

## CAH1\_29 March\_PT4

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### FULL TRANSCRIPT (with timecode)

00:00:04:18 - 00:00:12:16

Welcome back, everybody. The time is now, 3:30 p.m. and I am resuming session four of the compulsory acquisition hearing.

00:00:14:11 - 00:00:47:18

We will go straight to agenda item 15 um, for 1815 one sorry, agenda item 15 is update on the applicants intended change request. This is a matter that they've raised in the examination before For agenda item 15 one, we'd like to understand what your intended change request is for and for 15 two. If you could set out the process and related timescales with reference to compulsory acquisition regulations, we've seen your January submission reference 036.

00:00:47:20 - 00:00:50:22

So any information additional to that would be really helpful.

00:00:55:15 - 00:01:26:24

Chetan Ashwell for the applicant. So you'll be aware, madam, that the onshore cable corridor for the project passes through a development site known as the Food Enterprise Park or FEP. Just to add another rhyming acronym into the equation, which is located immediately south of the A47. Um, that site is being developed in phases and a local development order has been adopted for phase one. Um, the cable corridor bisects the phase two site.

00:01:27:06 - 00:01:58:16

Um, the idea is not yet in place, but it's understood that this will be submitted during the course of 2023. Um, the applicant has been in discussions with the landowner in relation to the plans for phase two. Um, and, and that discussion only took place after submission of the application, which is why this particular, um, proposed change was, was not already incorporated within the application.

00:01:58:24 - 00:02:07:16

Um, it's due to the timing of that information coming forward. And I think as part of those discussions, the applicant, um.

00:02:09:08 - 00:02:18:05

Has discovered there's a potential conflict essentially between the phase two development and the proposed location of the cable corridor.

00:02:20:01 - 00:02:56:28

The difficulty is that the plans for the phase two of the development are not yet sufficiently progressed that they can provide the applicant with certainty over where the individual elements within that site will be located. Okay. And say the applicant is seeking a change request in order to wide widen the cable corridor in that location to provide additional flexibility to microsite the cable around any infrastructure that is developed as part of the site in order to seek to reduce impacts on that landowner.

00:02:58:14 - 00:03:11:22

Um, we have got letters of support for the change from the landowner su from Food Enterprise Park, which will be submitted when we make that change request.

00:03:13:28 - 00:03:25:11

And just in terms of timing, it's proposed to submit that change request the week commencing the 10th of April, or they we are, you know, sort of working towards submitting that as soon as we can.

00:03:26:05 - 00:03:30:17

Okay. That's really helpful. So 10th of April. I'm going to actually just.

00:03:31:26 - 00:03:35:07

10th provide the necessarily the 10th of April itself.

00:03:35:09 - 00:03:58:11

Okay. All right. Um, I will pull up the timetable just to see the implications. And can you just set out in steps? Um, and in relation to compulsory acquisition regulations, what the various steps would be that would get triggered as soon as you submit the change request. Before you do that, just bear with me one second so I can open up the timetable.

00:04:10:10 - 00:04:11:17

Sorry. Carry on, Miss Ashwell.

00:04:12:18 - 00:04:39:27

Jen Ashwell. For the applicant. Say, as you've alluded to, madam, because we would be adding additional land to the order limits. And we're of the view that the compulsory acquisition regulations would be triggered. Um, there's obviously a series of steps that are then required to, to go through in relation to those. So, um, I think I've already mentioned that we would be looking to submit that change the week commencing the 10th of April. Um.

00:04:41:19 - 00:05:11:01

The examining authority, then decide whether or not to accept that proposed change. My understanding is that that acceptance is based largely on whether or not the change, if accepted, would mean that the project constitutes something different for that which we've applied for. And also you need to be satisfied that it can be accommodated within the remaining time available.

00:05:12:23 - 00:05:14:16

So that would be the next step.

00:05:14:26 - 00:05:15:12

Okay.

00:05:16:21 - 00:05:40:03

There's then a requirement for the applicant to publicize the proposed change for a minimum of 28 days. That starts from the date that the second publication of the notice goes into the newspapers. So there's a requirement to publish that notice for two consecutive weeks. The 28 days doesn't start running until the second notice goes in.

00:05:41:04 - 00:05:41:21

Okay.

00:05:44:23 - 00:06:02:17

Um, following that notification process, the applicant certifies compliance with the relevant regulations. That must be done within ten working days following the end of that period of consultation.

00:06:05:08 - 00:06:22:21

Uh, just going back. One step, Miss Ashwell. Just for completeness, the third step that you just identified where you would need to publicize. For 28 days. Could you just highlight what regulations what's the eight compulsory acquisition regulations that relate to?

00:06:22:28 - 00:06:23:29

It's eight and nine.

00:06:24:01 - 00:06:25:26

Eight and nine. Yeah. Thank you.

00:06:25:28 - 00:06:26:16

Okay.

00:06:31:11 - 00:06:32:06

And.

00:06:34:16 - 00:07:03:28

And then following the receipt of that certificate of compliance, the examining authority must notify the additional affected parties of the date of any hearing that will take place on the compulsory acquisition related to the change. Understand there's 21 days notice required in relation to that hearing. That's under regulations 14, 15 and 16.

00:07:08:09 - 00:07:22:27

Is then a requirement for the examining authority to make its initial assessment of the issues arising in connection with the proposed change that must take place within 21 days from the end of the consultation period under Regulation 11.

00:07:25:21 - 00:07:42:10

And the examining authority then sets the timetable for examining the proposed change, which must allow for certain procedural aspects to take place, like written representations and written questions. That's under regulations 12 and 13.

00:07:47:02 - 00:08:03:05

I would just point out, madam, that you'll probably be aware of this, but we have already submitted a proposed timetable through the case officer team, which which sort of sets all this out in more detail in case that's helpful for you to refer to.

