

# TEXT\_ISH12\_EA1N&2\_Session2\_11032021

Thu, 3/11 1:13PM • 1:04:54

00:02

Good morning again, ladies and gentlemen, and welcome back to issue specific hearing 12 into noise. My name is Rynd Smith, the lead member of the examining authorities can I just check that I can be heard the live streams of recommenced captions are switched on.

00:22

over and I can hear you perfectly fine. The internal recordings have started, the live stream is up and running along with the captions. Thank you very much, Mr. Williams. In which case, ladies and gentlemen, just to remind us where we are on the agenda. We are in agenda item two, a, we have dealt with questions essentially around the local background, stroke, ambient. And we're now moving on to whether there are any specific outstanding concerns in relation to construction and Friston about specific construction processes. So can I just ask the experts for the principal interested parties to return to the screen please. So we have a Suffolk council Stacy's and the applicant?

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Thank you very much. This, given the nature of the conversation we have already had may possibly be a quick agenda item. But are there any outstanding concerns about the effects of specific construction processes

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that have not in the view of either the council or Stacy's been adequately addressed or taken into account in the outline code of construction practice in relation to the construction site at first and

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I'll go first to Rupert's only Taylor and then I'll go to the council and then if there are matters to respond to I will come to the applicant. So Mr. Tommy Taylor, thank you. So rope authority Taylor on behalf of Stacy's,

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as you'll have gathered from my comments, before the break,

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Stacy's are in the difficult position of not having a role to play in the section 61 process.

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It would be a very good thing if East Suffolk council felt it appropriate to consult us when assuming the order is made, the section 61 application comes in. Because otherwise we have no

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leverage whatsoever after the closure of the inquiry as far as construction noise problems, and almost certainly there will be problems. And all my bases can do is to contact the offices for me stuff and hope that they will deal with them, then it'd be very nice if we had an input to the process of determining the section 61 just through the through a consultation process.

02:54

Oh, okay.

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Well, I will turn to Mr. Percival on that point. And I'll come to the Applicants .

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I don't have any further points on that specific matter.

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In addition to miss Foley Taylor has just said I was assuming at this stage, we're not moving on to the actual discussion around specific construction processes we're tightening up on I was I was hoping to move to specific construction. Okay. And to and to deal with the particular question that I posed at the beginning of this item, which is whether there are any specific construction processes likely to be delivered on the construction site. And there's in your view, need a specific reference or greater

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measure of definition in in outlined code of construction practice, and make use of that. So the council's official position is that our concerns are relatively broad, not necessarily related to any specific aspect or some phase of construction or process.

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So it's worth saying that, but the one thing that I did want to potentially raise under the broad

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topic of construction processes is around construction working hours as a general topic,

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which cuts across all three sub phases that we're going to discuss, I don't know if this is considered the appropriate place to discuss that, but that's about working is the one matter that that a staffer council wishes to discuss under this item on the agenda?

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Okay, well, the floor is yours. Okay. Excellent. So in particular, it's in relation to what I described as essential works outside of construction hours, which is separated out from emergency works.

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Now, this will ultimately be controlled by requirements 23 and 24 of the scheduled one of the draft DCOs.

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And similarly, in paragraph 19.16

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local impact report the council's have stated that wherever there was a requirement for nighttime or extended working hours that this would need to be agreed in advance whether you suffer council through a process to be included in in the code of construction practice that has started to be integrated.

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And previously ESC has commented on requirements 23 and 24. Most recently at deadlines six, and there were two points at that stage. The first being as to whether the requirement adequately addresses the topic of fitout works

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and he suffered Council and now satisfied that that has been addressed in the amendment to that requirement in rep seven DASH w seven. However, the second point raised by Suffolk deadline six remains and that specifically is that we consider the applicant should be required seek agreement from a software as to whether essential activities outside of those specifically listed in items A to D of the requirements

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are necessary outside of construction hours as part of the approval process which as we discussed earlier will

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form or will take the form of Section 61 application.

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But to clarify and to summarise

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a Suffolk consider that there should be a further amendment to those requirements to reinforce the fact that any quotes, the central activities outside those listed in the requirements must go through a Suffolk for prior approval. But that is indicated but not explicitly stated as far as we are concerned.

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Okay. Right.

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So now come to the applicant in response on those points.

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Thank you, Mr. Baxter, for the applicant. Just in relation to Mr. Foley Taylor's request, their faces are certainly consulted and informed within section 61 process. I think that's very appropriate. But we would we would

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say that ASC

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are the appropriate body to determine the section 61.

