and we have a meeting with the applicant team next week to discuss,

 41:15

as everybody around the table will know, I'm fully aware of what we're not Hinckley, so we'll be aware so that thank but thank you for that. There aren't any protective provisions in favour restrict council saying there, but it's not city. So there's nobody else here who has a protective provisions. As it stands at the moment, obviously, there may be something infiltrated between yourselves and Prologis and/or, East Midlands gateway. If should that, should the negotiations head that way? Can I put it like that is the commercial negotiators heading that way?

 41:48

Tony Westman, for the applicant, yes, there are no protection provisions in favour of Prologis. There are protection provisions, obviously dealing with the airport safeguarding we had. We included within the draft DCO the protector provisions which were agreed for East Midlands gateway one, and obviously those in terms of the MCO will continue and flow through to plot 16. We understand that the airport's position is that their standards have changed, but we haven't seen any revised drafting from them on those protected provisions. So if they could send them through soonest, that would be much appreciated. Just going back to the LCC protective provisions in preparing the draft DCO, we did have regard to the east Midland gateway one protection provisions we did look at other made DCOs, including Northampton gateway. And we also looked at Hinkley, albeit wasn't a made DCO. We did have a look at the protective provisions which were included in the order, in the draft order, which were proposed by the applicant and also proposed by Leicestershire county council. And we very much based the draft protection provisions in the draft DCO on East Midlands gateway one. But I think we'll just agree that we will pick this up with Leicestershire county council when we meet them next week. And because we haven't got into, I think the weeds of kind of what the protective provisions say. So, yeah, we'll just take that way.

 43:22

Thank you. East Midlands airport, do you know obviously the word from the applicant is they have yet to receive your revised protection provisions? A, is that correct? And B, when do you anticipate them being able to have received them.

 43:38

John Riley, representing the airport, I understand that the airport and SEGRO have spoken this week to arrange further discussions, so hopefully those will progress relatively quickly. Good.

 43:51

Obviously, I would hope that there would be meeting of minds rather than prologued negotiations on that, because having to try and sort those out at the end is as an example, authority or a member of panelism is not one of my favourite activities, anyway. So thank you. I think that deals with though, all those observations to the DC and MC issue. Either of my colleagues have got anything else they wish to say, it's probably less next best to do the two items, things which we've still got outstanding, which are questions about the exam timetable, which relate we, Mr. Patrick, say what our thoughts are, as it at the moment, in relation to deadline to a although it probably won't be called that.

 44:55

Thank you. Mr. Jackson, yes, so obviously we had detailed discussions at the preliminary meeting few days ago. So I think if we come to Mr. Philpott just to hear what he has to say on potential for deadline to a or an additional deadline, as it were, as part of that please. Mr.

 45:21

Philpott, grateful, sir. Harry wood Philpott on behalf of Prologis. So yes, just to by way of recap, there were two particular items that were due to receive at deadline. One where we said we would need more time than would be allowed by the response time for deadline two, in order to take those matters on board and give you a proper response to them. And they were the new highways evidence, and also the evidence that's going to be forthcoming in relation to viability. You'll recall that those two matters feature the missions we made in terms of the deferral of the inquiry and the difficulties we faced and having more time to respond to those when they do come along, as opposed to putting them in at deadline, two will be important to us. We have looked at the timetable, appreciating that it would be important to have those in advance of the hearings in May, so the opportunity for everyone to take those into account, we were going to suggest a deadline that is a week in advance. So the Tuesday, the fifth of May, because the Monday is a bank holiday, the fourth is a bank holiday. So we were looking at the fifth. We also thought that it might help all parties, in particular. In this respect, it's going to be the advocate and Prologis in the airport who will be affected by this if both at deadline one, and also whether we call it deadline two way, or whatever it is, that there is direct exchange between the parties in addition to providing the material to pins, because experience suggests there can be some time lag between the material being provided to pins in it being uploaded by The site and available generally and for this particular deadline, and also for deadline one those things which are of direct interest to those two parties, it would be helpful if we could agree that those things are mutually exchanged so that both we get the deadline one material at the same time that it goes to the inspectorate, not everything, but those things that relate to us, and similarly, at Dead way, or whatever we whatever the panel choose to call it, our material goes both to pins and directly to the applicants and to the airport. So those were our suggestions, and we we hope that that is a reasonable and pragmatic way of dealing with it.