00:08:03:11 - 00:08:26:25

Ms.. Ash We are. We will only see what's in examination. So if that's not an examination, then your your summary right now is what we are relying on. So that's really that has been very helpful. But and I think generally this timetable seems fine. A couple of questions that I do have is that.

00:08:28:17 - 00:08:55:23

Um, the hearings that you referred to that the examining authority must notify people of hearings. Um, would this be the case that the examining authority would need to notify or give an opportunity for additional affected persons to request hearings? Or must those hearings be held according to, according to your understanding of the compulsory acquisition regulations?

00:08:57:09 - 00:09:16:19

Jen Ashworth for the applicant. My understanding is that you must give the opportunity for affected parties to request that hearing. Um, my assumption is that if nobody objects to the change and the compulsory acquisition powers.

00:09:16:21 - 00:09:17:06

That.

00:09:17:15 - 00:09:33:24

There may not be a need to have such a hearing. Um, the timetable that we have been working on assumes that the hearing is currently scheduled for the week commencing the 19th of June. Could potentially be used if such a hearing was required.

00:09:34:05 - 00:10:03:05

Um, well, I think regardless of whether or not we use the hearings on the 19th of June, I think if you were to follow the timetable that you've just set out, a rule eight three would need to be issued with a timetable change request because we'd probably need to put in a deadline for the receipt of, um, written representations which may not necessarily sit within the current timetable.

00:10:06:18 - 00:10:24:04

Yeah. An for the applicant. Yes. Think that probably would be the case. And. Yeah. Um, we've been considering it and think it does get quite tight towards the end of the examination and so I don't think we can fit within the existing deadlines that are currently included in the roll out letter.

00:10:24:06 - 00:11:03:18

Yeah, no, that's quite right. So that's one thing. The other thing is that you said there'd be 21 days required for notification of the hearings, as you well know, that that in practice actually ends up being more like 25, 26, actually 28 days notice. You need because once we issue the rule 30 notification, you actually need to publicize it. And there is there's a bit of a time difference between the two things. So I think that in order for us to actually achieve, at least not have to move the hearings date because that obviously goes into people's calendars well in advance.

00:11:04:08 - 00:11:38:07

Uh, a I, I think that we would probably. Sorry. So that's one thing. The second thing is that I think, again, everything that you've just set out and for us to be able to achieve any additional hearings that might be needed in the week commencing 19th of June. Your assumption would be that we as the examining authority, would need to accept the change request if we decide to accept it very, very promptly after you submit it. Um, so my question to you is you've said we commencing the 10th of April.

00:11:38:09 - 00:11:39:14

Can it be sooner?

00:11:40:22 - 00:12:00:13

Jen Ashwell for the applicant. We're certainly working towards it being sooner if we can. You'll appreciate there's quite a lot of information that needs to be produced for that, but that is all underway. It's all in production. And so if we can submit it any sooner than we will. Okay.

00:12:01:15 - 00:12:08:08

Okay. Um, so then just in relation to the change request itself. Um.

00:12:10:03 - 00:12:39:24

So just so that I understand it correctly, you're seeking additional land in order to minimize the effect on the landowner. And if you've said that you're going to have a letter of support from the landowner, then then, you know, I think that should be satisfactory. So let's see what comes forward. But what. Presumably the progress we've made with consultations. Sorry. Let me go back a step. How? Are there any additional landowners that would be affected by this change request?

00:12:40:15 - 00:13:14:06

Dan Ashwell for the applicant. Yes, there are some parties that are located, um, to the south of the Food Enterprise Park Development, where I think there would be a slight amendment to the order limits in order to, um, amend the. Angle of the HDD drill. Okay. There are also other sort of interested parties other than the landowner. So, for example, statutory undertakers that have interests within that land.

00:13:14:15 - 00:13:19:09

It's not just the freehold owner that would be affected.

00:13:19:11 - 00:13:19:26

Okay.

00:13:19:28 - 00:13:24:10

So so when you say some parties south of food enterprise partnership.

00:13:53:00 - 00:14:08:19

But it is natural for the applicant just to clarify, the land to the south, the additional land to the south is highway land rather than land that affects the the third party interest to the south of that site.

00:14:09:19 - 00:14:10:17

So.

00:14:11:18 - 00:14:16:10

Sorry. Let me just simplify that. How many additional affected persons are there?

00:14:49:28 - 00:14:52:19

Yeah, true. Over there. We're just checking. That's fine.

00:14:53:04 - 00:14:57:22

While you're checking, I'll invite Mr. Rush if he has any questions.

00:14:59:20 - 00:15:32:13

Uh, thank you, madam. Jonathan Ross Brown and co agent for the owner of the Food Enterprise Park. I think I should draw it to the to your attention that this change has come entirely at the request of the landowner. It's part of a long term collaborative approach of working towards a way of minimising the impact of the the applicant scheme on an ever evolving development which has been constantly moving target.

00:15:32:15 - 00:16:07:18

And as they said, we've only very recently had a decent amount of detail as to how we might lay the site out. The proposal to increase the area is to allow a potential design that allows the cables to work in with core infrastructure within the the Food Enterprise Park. Um, and you know, if we if this alteration can't go ahead it will undoubtedly result in greater disruption to the commerciality of the site and the development etcetera.

00:16:07:21 - 00:16:43:14

So the landowner is, is more than on board. They're actually asking for it. And the primary number of third party affected people would be option holders who hold options for development potential on the food enterprise parking. They also will be on board with this. So it's something certainly that has support from this end. And it shouldn't it should affect any other landowners in that it's just an increase in land take of property already owned by the owners of the Food Enterprise Park.

00:16:44:18 - 00:16:52:13

Mr. RUSH That's really helpful. Um, and actually I think partly answers my question, but hopefully you can confirm that.