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On the other point in Mr. festivals,

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pointedly raised on the requirements and the particular wording of the requirement may pass over to Mr. Ennis. Just to give his legal opinion on that one. Okay. Now, before you do, I do note and apologies, Mr. Attorney, I may have missed your hand earlier. Can I just show that Richard to any faces I just wanted? I thought we'd deal with it under a slightly later agenda item. But Mr. Percival raised construction hours, and rather than the applicant having to respond twice on that I did have a point to make on that, as you know, I think it was absolutely fine. Bring, bring that out now that there's a measure of flexibility around the construction of this agenda. So if we do it now, we won't do it later. Great. So personal credit some points about out of hours working, but it rather raises the issue about what are the normal working hours and as you know, we've made representations on that point already. In in the requirements, Mr. Personal address, they are seven till seven. We continue to push for those core working hours to be eight till six. And in fact, given that Mr. Corbyn now says well, the right control regime is or a useful reference regime is the HS to control regime, then it's worth noting that the core working hours for HS two are eight till six. So we do we do emphasise that really, we adopt what Mr. Percival says about out of hours working, but that should apply to any work between 6pm and 8am on a weekday or weeknight

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rather than the core hours being treated as seven till seven. Thank you. Okay. noted, and with apologies to the applicant, but useful to have got all of that position onto the table now so that only one package goes to Mr. Ennis rather than multiple ones.

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Mr. Nice. Yeah, calling from happy just in terms of

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the construction of requirement 23 as I understand it, and how it's been presented, is 23 two, sets out a non exhaustive list of activities that might be carried out carried on outside the standard hours.

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insofar as anything else is not listed, it still requires the consent of the local authority in three, and the only exception in relation to external timings whereby, effectively, there is no requirement to get prior approval isn't an emergency situation, whether it's a risk to persons delivery or vouchers to your property. That is the only circumstance in terms of working outside that is excluded from the control of the authority.

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The list that has been set out lists the likely circumstances which are envisaged, whereby consent may be sought from the authority, but it's not exhaustive. But if anything else comes forward, it's still caught. Because it's only in to E, that the position requires that there isn't a requirement for further consent. That's our reading of requirement. 23.

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Okay,

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so your starting point in submitting in response to that that's been put to you is that the drafting of that as it currently is, and I'm just scrolling up to it now

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has addressed any concern about an unenclosed list with the obvious sole exception of emergencies?  
And

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I'm just reviewing that drafting again now.

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Yeah, now that seems to be reasonably clear. So referring

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to requirement 23 is currently drafted in the deadline seven version of the order.

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Now,

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I note we also have a hand from Mr. Tate.

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On this point, I'm sorry, the applicants response is getting a little knocked around here. But I do want to draw counsel for the council in as well on this point before we wrap this finally up.

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So Mr. Tate, Thank you, sir.

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Just on requirement 23, to be clear,

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as Mr. Percival indicated, to be which we had concerns about has not been adjusted. So it's limited to internal. Yeah, and we're content with that. The point now is that recognising that too, he is not subject to the process in three, but that A to D,

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that still leaves the

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nonspecific central activities at large, clearly A to D are inherently

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essential by reason of their Express inclusion in the in those headings. But other essential activities are only subject to control as to timing and duration, rather than as to whether they are indeed essential in the first place. What is the nature of the judge? Would it assist the council at all? And I float this, if there were any drafting that essentially required an after the fact report on

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requirement 23 to be works.

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setting out the nature, the timing and nature of the works or the duration of nature of the works.

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I raised that simply on the basis that it's I get a sense from your submission that the council would have a concern about there being no accountability for the delivery of works that could be justified as activity necessary in the instance of an emergency in circumstances where once those works are done, that's it. There is no recoverability there is no approve ability, there is no accountability. And

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yes, I think that would be useful in relation to he were clearly there can't be a prior approval process. If it's an emergency, that would be that would be welcomed.

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The additional point is that

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we think that in relation to the nonspecific central activities, and whether they are a central at all or not, we think that three could be adjusted so that in relation to the, the non the those activities which don't fall within A to D, but which are in the generic central category, that they should be

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provision at three, four, whether they are essential to be a matter that is before the council so that they can, as part of that approval process, considering timing and duration, also consider whether they are in fact, Central, that doesn't arise, obviously with A to D, because those are specified as a central. So we've got a mechanism of dealing with essential activities, including but not limited to the open class. And then we've also got potentially a mechanism of dealing with whether or not an emergency was a real emergency. Yes. And in the calculate it will be after the event, it would be after the event, but there's an accountability there and a prospective enforceability if that provision was being abused, not suggesting that it would be but that that I read is your concern. So let's hear from the applicant about whether they they're prepared to to move on that point, or whether they think there are good reasons why they shouldn't

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well, caused by half the applicant, just to say that the provisions that are set out in requirement 23 are also supplemented in the outline cursor construction practice, in relation to

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Section 3.1 of the document, which I think is Rep.