 48:29

Thank you, Mr. Philpot, but I think the only thing we might note is the fifth of May wouldn't necessarily enough time to review things that might come in the additional deadline before the hearings to inform the agendas. So we were thinking maybe the week before the fifth so you'd effectively be an extra week after what is currently deadline two. So there'd be another deadline after that, on the 28th of April, rather than the fifth of May.

 49:07

The difficulty we face, sorry Harry wood Philpot, on behalf of Prologis, is that this is that would allow us about three weeks, as opposed to two weeks. This is material, which we say should have come in with the application. And so the comparison, the appropriate point of comparison, we say, is between how long we would have had it in the normal course of events, if it had come in on time, and how long we're going to have it now. We recognise the need to have it in advance of the hearing, appreciating the issue in terms of the setting of the agenda there would, nevertheless, I hope, be sufficient time between receipt of the information and the hearings to take it into account in terms of preparation for the hearings, even if the agenda, insofar as it deals with those matters might have, might have to be flexible when it comes to those particular issues, because you wouldn't have had our advanced response. What I would say, by way of further mitigation of that effect, at deadline two, you will get Prologis written representations insofar as it's possible to provide any headline responses at that stage we would endeavour to do so. We may need to, we may well need to reserve our position on some of the detail, but mindful of the practical requirements for the examining panel, we will be happy to provide headline points at that stage so that they can be taken into account in setting the agenda with more detail to come when we have the additional opportunity to provide the comments in detail, ideally, as I've said, a week in advance. But what I'm what I also want to avoid, is having to put in something before we're ready, and having to say, Well, look, this is a partial job, and therefore you'll have more in due course, which I don't think would help.

 51:33

Just come to East Midlands Airport, see if they have anything to add. Then I'll come back to the

 51:40

John Riley for East Midlands Airport. As you might expect, we are as one on this

 51:46

Thank you. Thank you applicants.

 51:49

Thank you sir. Alexander booth, on behalf of the applicant, sir, as you may have anticipated,

 51:58

we have a number of comments in relation to what Mr. Philpott has just said. I mean, the first point, short point, is that we don't accept that it was in any sense a failure or an omission to put in the viability material, for example, or this further highways material in advance of the examination starting that isn't accepted in terms of how we go forward from here. The proposal that I was going to make was one which you yourself already identified, namely that the appropriate course of action is for this material to be provided on the 28th of April were we only to resit the fifth of the fifth of May, that would give both yourselves, the panel and ourselves an inadequate period, we say to consider that with a view to making best use of doing And indeed noting at that compulsory acquisition hearing for all parties purposes is likely to be on the 12th of May. So the very beginning of the week, we say that would be an inadequate time for yourselves and the applicants to consider what it is at Prologis may put in. So we say 28th is far fairer. We're very happy to have direct exchange, though we do say, I think direct exchange only in relation to the highways material and the viability material, because we will of course, be uploading a far wider package of details and materials at deadline two. Sorry, deadline one, two Sorry, I'm on two. Yes. So we say no. Point is 28th of May, April, they will have three weeks to consider that that is entirely sufficient, we say, and to put the booth on the other foot and to have four weeks and one week, we say, it's simply not proportionate or reasonable. Yeah.

 53:59

It Okay. Thank you, everyone for that. Mr. Philpott looks like he's hovering to and would like to speak

 54:08

yes please, sir, her word Philpot on behalf of the simply to say that the limiting the direct exchange in the way that Mr. Booth has indicated is not a difficulty for us. That's that's fine. And I tried to indicate I didn't necessarily want everything. The only thing I would say so you've plainly got two competing dates, those are not the only options. Of course, any extra time we can have would be appreciated. So if there's anything in between that we would welcome every opportunity we can get to provide you with response as we can. So, for example, the latter end of that week would be big improvement for us on the beginning of the week.

 54:54

Thank you. I think we get the gist of it from everyone concerned. So we'll take that away and discuss it, and then we'll issue our rule eight and the final timetable. So if there's no more comments, I'll hand back to just the applicants briefly, please for the applicants,

 55:12

very briefly, just to note, and it's not a material point, but just to flag with you. I think the fifth of May is, in fact, the bank. Fact, the bank holiday, which you may well have fourth of May.

 55:22

4 of May. That's why I offered the fifth.