00:16:53:10 - 00:17:01:04

I'm Jen Ashworth for the applicant. We've checked and there are 16 affected parties. As Mr. Ash said, a lot of those are option holders. Okay.

00:17:01:12 - 00:17:04:03

Um, so there's still category one persons.

00:17:06:00 - 00:17:06:16

No, they.

00:17:07:00 - 00:17:10:22

Believe they'd be category two as option holders.

00:17:10:27 - 00:17:11:19

Okay.

00:17:32:06 - 00:17:57:05

Yeah. Okay. So category two, you said. Um, okay. And um, the other point that Mr. Rush said was that the generally on board. Can you just give me an overview of what consultation you've had so far, what responses you've got from the option holders? Because clearly it seems the representative of the landowner seems on board and has indeed requested this change.

00:17:59:27 - 00:18:13:26

Jen Ashwell for the applicant. We have written to all of the affected parties seeking their support for the change. We haven't yet heard back from the majority of those. Okay.

00:18:15:01 - 00:18:25:16

You haven't heard back. Right. Okay. So just referring to, um, Mr. Rush, you had your hand up a few minutes ago. Did you want to come in at this point?

00:18:26:12 - 00:18:50:27

Yes, sorry. Jonathan Ross Browning, the landowner, and I think the majority of those, uh, other parties that have an interest, it relates to a slight modification to the, the access to the route. Um, and um, I'm confident that if the applicant gives me a list of those that, who haven't responded yet, um, I can encourage them to respond in the appropriate way.

00:18:51:23 - 00:18:52:08

To.

00:18:53:06 - 00:18:53:23

Okay.

00:18:54:10 - 00:18:57:24

Jen Ashwell for the applicant would be very happy with that offer. Thank you, Mr. Rush.

00:18:58:15 - 00:19:00:24

Okay. Um, so.

00:19:01:03 - 00:19:15:25

So that seems good. However, that means that with respect to. Sorry, I'm just, um. Let's just revert to regs. And again, the tightness of time, this kind of just highlights the tightness of time.

00:19:24:03 - 00:19:33:03

The 28 day consultation period, which happens after you submit the, um, the, the change request.

00:19:34:22 - 00:19:35:14

Um.

00:19:37:02 - 00:19:44:09

You just have to be sure that you can complete your, you know, get the adequate responses by this time.

00:19:46:25 - 00:20:21:27

Dan Ashwell for the applicant. Think, as you've already pointed out, madam, we are. If we're going to be able to fit this change request within the examination, we are reliant upon you, um, making procedure decisions fairly promptly and certainly not using the maximum time that's allowed under the regulations. We believe if that if that happens that there is sufficient time and obviously when we put in our change request, we will be setting out a detailed timetable of how we think this can be accommodated and taking into account the points that you've made today as well.

00:20:21:29 - 00:20:22:14

Yeah.

00:20:22:26 - 00:20:55:07

Ms. Ashley That's absolutely noted. However, at this point, if we can just focus on the things you could do as the applicant in order to make sure that this is delivered efficiently. So if you can, you know, the consultation, you know, if you can bring it forward as much as you possibly can. Yes, the submission of the change request and at the same time ensure that you've consulted with the parties adequately so that you the 28 day consultation period is, um, you know, you don't necessarily need to do very much at that point.

00:20:55:09 - 00:21:02:23

And you know, you've kind of frontloaded the process as far as you possibly can. Okay. Um.

00:21:07:00 - 00:21:25:09

Now, just referring to figure three of advice. Note 16 the Planning Inspectorate advice and note 16. Um, is there anything in this list? And this has seven points. Is there anything in this list that you think could be problematic?

00:21:28:08 - 00:21:34:16

Because this is the information you need to make the material change to make a change request to the application, which could be material.

00:21:36:05 - 00:21:41:05

Burgess. Madam, can you just repeat which? Which part of the 16 you're referring to? It's.

00:21:41:07 - 00:21:43:24

It's called figure three. It's under section four.

00:21:53:16 - 00:22:02:05

Magic potion if I'm. Missing it, but can't obviously see a figure three under Section four in the version that I'm looking at online.

00:22:03:27 - 00:22:06:18

It's, um. I'm conscious that.

00:22:06:20 - 00:22:11:05

This advice note was updated last week. I don't know whether you've.

00:22:13:24 - 00:22:24:23

Uh, so it is the information to include. I'll just read it out to you. I'll read out the title, the information to include in a request to make a material change to an application after it has been accepted for examination.

00:22:29:16 - 00:22:51:15

And I think so there's a there's a figure two, a under item four in the version that I'm looking at which says information to include in a change notification. And then figure two, be what to include in the change application. Okay. Um, assuming that we're talking about the same figures then no, we don't see any difficulty in providing that information. Okay.

00:22:51:24 - 00:22:53:09

Uh, I'm just going to just bear.

00:22:53:11 - 00:22:54:14

With me one second.

00:23:09:08 - 00:23:09:23

This is it.

00:23:11:19 - 00:23:12:17

Back to a.

00:23:15:21 - 00:23:18:25

So it's a combination of figure two A and to be.

00:23:19:14 - 00:23:58:29

Thank you, madam. I suppose the only point. Um. To to make is that we would be proposing to consult on the environmental information. At the same time, as the consultation takes place under the compulsory acquisition regulations. Okay. And so at the point of submitting the change request, we would not be providing. The consultation report, which I believe is listed in one of those points, and in fact that would follow the consultation that's carried out.

00:23:59:10 - 00:24:08:02

So but wouldn't. Is it better for you to consult on the environmental information now?

00:24:10:02 - 00:24:44:09

Jen Ashwell for the applicant. Our view is that it's probably more confusing for stakeholders to have two consecutive sets of consultation on essentially the same matter, which is why we would be



seeking to align the two. And there's precedent for that approach from other DCO examinations. Um. So so our view would be that it's probably more effective to to carry out one round of consultation.