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Seven, zero to seven. And there's a whole section on particular, which includes relevance to reg requirements, 33 and 34. And essentially, sets out and 39 anticipated, like the utilisation of essential activities, and in terms of paragraph 40 satisfy that and seeking the approval, the outcomes will describe the nature of the works, the timing, and any additional mitigation measures that will be in place to ensure the acceptability of activators works. And in essence, the the Council have the discretion to approve or not approve these works in absolute terms, and therefore, they retain control over them. Furthermore, in terms of paragraph 41, of the code of construction practice, where works are undertaken at consented hours in response to emergency situations, rather than planning authority or wise advice as soon as practicable. Finding the circumstances for the works, the likely duration, and the management and mitigation measures that have been implemented. So in terms of of these matters, that are effectively covered in the code of construction practice, were essentially fleshes out how the requirements will be implemented. And I think given that certified documents, we're essentially providing the practical measures. And I don't think we can be any clear of the fact that the Council have discretion. And that is that the onus in relation to the non emergency works is for the applicant to demonstrate to

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and it specifically identifies Of course, the concept of giving

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have gone down and you have gone down. And if you constrain can hear me intermittently, there are times when you can be a dentist, but there are times when you can't, and maybe just return about 20 seconds, 30 seconds or so and just passes through that that submission. Again, if that's not too painful,

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not at all, had we reached the

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outline code or construction practice, you had a new taken us through to paragraph 39 and 14, you'd set out the general provisions there that are applicable to all out of ours working as distinct from the noise control measures in Section nine. So you, you've walked us through that you've given us a view that on that basis, that was probably enough, and then you went silent.

18:58

So I hope I dealt with the emergency fact that in terms of the if the requirement exception is utilised in terms of emergency that the Code of Practice sets out. But as soon as practical circumstances for the works, the duration and the management mitigation measures implemented will be submitted to the council. So in that context, essentially, if you combine the requirement and the certified document in my submission, then that's relevant safeguards are provided to the council in relation to this matter. Okay, right.

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In which case, those are the

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final positions of the Council on that point. I'm just going to check Are there any other points that any of you here wish to raise in relation to

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the first hand side and the impact or control of specific construction projects?

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As we did also flag up at AMS small letter see an opportunity for anybody to raise any specific concerns about measures in relation to individual receptors because in certain instances, I would flag that the outline code of construction practice is very specific and it talks about specific sites that might enjoy particular forms of protection, whereas in other

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sections it is it is quite generic. So, for example, in relation to the landfall and not landfall in relation to onshore substation, location construction noise control,

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then there are measures including the installation of noise barriers along the eastern boundary of the onshore substation construction consolidation site closest to Grove road. And the effect of that will be to reduce construction noise impacts on uses of the adjacent public right of way and on the road itself.

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Given

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in my understanding the distance setback of individual dwellings from that side, there are no proposals for specific noise attenuation measures for specific individual dwellings in relation to onshore substation, construction, noise control, and I just wanted to check whether anybody had any specific issues to raise about that. And I do see Mr. Tony's hand has been raised.

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So I'll come to you, Mr. Turney. first before I go to any of the experts on this. Thank you, Sir Richard tourney for spaces. That there's a couple of points that we'd wish to emphasise about construction noise from the Friston site.

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You'll see there from the passages you've referred to in the cicp that despite it being the most intensive and prolonged area of activity, in fact, the specific noise measures at the Friston site are the lightest, there's more detail provided elsewhere on the cable route, for instance. And that's obviously a general concern. The first point we make, and it really is just a general request, reflecting approaches that have been taken in other offshore wind cases. I think, specifically in the ramp case, there is the approaches taken by the applicant, which justifies not providing specific mitigation measures for residential receptors is a 75 metre from the construction compound effectively.

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It the figure of 100 metres has been used elsewhere. And we see no reason why the applicant can work to that it is effectively a matter of judgement by the applicant, but 100 metres would be more appropriate now. I think it's probably right. Just to interject that briefly and ask a specific question, which may be something that Mr. Tony Taylor responds to,

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are there any in of the individual dwellings surrounding the proposed forest and site that would come within the scope of 100 metres? I think there are, I don't think there are the 100 metre pulling we made more generally in respect of and it is relevant to the cable corridor where there are dwellings which are more than 75, but less than 100 metres from the from the worksite. So but I think that general point which applies to the cable corridor as well, is one which probably wouldn't make much of a difference at the Friston site. However, in terms of specific receptors, I think we also would really wish to emphasise the need for consideration of the specific any specific mitigation measures for those closest residential receptors and also for the very important receptor at the church. Now as you know, it is a listed building. It is

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bits it setting is characterised by the tranquil local environment in the same way as the local footpath network is characterised by tranquillity. There's the warmer boreal and the churchyard, which are going to be particularly vulnerable to construction noise. And we do think that this is something that first of all needs to be recognised as a disk benefit of the proposal notwithstanding the cicp and so on, it will be a disk benefit if the app simply cannot remove those effects on the church, but also as a point which should be the subject of specific consideration in the CACFP. So consideration will be given to what measures can be taken to minimise the effects of that important community asset. So those are the specific receptors that will reflect to use it. Okay. And in that respect, I'll throw a question after that. I would like the applicant also to address in concluding on this point.