 55:25

We'll take it away. So I'll hand back over to Mr. Jackson to close things out. Thank you. We had to work

 55:32

with the action points from the last for the from yesterday and today. It's we have a quick Can we just, we'll just, if we're just sort of pause, rather than three, is just make sure we're, we are. We did most of it before we did the hearings today, so we should be all right, but just making sure that we are

 55:54

okay. So, yes, so having been through, having been through them early overnight, as it were. So we're in a bit, which does make it, did make it little less chaotic for us at this point. So Mr. Joshi, Dr Joshi, if you would, if you would be grateful, if you would go through them.

 56:09

Thank you. Thank you. Mr. Jackson, before I end the list of action points, I would like to inform all the interested parties and the applicant that the examination panel has decided to use the continuous numbering for the action points, starting from the first compulsory acquisition hearing, which contain the four points. So moving on from that list, we will begin with action point five. But please note that

this numbering remains provisional until the final list is published next week, probably, and the examination panel may adjust sequence or the numbering if any points needed to be added or subdivided. With that in mind, let's start with the action point five from the issue specific hearing one, I will also clearly indicate once we have concluded the ish one points before we move on to the ish two. So the action point number five to provide a written explanation, setting out its justification for the view that the EMG one development was substantially complete in October 2024 this explanation should address three points. The first one is how the concept of substantial completion applies to a multi phase development, including whether Completion should be assessed building by building or at the point of overall site completion. The second one whether the absence of the authorised lower country cranes affects the assessment of substantial completion, and if so, how? And the third one, invited to provide your comments and the views for all the interested party. So this action will be for the applicants and all interested party by deadline. One, which is on Tuesday, seventh, April 2026, from now onwards, I will just speak d1 for the deadline. One, the action point number six to written submissions addressing the policy and regulatory framework relevant to the determination of the MCU application, including whether the determination of the MCO should be undertaken against current legislative and policy Standard, including environmental and aerodrome safety standard, and whether doing so may require consequential updates to the elements of the original DCU. This action is for the applicants one the next action point number seven, to provide a note in relation to the highway works part two of schedule one, including whether those works are there are sub points, A to F. The a is necessary as a consequence of the commercial and business development in part 1b, required in their own right due to existing and or future trafficking in the area absent the proposed development in part one, the C, necessitated by any planning permission that may be forthcoming on the northern part of the site. The D required in relation to other forthcoming developments, the E, in combination, whole or part of the any of the above or F for any other identified reason, this action is for the applicants national Highhams and the Leicestershire county council by d1 the action Point Number Eight to provide written submission addressing the following. There are five sub points in this one for the EMG two project as a whole, whether it should be considered under Section 104 or section 105 or a split approach. And if a split approach is considered appropriate, where and how the dividing line be proper, properly withdrawn. The second sub point is whether the distinction between the section 104 and section 105 materially affects the Secretary of State's decision making in this case, third, how the associated development should be treated. The fourth, what the implications are of the ES structure when compared with the structure of the draft duty, and how this two should be reconciled. And the last one, if necessary, the submission of revised draft D zero and draft em and relevant and applicable es documents in this one, this action is for the applicants and all the interested party. But for the last point of other than the last point, applicants have the deadline of d1 and the last point for d2 which is Tuesday 21st April. Action Point Number nine, to explain the implication of EMG one, DCO. Article Five, two on the DCO and the MCO to ensure that any planning permission Under the TCPA would not result in either incompatibility with the EMG one DCU. This is for the applicants and the North West Leicestershire District Council by dead Lane one, action point number 10 to assess the mill, Brook gas fired generation station, order 2019 and its provisions, modifying the rookery South order 2011 particularly the cross order, protective provisions, to consider whether the simpler drafting may be necessary or appropriate in this case, and if so provide such provisions within the draft TCO. Or draft MCO is for the applicant by d1, next action points is to ensure the updated MCO transport assessment reflected across the ES, particularly in relation to the air quality lighting, among others. This is for the applicants by d1. Action Point number 12 to provide a written note on Free Port designation with regard to how the proposed development meets the criteria to ensure the benefits are realised. This is fund by d1 action point number 13 to provide a note on detailing the construction programme and whether it is realistic and information about the EMG one construction programme in its use as a proxy indicator is for the applicants by d1 action point Number 14 to provide a written note detailing the operational dependencies between the proposed development, the existing rail freight interchange, and the East Midland Airport. This is for