00:24:45:07 - 00:24:51:05

Um, so that, that would be why we would propose to do it after the change request is accepted.

00:24:51:10 - 00:25:08:07

Miss Natural, if you could, um, when you do submit the change request, if you can make absolutely sure that there's nothing preventing you from doing that. Um, and just confirm that at some place in your covering letter or something then that will help us.

00:25:08:18 - 00:25:38:12

Jen Ash Well, for the applicant, yes, it's absolutely fine. And I suppose that the other point to add is that that consultation on the environmental information is not a statutory requirement. Okay. Um, it's something that we would be looking to do in any event. Um, but, but there's no sort of statutory procedure for that. We would be looking to follow the procedure that's set out in the regulations. Okay. Um, but they don't actually strictly apply in these circumstances.

00:25:38:14 - 00:25:51:11

Okay. And because you have that information, could you give me a brief overview to this statutory or the environmental information I'm assuming is whatever is in addition to the that you've already put in, if there are any additional adverse effects.

00:25:51:28 - 00:26:09:04

Dan Ashwell For the applicant, Yes. The environmental information that we would be consulting on would confirm that there are no new or materially different environmental effects, but it's presenting that evidence so that you can understand why we've reached that position.

00:26:09:06 - 00:26:13:15

Okay. Just out of interest in terms of area of land, how much additional land is it?

00:26:34:21 - 00:26:54:21

Jen Ashwell for the applicant. We don't have a sort of number of acres or hectares, but the cable corridor itself would be widened from around 60m to approximately 110m to allow that additional flexibility for micro siting within that particular land. Parcel over what.

00:26:54:23 - 00:26:55:13

Distance?

00:26:58:23 - 00:27:01:25

It's about one field on the plan that I'm looking at. But.

00:27:27:08 - 00:27:43:21

Then Ashwell for the applicant. I believe that the overall food enterprise Park is around 100 acres. The first phase of that was, I believe, 46 acres. So my assumption is that we'd be looking at the rest of that site, but.

00:27:48:11 - 00:27:48:29

To the length.

00:27:50:03 - 00:27:50:18

So.

00:27:54:06 - 00:27:55:03

With the length

00:27:57:06 - 00:28:04:01

of time is going to correct me if I've got this wrong. The length of the corridor that would be widened is around 320m.

00:28:06:02 - 00:28:06:21

Okay.

00:28:07:01 - 00:28:10:06

320m by 50m.

00:28:11:04 - 00:28:11:20

Okay.

00:28:12:14 - 00:28:13:07

Thank you.

00:28:14:03 - 00:28:33:07

Um, right. My next point was actually going to be about the information that you submit. Um. And it relates to point four in Figure three. In the old version, I'm trying to look for what point? Oh, here it is. Yeah, it is. 0.4 on the figure to be.

00:28:36:10 - 00:28:52:26

And, um, Miss Fuller, I think you're going to like this. If you could submit the clean and revised version of the. And the explanatory memorandum with just the change request changes.

00:28:54:18 - 00:28:56:18

When you submit the change request.

00:28:58:22 - 00:28:59:27

Laura. Philip, the applicant.

00:29:00:10 - 00:29:18:12

Yes, we can do that. But actually. There is, I believe, and we will. We are taking this way for further consideration. But the only change. Believe we actually have to make to the draft itself is in relation to an alteration to the access at that point. Okay.

00:29:18:18 - 00:29:19:28

So is that in a schedule?

00:29:20:03 - 00:30:02:04

So that would be in schedule. Which schedule? It is off the top of my head. But yes, in the access schedule. Okay. Because the change is reflected on the works plan in terms of the red line, it doesn't require a change to the works descriptions themselves. So I will be continuing to think through whether there is any other impact on the drafting. But um, my initial view is that is very minimal and actually we could put something into the exponential round potentially to reflect it, but don't necessarily think it's required based on the changes that I'm anticipating or the one sort of change to the schedule that I'm anticipating we would need to make for this, um, material change request.

00:30:02:06 - 00:30:09:08

As I said, it's mainly that it will be reflected in the, the plans and the other documentation that will need to be updated so.

00:30:09:10 - 00:30:23:01

There will be a change to the land plans. Um, they'll be changed to the book of reference. And then there'll be this one change to a schedule in the DCO. And potentially no change to the explanatory memorandum.

00:30:24:05 - 00:30:38:04

Laura. Philip for the applicant. Yes, madam. That's. That's what I. That's what we've been discussing. Okay. And broadly reflects that. My, my my colleague as well has a fuller list of the documentation that they've been considering that would need to be submitted.

00:30:38:06 - 00:30:39:14

Okay. Um.

00:30:40:15 - 00:30:55:26

But, but for the the track changes with the layering of the changes that we'd requested at the close of issue specific hearing for if you could highlight the change request changes, no matter how minimal as a separate thing, I think that would be very helpful.

00:30:57:15 - 00:31:25:13

Laura Fuller for the applicant. Yes. Mean I'm happy because there will be a change that we put that in and that will be shown as a track change. Just flagging that that would be very minimal. Yeah. And then we would highlight that in the schedule of changes just also because it's being, being raised here. Um, we have gone away and looked at the examples that you provided. Um, so, so if I may, I just wanted to just pick up on, on what we believe we can.

00:31:25:15 - 00:31:27:17

Let's do that. But can we just do that.

00:31:27:28 - 00:31:30:05

Just, just before we close this agenda item?

00:31:30:07 - 00:31:33:18

That's fine. Just thought I'd flag it here. That we can pick it up at the end. Sure.

00:31:34:05 - 00:31:35:05

Perfect. Okay.

00:31:36:00 - 00:31:39:20

Um, you got paper to table. Okay.

00:31:43:00 - 00:31:43:15

Nine.