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Which is Was there any particular Magic in the city

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lection of

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the eastern boundary of the onshore substation construction consolidation site closest to Grove road as being that that would be specifically

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subject to the installation of noise barriers. Is there a possible argument for

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not necessarily the boundary of the site, but a junction point between active works and elements of the site that are not involved in active works on the southern boundary of the site in the interest of protecting broadly, the settings of Preston house Woodside farm the village, and that's just a loose question.

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Mr. Thornley, Taylor may have views on these points. I'll just come through him then to the council, and then I'll bounce down to the applicant on this point. Mr. Tommy Taylor, thank you. So Rubicon and Taylor on behalf of Stacy's,

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the essential thing is that our major projects of this kind where construction impacts potentially can last over a very long period. It is essential that outside the formal statutory processes we've been discussing, such as the 1661 process, that there is a framework for consultation between the contractors and the community, because things like effects on churches, for example, can be resolved by local arrangements, following consultation when there are specific

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issues, timing of events in the church, that kind of thing. And it is vital that quite apart from formal processes, that there is a good system of community consultation set up and operated, so that the concerns that are bound to arise if the if the order is granted, and the work goes ahead, can be addressed at local level. Okay, now, can I just ask you about how that would be done. And if, for example, an amendment was made to Section 9.1 point three of the outline code of construction practice

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that set out a framework for consultation of nearby residents, particularly the church and the village community. Kristen, would that address that point? In your view? It addresses it. As far as the written word is concerned, it's very much ensuring that the

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both the Undertaker and the several contractors as Mr. Yang have the right mindset. It's difficult to require that through formal processes, and some contractors are better at it than others. Indeed, and look, I mean, we we face the judgement about, you know, what is appropriate and acceptable and what can be provided for in the relevant documents.

28:02

But I guess they're given a choice between circumstances where that was provided for in Section 9.1, point three as of the outline and code or not.

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Is there another place where it might be provided for? Or alternatively, on balance? Would that be the best starting point?

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purely in my experience, I think the code construction practice is the place where these things are dealt with so far as they can be in writing. Okay, thank you very much. I'm going to then go through ESC services, Percival, and now we've already heard from Mr. Tony, so I, I take it with attorney that there are no more kind of overarching legal submissions on this point. So I just like to check whether there's anything from a technical perspective that Mr. Percival needs to say.

28:52

Thank you, thank you very personal for a separate counsel. Nothing additional. As such, I would say that we would support misophonia Taylor's recommendation that the tranquillity of community and recreation areas are considered as part of the construction practice, which I would also acknowledge does include some commitments to community liaison, but there's obviously discussion around whether that should be expanded. I would also add that the counsellor actually satisfied with the additional

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commitments that have been included in the outline code and construction practice in particular regarding the sensitivity of individual properties.

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And in particular, that will be a consideration within the construction phase noise and vibration management plan, which in turn is secured through requirement 22 of the draft DCA. So in those broad terms, I have nothing else to add.

29:52

Okay.

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Apologies because I'm just taking notes. So I'm now going to

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Going back to the applicants and given that we've ended up having a conversation about whether

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there might be specific individual measures, including along the southern boundary of the worksite, north of Friston, and also whether there is virtue in any amendment to the draft code in relation to all the outline code rather, in relation to consultative processes for members of the community for those matters, that the applicant can respond on

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corners and half the applicant dealing with the local community liaison. We had a fairly extensive discussion on Monday in relation to that particular aspect. And in particular, that we had a fairly well established process, which has worked on the a one and East Suffolk Council. I think it was Suffolk County Council in the Suffolk County Board confirmed at that stage, I think it was the stuff that confirmed had been very useful. In terms of the process. I think one of the key points about that particular process is that it had to be done early. And it had to be done at a time when before construction happened at various locations, to make sure that people were listened to, and also to make sure that they were given accurate contact details and given active encouragement to respond and raise issues with the construction team. Equally important in the whole process. And I think that was as laid out in on Monday's hearing was the importance of saying it's not just, you know, representatives of the undertaker that would be present, but also the contractor to ensure that they understood what the local concerns were, and that they could be taken into account, and that they understood some of the issues and concerns that would arise in carrying out construction activities and the work of those localities. And I think the key point about that, is that from any soft council perspective, what is enabled was, if there were concerns, the first port of call was actually with the developer and the contract contractors, rather than going to a Suffolk Council and having to resolve what Mike described as local issues. So it has already been set out with local basis. And equally as I understand in East Anglia, one, there were certain events that occurred throughout the line at various times, and they will be able to be taken into account through that process of being, you know, being understood what was happening in a locality at a particular time for that to be respected. So it is a process and it's through that process. But I think all those matters, that are local unimportant can be raised. And that could, for example, deal with the activities of the church, which may have one off

events that would require to potentially have to be respected depending on the work schedules that were going on at the time, but an understanding