the applicants by d1 action point number 15, note on positioning and function of the carbon neutral campus, which was the part of the Secretary of State's section certified direction for the proposed development, and how will it be secured within the draft DCO and if Not, why this is for the applicants by d1 the action point number 16 to provide a technical analysis as to whether the highway works would be strategically important and would it support wider community cumulative, cumulative economic growth at the strategic or additional sites. It is for the applicants by d1 the action point number 17 provide contextual information about the relationship between plot 16 and Hs two and why it was effectively left as white land within the EMG one DCO plans would be useful to describe this. This is for the applicants by d1 action point number 18, to provide clarification on whether the development of the EMG two site would have modelled and or survey traffic results for the EMG one site, including how traffic flows between the rail freight interchange and EMG two have been accounted for, and the confirmation that no double counting of traffic into the wider network occurs. This is for the applicants and the Leicestershire county council by d1 and eight action point number 19, to clarify with reference to paragraph eight, point 11 of the high approach. Document, a P, P, dash, 211, what is meant by the statement that the a six keg, what bypass a 453, junction. Capacity improvement would cater for the additional development within the EMD one site, and to explain how this relates to the MCO proposal, it is for the applicants by d1 the action point number 20 to confirm the position regarding the use of the EMG one zone as the most appropriate proxy for the EM, FM, construction, traffic forecasting, assessment, one paragraph two, point 3.4,

 1:06:08

of appendix 74, of the Ta, app 083 states that there there is no em FM zone in the immediate vicinity of the m1 junction 24 this is for the Leicestershire county council and national highways by d1 action point number 21 the current position and future implication for the proposed development in the context of duelling of the section of road north of the EMG two site, including mechanisms for delivery. This is for the Prologis and the Leicestershire county council by d1 for applicants is for d1 for the explanation and the d2 for inclusion of new requirement in draft DCO action point number 22 to provide the road safety audits and responses with necessary amended drawings for the applicants by d1 next action point number 23 in Table three of the transport assessment AV, P, 080, PDF page 47 It is noted that the percentage of employees driving alone to The EMG one side has increased in 2023 and 2024 and the percentage of employees sharing cars has reduced. So provide the 2025 analysis of why this has occurred and what measures have been introduced to reverse this, and any implications for the operations of the sustainable transport strategy for the EMG two, it is for the application one. And the last action point on ish 124 is to provide an update on the framework travel plan, including clarifications on the intended duration of travel plans for individual units, the how lifetime of the development is to be interpret interpreted, and how travel plan obligations would operate when building occupied changes one or more times this for the applicants by deadline. One, this ends the action points for the ish, one, before I move on to the ISS two. Is there any other action points which any parties would like to add? No, okay. Is there anything else from panel? No, okay, so that ends the action points on ISS one for the action points for the issue specific area two on draft TCO and draft MCO, the councils and national highways to provide region submissions addressing the various matters raised during the hearing in relation to the articles and schedules of the draft TCO and the draft MCO, they can rely, of course, rely on their own notes and necessary you can refer to the recordings of the hearing. The applicants is also expected to provide the return responses on the relevant points raised by the emanation panel during this hearing, and also to respond to the council and national highways if and where relevant, so that ends the action points on the ISS two as well. So is there any anything else any other party would like to raise at this point? No, I don't see any hands. Then I'll hand back to Mr. Jackson for the closing.

 1:09:54

Thank you, everybody. It's been a heavy two and a half days. Thank you. Thank you. Done in a good good humour, and getting it getting through, obviously, we will be reflecting on the commitments on and we will get the draft, the final time table out. We're hoping for next Wednesday. Obviously, they think something might happen between now and then, but that's the anticipated when we we're hoping also then to get the first round of written questions out. And there's a couple of other, for example, action points. At the same time, there'll be a couple of things like that, which will probably do it as one rather than drip feed. You will probably do it all in one hit. It just makes life easier for not only for us, but for the the staff in the in in the office, quote, unquote, those who actually the publication if they can do it in one hit, rather than having to do it in drip drip feeds. That's why. So can I thank everybody for their time and their assistance to us over the last three days, I suspect we'll be seeing a good few of you again in May, if not all, and look forward to seeing you then. Today's issue specific hearing is now closed.