00:31:47:16 - 00:31:48:01

Right.

00:31:48:10 - 00:31:50:19

Don't think I have any further questions.

00:31:50:21 - 00:31:52:03

Do my colleagues have any questions?

00:31:54:26 - 00:31:57:25

Any questions from the floor on this point?

00:32:00:13 - 00:32:01:26

No. Okay.

00:32:01:28 - 00:32:02:16

Okay.

00:32:02:18 - 00:32:05:16

So, um, just before.

00:32:05:19 - 00:32:25:12

You know, we close this and the actions remain, as we've said. If you can submit it as soon as possible, that be really, really helpful. Um, and yeah, before we move on to agenda item 16, Miss Foley, if you want to talk about that, um, track change that we've requested.

00:32:29:16 - 00:33:04:24

Laura Fuller for the applicant. Um, yes, ma'am. So, as I just mentioned, we have, um, as requested, gone away and looked at the examples that you provided. Um, we know that the. It's the black cat. Um, that includes the, the color coding, as you suggested. Um. The other example was the, I believe, the Norfolk Boreas DCO. We looked at that and that that is a a track change version without color coding.

00:33:04:26 - 00:33:50:11

That is a track change from submission to a set deadline and then continued to be submitted so that you can see the the entirety of the changes from submission at each point. Okay. Um, with regards to those two examples, the Boreas is obviously much more on a par with what we are dealing with here. It's the same size and sort of scale in terms of the large document and having marine licenses. We have considered it carefully and we do feel that a color coding exercise as they undertook in the Black Cat which went down, was a voluntary submission by them that is on a much smaller DCO and doesn't include DMS deemed marine licenses.

00:33:50:24 - 00:34:25:22

So it is potentially a more feasible exercise in that context. We are happy to provide as boring as giving the Norfolk Boreas DCO a full track change version. Let's say, in addition to the track change version that shows the change from the last understood revision. And that is, that is feasible within the deadlines. Um, but we, we, we will not be able to provide the same level of color coding that it was done on the black cat BCO.

00:34:25:24 - 00:34:49:21

So then at the next deadline, you will submit 3D series one would be clean, one would be the changes after revision D potentially actually after revision. If revision is your change request issue and a full track change request, a track change version right from start to beginning or from start to to that point?

00:34:49:23 - 00:34:55:06

Laura Yes, madam, that's what we're proposing. So you would have those three versions.

00:34:55:17 - 00:35:02:10

And what will your schedule of changes tell us? Can you schedule of changes, tell us? Um, I think it does that already.

00:35:03:12 - 00:35:08:00

Laura. Yes, it does. It sets it out for each.

00:35:08:02 - 00:35:09:06

Each change. Each change.

00:35:09:10 - 00:35:17:04

So it shows the ones that were made at revision A, B, C, D and sets them out that way so that you can track through only one.

00:35:17:21 - 00:35:19:23

So sorry to interrupt. Are you finished?

00:35:19:25 - 00:35:20:11

Yeah.

00:35:21:03 - 00:35:28:01

So the only thing that this track full track change version would not pick up is if you made a change and then brought it back.

00:35:30:12 - 00:35:41:09

Laura Feller for the applicant. Yes, madam. Think that would fall outside that? But the way we have set it out in the schedule of changes. Exactly. Identify that.

00:35:41:11 - 00:35:48:00

Yeah. Think. Think. That's fine. That itself would be very helpful. So we'll have that for a deadline. Three. That'd be really good.

00:35:49:06 - 00:35:49:22

Um.

00:35:51:12 - 00:35:52:01

Okay.

00:35:55:06 - 00:35:59:03

So I think we're ready to move on to agenda item 16.

00:36:01:21 - 00:36:03:21

And we've alluded.

00:36:03:23 - 00:36:13:07

To 16 one on several occasions. Um, and I'll start with that. So agenda item 16 sorry, is the draft development consent order.

00:36:15:12 - 00:36:30:11

And for 16 one basically think I want to start with I've got Ms.. Staples National Farmers Union down here because they've responded to this in written questions. But Mr. Bond, are you happy to pick this up on her behalf?

00:36:33:28 - 00:36:34:13

Mm.

00:36:36:19 - 00:36:37:10

Okay.

00:36:39:03 - 00:36:53:04

All right. Thank you, Madam. Christopher Bond from Wells. I'm not sure I've got anything to add. I think we've already stated our case, to be honest. Think. Why has it got to be in perpetuity? Yeah. In this case, when we think it should be 99 years.

00:36:53:06 - 00:37:00:05

So think we have questions that I can see my staples actually online. I wonder if she's actually available.

00:37:04:13 - 00:37:07:13

Hello? Yes, sorry, I've just joined back again.

00:37:07:25 - 00:37:11:20

Oh, welcome back, Ms.. Staples. So just for.

00:37:11:22 - 00:37:13:09

This, we were talking about.

00:37:13:11 - 00:37:37:14

16 one, Ms.. Staples. And you brought this up before you brought it up in your written rep as well. Can you just put some flesh on the bones here when you explain what do you mean by your statement that about rights in perpetuity as opposed to a term of 99 years, are you talking about new rights that are being created as part of this?

00:37:39:04 - 00:37:40:12

On owners land.

00:37:42:20 - 00:37:43:09

Uh.

00:37:43:17 - 00:37:57:06

So I'm really just stating they they want to take their rights. Sorry. As in Louise Staples from the National Farmers Union League. Um, they are stating they want to take their rights in perpetuity.

00:37:58:02 - 00:38:00:12

We are saying that we've questioned that.

00:38:00:25 - 00:38:02:17

On other similar.

00:38:03:18 - 00:38:04:15

Schemes.

00:38:05:07 - 00:38:07:03

And said they obviously shouldn't, under.