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of those particular activities. But I think I'm good to hand on to Mr. grellus, Novick, sir, certain of the matters just to explain where we've got to is a starting point and is a new way, the end point of the discussion about where we will get to in terms of what would be put in place in relation to the construction activities. So I'll hand over to Mr. Gross, just to pick out why Grove Rose was selected and to illustrate the thoughts at this stage. Thank you very much Chris wicker,

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thank you prime regardless for the outcomes with regard to the use of the 75 metre buffer that is the de minimum offset distance that we have established at this point based on consideration of noise propagation during the construction period in order to ensure that any properties within that distance or have that additional and the surety of that additional protection within that 75 metres so and so we consider that that distance to be to be appropriate. It's not to say that it's the only thing that we will be doing the section 61 process for instance, may well identify additional measures that we need to deploy at other locations and that certainly is capable and facilitated section 61 process itself with regard to the the measures just to the west of Grove road. So to the east of the substation CCS. The reason we have specified that area in particular is the fact that it is a it is a construction consolidation site. So there would be

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permanent activities at that location within the during the construction phase itself. And we are also different in a public right away a permanent diversion from public right away close to that area. So the day identification of that boundary is to improve the immunity of public roadway users both within the new public roadway but also anyone that chooses to use

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The group wrote itself

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for leisure activities, primary activities, etc. So it really just reflects the proximity of those access corridors to the development site. And that is quite distinct from, for instance church or some areas which is around about 500 metres south of the of the onshore substation application itself. So it does reflect the difference in spatial relationship between our work areas and their under sensitive users.

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Okay. And in that respect, it's then your view Mr. McGrath that there's there is no rationale as to use it for

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any additional specific measures to be identified in outline code

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in relation to the southern boundary of the worksite and and the village itself, your rest resting on consultative processes, identifying any additional specific needs and all the section 61 process putting in place additional formal measures.

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Roma gralla support the outcomes.

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That is the case that in all reality and all practicality and reality, the southern boundary would certainly be subject to defence protection requirements within the deep draughty seal for instance, for temporary measures of enclosure to be submitted to the local authority and approved in advance of the construction work. So again, there's a mechanism there to reinforce the form of fencing that we utilise around the southern boundaries as an example. So there are various opportunities going forward to want to once we get the details through high ribbon to construct the construction programme, or there are various mechanisms there to improve and increase the debt mitigation measures that we adopted within the construction phase.

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Okay, right.

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In which case,

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everybody, I think we have dealt with small letters, see individual receptors now small letter D mitigation measures and security, we have very substantially, as I flagged as we started this journey, we'll probably get to some of these matters in advance. So we've already waded in quite some detail into the outline code of construction practice.

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What I did just want to put out and we've also looked at the relevant provisions in the draft order.

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We've spoken specifically about mitigation measures in relation to receptors around the first insight and the adequacy of 75 metres, the positioning of noise barriers on the eastern boundary of the site at Grove road, etc. And the rationale for that. So most of my questions in relation to this matter, for a way. And the one note, I've got a couple of remaining points. And there is the proposition that there would be a construction phase noise and my vibration management plan produced post consent, which I'm this arose in the applicants response to x q 1.9. Point 21.

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Which would form part of the code of construction practices as opposed to the outline code of construction practice. And I just wanted to check with Firstly, Mr. Tommy Taylor. And now Mr. Percival,

whether there were any outstanding issues or concerns in relation to that or its prospective content, or whether there's a need for

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a more detailed light to be shown on it now, is there stuff that should be in the outline code as opposed to being reserved to the production of the formal final code?

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rockets only Taylor and Stacy's? I think the outstanding concerns Stacy's have can be addressed in the formal in the detailed development of the document in dupo. Okay, fine, Mr. personal view content with that balance between

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the current provisions the outline code and the provision of a detailed construction phase noise and vibration management plan post concern? I Gary possible v. summit Council. Yes, we are satisfied with that as a position going forward.

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In which case, my final question on this agenda item relates then to noise monitoring. And I'm now looking at the applicants response to the round one written questions IE x q, one 1.4, point three, five

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and they're the applicant

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responded that they deem construction noise monitoring only to be necessary should issues arise. open bracket, ie in the event of either project receiving a noise complaint, closed bracket, or where noisy construction activities are anticipated to be undertaking in close proximity to noise sensitive receptors. Now, what I just wanted to check was that whether that appeared to be an appropriate position in the view of Stacy's the council, and if it is not, whether any other specific provision needs to be written into the outline code, or another appropriate place in relation to

40:46

noise monitoring, and whether there are in principle around the frist and cite any standing monitoring requirements, this ought to be put in place for reasons. So can I go first to Mr. Thornley, Taylor, and then Mr. Percival,

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thank you. So root with only Taylor for Stacy's, the critical thing is that it's not an adequate approach to have monitoring only when there is a complaint, because what happens on sites of this nature is that events take place which cause noise disturbance. And it's essential to be able to discover what happened and to take action to prevent recurrence, there needs to be some continuous monitoring for that purpose, in order that in the event of a problem arising and disturbance being created, it's possible to go back to the data, look at it and get some information, at least as to what happened when it

happened. To assist the managers of the site to discover what the cause of the problem was. So it is necessary to have continual monitoring

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in at least representative locations, it then follows if there are complaints and additional monitoring specific receptors is required, then that can be put in. I think that I hope that's a very clear summary of the positions. And can I just finally check with you then? That being your position, where would you expect the standing monitoring provisions to best be set out in advance of approval? Is this again, the outline code?