00:38:07:05 - 00:38:08:17

Compulsory acquisition, be taking any.

00:38:08:19 - 00:38:10:02

More rights than they need.

00:38:10:17 - 00:38:22:00

So we don't understand why do they need to take these rights in perpetuity? We haven't been given an explanation for that. And on at least, um, I think we've probably got.

00:38:22:02 - 00:38:22:21

Examples of.

00:38:22:23 - 00:38:28:17

Five other. Similar schemes. We have managed to agree.

00:38:28:19 - 00:38:40:11

And a voluntary agreement that they only take the rights on a year returned easement of 99 years. But so far that offer is not coming forward by equinor.

00:38:40:13 - 00:38:41:27

Because they're saying they.

00:38:41:29 - 00:38:54:00

Need the rights in perpetuity. So that's why we're asking, well, why are you different? Why do you need your rights in perpetuity? And all those other similar schemes of offshore wind with cables don't need that.

00:38:54:14 - 00:38:55:12

So, Miss Staples.

00:38:55:14 - 00:39:01:00

When you say they're taking rights, just which schedule in the are you referring to?

00:39:02:24 - 00:39:03:28

Well, don't know that if it's.

00:39:04:00 - 00:39:09:24

Put like that, but you automatically goes and gives them their rights in.

00:39:09:26 - 00:39:10:27

Perpetuity.

00:39:11:20 - 00:39:15:09

So every provision in the DCO you're saying should be so they.

00:39:15:11 - 00:39:21:21

Would never have to ask again to have those cables or, you know. Yes. Etcetera.

00:39:23:13 - 00:39:26:20

So basically the DCO should have a start and finish date.

00:39:27:26 - 00:39:44:18

Yes. Or we. Yes, it should do. Yeah, absolutely. Because we can't get them to offer it us on a voluntary agreement which under compulsory acquisition they should be trying to do. They haven't brought that forward. So I'm saying if you don't bring that forward, then we have to see if we can get that included within the DCO.

00:39:45:20 - 00:39:46:10

Okay.

00:39:46:12 - 00:39:55:12

Okay, I'm clearer. I'm clearer with that now. Thank you. Um, which five show? Offshore wind. Which five offshore wind developers have you negotiated this with?

00:39:56:02 - 00:39:58:16

So we've got two schemes under Vattenfall.

00:40:00:06 - 00:40:00:25

Uh.

00:40:01:06 - 00:40:03:05

Is that Norfolk? Yes. And.

00:40:03:14 - 00:40:05:15

And Vanguard. Yeah. Okay.

00:40:06:07 - 00:40:08:13

We've got two schemes with Orsted.

00:40:10:20 - 00:40:11:15

Okay.

00:40:17:09 - 00:40:21:16

And what's the drafting in the that actually secures this.

00:40:23:01 - 00:40:24:07

So we don't. So what I'm.

00:40:24:09 - 00:40:35:12

Saying is we haven't had to put that in the for the other schemes because once we raised. Under compulsory acquisition that they obviously shouldn't be taking any more rights than they need.

00:40:36:07 - 00:40:37:09

All the other.

00:40:37:11 - 00:40:43:00

Developers have come to us and said, fine, we will agree a 99 year term in the voluntary agreement.

00:40:44:24 - 00:40:46:26

Hmm. We even had that The.

00:40:46:28 - 00:41:00:25



First game that we raised. This was actually null in Lincolnshire and that came up in front of the examiners. Okay. And that was where it was particularly raised about it being that they shouldn't be taking any more rights than they need.

00:41:01:29 - 00:41:15:21

And the last sentence that you've said in your response to written questions, we understand that the rights granted by the Crown will be for the term that is considerably less than 99 years. And by this you mean the consent to acquire Crown land?

00:41:16:07 - 00:41:16:27

Yes.

00:41:18:02 - 00:41:29:03

Okay. Well, just given the precedents before us, and particularly with respect to the comparison made with Crown Land, could you respond to that?

00:41:29:23 - 00:41:32:23

Julian Bosworth, the applicant. So just beginning at the beginning.

00:41:33:10 - 00:41:39:27

Um, we don't think there's a or a CPO ever granted that has included a limit.

00:41:40:03 - 00:41:40:18

Okay.

00:41:42:05 - 00:41:45:04

And so there is no precedent for that whatsoever.

00:41:45:10 - 00:41:45:26

Okay.

00:41:49:15 - 00:42:31:10

So what we're actually talking about here is something else. We say that the sorry if can just go through in stages. So we say that the precedent is overwhelmingly against what Staples is saying in that there are numerous in fact, the default position for granting an easement of this type is that it is in perpetuity. There may be some exceptions to that. We haven't seen documentation of that because the devil is always in the detail. What do those documents actually say? Are they can they be released in a form? Are they in the public domain in a form that allows it to be established? What they actually mean, what their legal effect truly is, are their abilities to extend? Are there preconditions, caveats? ET cetera.

00:42:31:12 - 00:42:32:02

ET cetera.

00:42:33:18 - 00:42:54:18

It's true that offshore the crown is not granting its rights in perpetuity. Okay. I thought I was in a position to tell you in summary what the relevant periods were, but we've had a slight wobble at this end, and we don't want to say anything that is confidential. So I'd like to come back on that in writing in due course as soon as we can.

00:42:54:29 - 00:42:55:16

Okay.

00:42:56:17 - 00:42:59:28

And you said that's for offshore crown lease.

00:43:00:00 - 00:43:02:06

But yeah, so the offshore.

00:43:03:17 - 00:43:29:14

What happens when you are awarded a site is that you sign an option, um, an agreement for lease which then sets up a mechanism whereby in due course you can draw down the lease. The lease is for a term of years. There is then an associated agreement for the cable route. Which obviously mirrors whatever is being granted in the main option.