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Should there be something a little more specific there that talks about it?

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Or the management plan is probably the suitable location for you. Okay. Thank you, Mr. Personal.

42:36

Thank you. So Gary personal, but he suffered counsel and two brief points on this, if I may.

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Firstly, I would also reiterate that the council previously stated in the local impact report that in addition to monitoring required to ensure that works are compliant with the relevant standards, that extra monitoring will be required in particularly sensitive locations to inform the requirement for localised site specific mitigation that remains the council's position. So, moving on from that,

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I will acknowledge that the the current outline kind of construction practice actually says very clearly that the construction phase noise and vibration management plan will set out a procedure for monitoring if it is deemed relevant by the if it is deemed by the relevant planning authority that during construction monitoring is necessary, then the locations for such monitoring will be agreed in advance. Now, from our points of view that that means that as part of the application process for the final code of construction practice, the council will have an opportunity to decide whether or not monitoring was required, it is our position at this stage that some form of continuous construction monitoring will be required. So, we would expect the final cocomo construction practice to take the form of setting out what the basic provisions for monitoring are and simultaneously setting out how any additional

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monitoring has been considered and either included or discounted appropriately.

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Okay, so, can I then come down to the applicant for response on those points?

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The yes calling calling on behalf of the applicants going on with the monitoring point.



44:21

I think that within the code, you can reinforce the general principle of the need to carry out monitoring where it's proportionate to the risk. However, in my experience,

44:36

the agreement of the extent of noise monitoring and the locations of monitoring and the circumstances under which monitoring done rolled out with more than perfectly adequately under the section 61 process. So and so when the application is made, the application will provide details about the proposed levels of monitoring and the council will be

45:00

To look at those proposals and approve them, if they do, if they don't think that the monitoring proposals are sufficient within the application, they can ask for more.

45:11

And so and so the section 61 process deals with this perfectly adequately.

45:17

Okay. Right. That's your position. Now before we, we leave the agenda item to a and move on to the specifics of the cable corridors and haul roads. What I will flag is that we won't need to go to anything like the same level of fine grained investigation with these later items, because we can rest on certain of the processes that we've established through the interrogation of the first side.

45:50

Now, I'm reviewing my notes, I have one remaining outstanding question before we move on the time will return to you but I do note that I have a hand from Mr. Tight for the council. So I will just ask him for his intervention.

46:07

Thank you. So

46:09

Mr. Percival is explained the council's position in relation to the various requirements.

46:17

There is, in addition, the new requirement 26 provision of an onshore preparation works management plan, which the council very much welcomes and had been seeking.

46:31

And in relation to that,

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I think it's a point for clarification, read it. And also it can be the subject of the

46:41

discussions that we're going to have shortly with the applicant.

46:47

As to how the section 61 process dovetails into the onshore preparation works, that would take place.

47:00

I'm not entirely clear from reading the outline code of construction practice,

47:07

how that fits with the commitment to have the section 61 process which relates to the onshore works commencing and the need for this onshore preparation, onshore preparation, works plan related partly turned on the definition of the word commence. Indeed, yes. And in fact, that is a, you know,

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a point of significant interest, because,

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of course, at that point, that judgement around

47:42

conformity for the onshore preparation works management plan is made around accordance with appendix one of the outline code of construction practice, because at that point, we're still before commencement. And so we do not have a formalised code of construction practice that has been approved.

47:59

So yes, it does beg the question of whether

48:04

the section 61 process or a specific subsidiary section 61 process might be necessary to support that and if that's the case, whether that needs to be drawn into its remit in some way.

48:18

So I think we do need to go back to the applicant on that one. Can I just check Mr. Percival first, whether there are any other technical points that you wish to raise in relation to that submission?

48:28

Gary possible, per se, no, no further technical points. Thank you. Okay. And Mr. Sahni, Taylor, no further technical points. But we do have Mr. tourney's hand has counsel for se C's this has just

48:43

come up with rich attorney says it's just very briefly, we've already made submissions along the lines that Mr. Tate has made. So we adopt what he said about the onshore preparation words and the need for them to be considered in this context. Thank you. Thank you very much. So I will go to the applicant on that point.

49:03

Is this going to be Mr. Ennis or Mr. cobbling or

49:11

primer growl sport?

49:16

I'm still here.

49:19

With regard to the onshore preparation marks, the pipeline quarter of construction practice that we submitted deadline,

49:29

a recent deadline revision for that's that sort of it within Appendix A sets out the information that we would present within an onshore preparation works management plan. And with that, within the suite of considerations is noise mitigation measures as any, we can certainly extend that to noise mitigation and monitoring measures, if any, and not we retain a flexibility to to mitigate a monitor which is appropriate to the nature of the works that were undertaken at that time.

50:00

But also it gives the security to the local authorities that's monitoring is in our thoughts with regard to the Dr. Preparation works again, but again, where appropriate. Yeah. On the specific point of whether there would be any of those onshore preparation works would be subject to the management plan that would require their own section 61 process, because they came before the main one is, is that a relevant point at all in your view, Mr. McGregor's

50:31

brahma transport outcomes, we don't believe the nature of the answer preparation works would warrant a separate section 61 conceptual SAS, they are reasonably discrete works. And we have additional control measures within the outline the onshore preparation rights management plan.

50:47

Okay, now I'm very conscious of that supposition, risk of prolonging this that I ought to go back around the house with. So can I just then go to Mr. thornlie, Taylor, and then to Mr. Percival, are you content with that position from the applicant that there would be no additional section or mini section 61 process in relation to those pre commencement works? No, it's normal to apply for Section 61 consent for all material works.

51:15

The fact that a section 61 might for some works be quite simple is not an argument for noggin embarking on the process. And, in fact, it's quite often preliminary, relatively minor works that cause the biggest problems. And if there isn't a section 61 consent in process, the intervention that is available to the district council is a much more difficult one using section 60.

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And actually, from the applicants point of view, undesirable because you can have a section 60 notice served on the works can be suspended,

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for the notice can be not suspended pending appeal. And it can be a long period when work can't take place. Pending appeal against section 60. Notice, so I would recommend against that. Okay, well, I'll hear then from Mr. Percival

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is very personal for ASC.

52:19

I thought our position is that we agree with this authority Taylor, and there's no practical reason why the preparatory works can't be included within the section 61 application and indeed,

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like Mr. Bonney, Taylor said some of the early groundworks in particular can often be sub noisiest works. And

52:38

we would disagree with the assumption that the property works would inherently be of low impact in terms of noise. But I'd also reiterate, miss the point that Mr. Tate made is that we do acknowledge and appreciate the commitment to the onshore preparation work management plan. But that doesn't necessarily exclude the preparatory works from inclusion within the section 61 application advocate. Now can I just check point that whether it would be the section 61 application that will then deal with essentially, the position for the works in totality, or whether there could be circumstances in which there might be a preliminary section 61 application just to deal with the onshore preparation work management plan provisions? And then that could be a relatively simple process. And then the fuller and more substantial process that will address the entirety of the fully formed code of construction practice and all that it embodied it would that second approach be

53:43

one that would be achievable, in your views to personal

53:48

very personal for ESA, yes, achievable. And in my experience, not uncommon for there to be a guest staged or phased process for that section, section 61 application. And as the applicant actually

acknowledged earlier, there will be different contractors involved. So from a practical point of view that that makes lots of sense, and it's probably the pragmatic approach. Okay. Right. Well, I'm going to return to the applicant finally on that point.

54:14

And just hear them on the question of whether or not there needs to be a more specific reference in the outline code of construction practice to a stage six, section 61, the consent process to accompany the onshore preparation work management plan.

54:34

Yeah.

54:36

So Colin, covering on behalf of the applicants, I deal first of all with the need for Section 61 for the types of work that have been talked about, for the enabling works, and I agree with Mr. Forney Taylor, that you would apply for Section 61 for material work so very much falls down to wherever these works of material and then from what I understand they are fairly miners are very

55:00

Are we worse, but in my view, it's it really is a very simple matter. If they are works that fall within the definition of the Act COPPA, then it will require a section 61. As far as the as far as whether you require a preliminary section 61 or a main section 61. I don't think that the contractors should be constrained by anything in the construction practice. The fact is, is that there is a general commitment to apply for Section 61 consent, but that could be a single consent, or it could be a number of cells.

55:43

But there's no there's very much for the contractor or the contractors, and is an is also a matter of detail for them to flesh out with the council. It's not It's not unusual for Section 61 applications to be submitted, let's say six months at a time. And that gives a certain degree of flexibility, but it very much depends upon the approach that the contractors want to use.

56:13

Okay, now there's one then follow up question on that, which would be Is there any additional drafting unnecessary in the outline code of construction practice as it stands, which could give that sense of staging so that it was clear that there may be more than one section 61 application?

56:36

Only? The only thing I would say is that there's sort of if you if you refer to

56:42

Section 61, consents, it could be consent bracket, consents. So yeah, you allowing for the fact that could be one or a number. Okay. Now, I do have a handout from Mr. Turney. Much as Mr. Ennis would like to conclude on this, Mr. Turney.