00:43:30:03 - 00:43:58:08

Okay. Ms.. Staples, before you actually say what you have to say, I have a specific question, which is that by your own admission, these were not agreed in every the five examples you've given me were done voluntarily outside of the process. So Mr. Boswell is right. There is no precedence of this, and it's not something that can be considered within the examination. It's not within the scope of the examination.

00:43:58:14 - 00:43:58:29

Well.

00:43:59:20 - 00:44:00:25

Okay. Can reply.

00:44:01:11 - 00:44:02:13

Oh, yeah, absolutely.

00:44:02:23 - 00:44:03:08

Thank you.

00:44:03:10 - 00:44:21:24

Certainly we staples for that. The farmers union leg. Uh, what happened on our in our first case on this was and it goes back to where we started the hearing this morning is they have to prove to you the rights that they need and they shouldn't take any more rights than they need.

00:44:21:26 - 00:44:26:02

So when we've raised this with in other echoes.

00:44:27:12 - 00:44:27:27

Um.

00:44:28:24 - 00:44:58:07

It then got pushed back and we and then we were offered a 99 year term under the voluntary agreement. So then we dropped it. We didn't have to carry it through within the examination because that's what happened. But so far. Ecuador is still saying to you that they need all of these rights in perpetuity, but we haven't been given any explanation as to why they need them. And also, we haven't been offered the 99 year term under the voluntary agreement.

00:44:58:09 - 00:45:00:08

So I think what we.

00:45:00:21 - 00:45:11:22

From my point of view now is we need to understand why do they need those rights under the in perpetuity? I yeah, that explanation hasn't been given.

00:45:13:14 - 00:45:15:27

Um, and just one question that.

00:45:17:27 - 00:45:38:11

If this were done through the examination and through the process, this would be completely novel. It's never been done before. To introduce a term of this kind. Okay. Um, the point about the the need for it to be in perpetuity and the lack of justification can in the applicant respond to that point.

00:45:39:16 - 00:46:11:11

Julian Boswell for the applicant. Again, the starting point is that the baseline is effectively being set by what the process provides for. If that was considered to be a fundamentally, fundamentally unreasonable, Parliament would not have set it up on that basis. So I think that is an overarching point. After that, I think there is an obvious question as to what is one obvious question is what is the difference between a 99 year term and perpetuity? 99 years is a very long period of time.

00:46:11:13 - 00:46:43:00

There is there is a marginal difference. Now you can say you can cut that one both ways if you want to. It is generally I'm standing by what I said a moment ago, that the default position, even if it's I'm not saying that Mr. Staples is incorrect in the examples that she's giving, but am saying is that we don't have evidence to to support that. And the devil the devil is always in the detail, the default position on the grant of easements. If you ask a real estate lawyer whether they are normally granted on a in perpetuity basis, the answer is that they are.

00:46:43:04 - 00:46:45:03

So that is the starting point.

00:46:45:23 - 00:47:24:05

Two questions, Mr. Boswell. One is, is there anything in the Planning Act 2008 which sets this because you said that, you know, that's the process. That's the process. It would not have been agreed in Parliament. So is there anything in the Planning Act which you can hook this on to? And the second question is, what's the difference between 99 years and in perpetuity? Say there was a not novel case, not this one. Another one where the the term of the year was for 99 years. What do you envisage will happen in year 100, which will, you know, limit your ability in any way at this point or through the year?

00:47:27:03 - 00:47:27:25

The.

00:47:28:23 - 00:48:07:28

I think the starting point is to just sorry. Julian Boswell for the applicant. The starting point is that the I think it's generally accepted that the and or the process doesn't allow a term to be put on there. I'm not but think it's one of those points that's so hard wired into the system. There probably isn't a specific reference for it, if you know what I mean. Um, so I'm not promising that I can give you a specific reference supporting that, but I am telling you and I just don't see why you would you or any or of any type frankly, would want to sort of tread into that territory for the first time.

00:48:08:11 - 00:48:37:03

Um, apart from that, if you ask the generic question, what is the difference between 99 and, and, and perpetuity, then it's just, it's, it's I can, I can see that there's some force to that point. I can't pretend that there isn't. But I think if there's a default position in real estate law that you generally default to a

to an in perpetuity position, then that it's a reasonable position to to adopt. And in the end, it becomes a point of negotiation.

00:48:39:24 - 00:48:40:19

Ms.. Staples.

00:48:41:22 - 00:49:23:20

Thank you to staples for the leg mean for us. Think from a landowners point of view, the difference between a term of 99 years perpetuity is that once you get to the end of the 99 years, they won't have their rights any longer and they'd have to renegotiate and pay compensation again to be able to do whatever they want to do after 99 years. So that's the limiting factor. So of course, there's a there's a massive difference between 99 years in perpetuity. And you could see that some of the landowners that are being affected at the moment, their family or, you know, however many generations down are going to say what on earth were they doing 99 years ago? By not by not limiting this.

00:49:26:23 - 00:49:28:02

Julian Boswell for the applicant.

00:49:30:01 - 00:49:46:20

This is routinely agreed on other projects without being seen as a controversial point. So I obviously hear what Ms.. Staples says. But this this has been agreed on multiple other projects without being seen as a controversial point.

00:49:52:29 - 00:49:54:27

Ms.. Staples, I think, can.

00:49:54:29 - 00:49:55:26

Raise another point.

00:49:55:29 - 00:49:56:26

Yeah, go on.

00:49:57:11 - 00:50:18:12

Thank you, Sir Louis Staples, for anything. I mean, it hasn't it's only been it was very controversial in the whole examination and it only became not controversial once we got offered the 99 year term in the voluntary agreement. And I will provide evidence of that. That's fine.

00:50:19:29 - 00:50:23:08

Okay, let's have that down as an action for you then. Um.

00:50:24:24 - 00:50:25:13

Um.