57:02

Rich attorney for spaces. It's helpful clarification from Mr. Colvin that he says that the section 61 process should apply to those onshore preparation works, which would ordinarily fall within the scope of copper. And certainly the works that are permitted as onshore preparation works are potentially significant, for example, demolition and site clearance. So we welcome that. But I think it's very important that we get Mr. Ennis, to confirm that that is the applicants position. That is the this because the cscp, in terms does not apply. We're looking at a paragraph in this the ACB recently introduced that would suggest that an application for Section 61 consent must be made confirmation today that that is the intention and we just need confirmation that rules that apply to those works in the onshore preparation works which which would normally fall within the scope of copper. Thank you.

58:02

Right, finally to Mr. and his

58:06

colleagues, and the applicant certainly is taking the words out of my the deposition, what I was going to suggest is that the onshore preparation works include a range of of matters, including planting, archaeological investigations, environmental services, ecological mitigation, investigations, and remedial works. And I think probably the best way of dealing with this is that we will, in our subsequent discussions engage with yfc in relation to the matter, because obviously, it can't be a set of of the onshore preparation works include a significant volume of elements that did not constitute or could not constitute works, and therefore will need to find a wording in the schedule the annex that we provide, to make that point and to draw the distinctions as to where that would lie. And I think that's a drafting point. And yes, we'd have to deal with ESC and cc's in relation to the drafting of that, and we'll take it forward in our discussions. Can I can I suggest that last added to that which we have the ambition to see a round table agreed draft a deadline. And

59:18

and to address the materiality of works for the purposes of copper.

59:25

And the application of the onshore preparation works management plan drawn out in a relevant point in the outline code?

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Certainly.

59:35

Okay, excellent. Right. Now, there's one final question before we exit this particular agenda item that I wish to return to just reviewing all of my notes, and that is returning back to Mr. Cummings evidence and page 14 and the specific HS two sourced

59:57

construction noise effect level

1:00:00

table.

1:00:01

And because we have had the proposition that because that not only defines what are advocated by Mr Corbyn to be lower and sole levels that the applicant should adopt, and the applicant has indicated its intention broadly to do so.

1:00:20

It also sets out time periods and the averaging periods within those time periods, from which it is clear that oh 800 to 1800 are the core working hours Monday to Friday.

1:00:34

And so it was Mr. thorny Taylor's submission, that if what was source for the goose should be sauce for the gander, that if, if the lol and soul are viewed by the applicants expert as being that which won't be adopted and used, then perhaps also, the time periods ought to be adopted and used now? Can I just check Mr. Tony Taylor, that that was your submission.

1:01:03

That and I think Mr. Turney also made a similar point. Yeah. Mr. Personal Do you have any objection to that position?

1:01:13

no objection to that position. Thank you. Okay. Well, what I want to just do is to kind of nail the jelly for want of a better description, go back to the applicant and ask whether the applicant is prepared to commit to that or whether alternatively, there are good reasons that they wish to submit as to why they should not. And this is the question about the specific working time periods in addition to the old and saw values in that table.

1:01:51

from across board outcomes within

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the table within Mr. Calvin's submission, it does recognise that there is more sensitivity around to 7am to 8pm

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to 8am, and the 6pm to 7pm period,

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the lowest of several levels significant significant from several levels are lower at those periods. So that obviously, would be incorporated within our construction processes and our construction works. So it does recognise that our construction hours are 7am to 7pm. But the noise limitations within those more

sensitive periods are more tightly controlled, and do not but but it is essential for for that 7am to 7pm, Monday to Friday working period to be to be permitted in order to ensure the efficient delivery. And the speedy delivery of the of the project, if construction hours day to day are reduced when our overall construction period increases on the delivery of the nationalist significant infrastructure project is Julie delayed also. Yes, now I hear that final submission, essentially what we're talking about thinking between a shoulder hour in the morning between seven and eight, and in a similar shoulder or in the evening between six and seven, that is controlled more tightly than a principal working period of 10 hours between eight and 1800. If that's the if that's the position that the applicant is agreeable to and will seek to secure, then it seems as though there's a kind of loud outbreak of agreement around around this table

1:03:32

at bramah, groundspeed outcomes, that that is indeed the case, with the caveat that in terms of the additional controls around the 7am to 8am and 6pm to 7pm. They their controls are in the impacts of the project rather than restrictions on what we can do within those desires. Yeah. And that's noted, and the reservation on it prospectively by other parties is also noted.

1:04:01

On that basis. Ladies and gentlemen, I'm going to conclude that to a agenda item. Now I'm looking at the time it is 10 to one we would normally plan to break at one. What I'm going to suggest is so that we get a clean run at B, C and D which I believe we should then do quite quickly and then flowing through allow us the bulk of the early afternoon session to deal with agenda item three. I'm going to suggest that we break now so let us call it around 1250. Can I ask ladies and gentlemen that we return at 1:50pm Ladies and gentlemen, that's 1:50pm for the resumption.

1:04:47

See you there. Thank you very much.