00:50:28:20 - 00:51:13:29

Yeah, because I'm just thinking about what this examining authority needs to consider. And what would be helpful is if we can have from the applicant. Um. Which is, you know, it's absolutely fine. You've you've said that the this is the process. It's it's something that's routinely agreed. There isn't a term in the DCO. Um, and indeed there is no DCO and compulsory acquisition where there is a term mentioned. But um, if you can provide any wording from the Planning Act 2008 or any other relevant piece of legislation which you can hang your hat on, then that would it would just help us be able to see that point.

00:51:14:01 - 00:51:46:14

The the only thing that I'm I keep referring back to as the point that Ms.. Staples has made, which is the applicant has to convince you that they are only taking what they need. So if they don't need it for any longer than 99 years, then why? Well, suppose that's also a question. But you know why? Why are they taking it for any and particularly because she's made reference to the lease that you will be given by, you know, for Crown land. So why should there not be any parity between the two?

00:51:49:19 - 00:51:51:24

And we note that down as an action, perhaps.

00:51:54:13 - 00:51:54:28

Yeah.

00:51:56:10 - 00:52:05:11

Okay. Miss Staples, in the action for you was that you were going to give us the evidence from the tribunal examination. Um.

00:52:07:14 - 00:52:24:26

And again, just because it needs to be in examination, what would help us greatly is if you could provide, um, extracts from the recommendation report, if that refers to the point and indeed from the Secretary of State's decision letter, if that refers to this specific point.

00:52:28:25 - 00:52:35:12

Okay, Don't. Sorry. I don't think it does, because we'd obviously been it had been agreed before we got to that stage. Yeah.

00:52:36:03 - 00:52:39:27

Yeah. Okay. Any questions?

00:52:43:14 - 00:52:44:21

Okay. Any questions?

00:52:44:23 - 00:52:46:12

Any further questions from the floor.

00:52:51:01 - 00:52:51:16

Okay.

00:52:52:16 - 00:52:54:19

Can we move on to 16 two?

00:52:57:27 - 00:53:29:23

So 16 two is about Article 16 and subparagraph one states the undertaker may, for the purposes of the order, enter on any land within the order limits or which may be affected by the authorized project. And suppose my question is that it appears that. By the provision in this article. Landowners outside the order limits could be affected. Can you comment on that?

00:53:32:18 - 00:54:03:01

Laura Fuller for the applicant. Yes, madam. That ultimately is the implication of the wording which may be affected by the authorised project. That provision has, as we've previously set out in the explanatory memorandum, particularly paragraphs 76 and 77, and also in response to first written question 1.11 .3.6, which was on a slightly different point. But the precedent point is still the same.

00:54:03:03 - 00:54:38:24

That wording is very well precedented in all discos that I am aware of that include that provision and think that is included in pretty much every DCO that I've ever looked at. It is deliberately drafted that way because it reflects other equivalent powers under other legislation. I think we've previously talked about Section 172, but there is also the ability of an electricity undertaker to enter on to and survey any land under Section ten and schedule four of the Electricity Act, 1989.

00:54:39:24 - 00:55:12:17

Um, and from a from a practical perspective, it is it is usual. We do advise quite regularly on the use of these powers in the context of either under or under other legislative provisions and. The reason that sort of flexibility is there is that there are sometimes there is sometimes the need to undertake activities outside the the order limits for surveying some species.

00:55:12:19 - 00:56:01:25

It might be necessary to go on to to other land to to undertake those surveys. And also sometimes it is necessary for various reasons to to to use sort of like an act to take access alongside the red line for whatever reason that access might not be available because of the stage of the construction works within the red line. As an example. I think the other point to note is that the alternative to not including that additional flexibility in that wording would be that ultimately when an application is made, there would be a need to to widen the red line potentially.

00:56:01:29 - 00:56:02:16

Okay.

00:56:03:01 - 00:56:22:03

Um, which obviously is not not proportionate. So actually having that flexibility to undertake activities like surveying, um, to, to allow access where that's required around the red line is considered a more proportionate approach.

00:56:22:05 - 00:56:22:20

Okay.

00:56:24:15 - 00:56:37:29

And it just means that in those situations you are not having to to use the powers of temporary possession or exercise or acquisition powers, which would have a more disproportionate impact on landowners.

00:56:38:05 - 00:56:42:12

Okay. Generally, that seems fine.

00:56:43:03 - 00:56:50:01

We'll process that and get back to you with questions, but immediately have a few questions first. Um.

00:56:51:18 - 00:57:00:03

But what could be the extent of this land? Could it be? You know, you're talking about compensatory measures in Scotland. It could this.

00:57:01:24 - 00:57:05:27

What's the geographical scope of something like this? So when you say.

00:57:07:04 - 00:57:07:23

Um.

00:57:09:25 - 00:57:22:05

Purposes of this into any land, any land within the order limits or which may be affected by the authorized project. That could be, that could be a lot. That could be all of England.

00:57:42:16 - 00:58:15:27

Laura further for the applicant. Um, just to reiterate, obviously it is, it is established practice. It is very difficult at this point to put a precise, you know, to draw an additional line to demonstrate the extent of the error that may be required. It does. It is necessary that that is, you know, just really the wording, but the wording says which may be affected by the authorized project. It's not carte blanche to just go out and abuse those, you know, abuse that provision.

00:58:15:29 - 00:58:23:04

And if we were acting outside of what would be considered proportionate in that, that would be challenged. Okay.

00:58:24:22 - 00:58:31:07

Could you then define a scope by identifying the type of surveys that you might do using that provision?

00:58:33:02 - 00:58:36:28

Couldn't that help define it And.

00:58:37:27 - 00:58:39:00

Minimize it.

00:58:40:26 - 00:59:04:00

Laura Fuller for the applicant. I think if you recall, we there are we have already actually amended that provision in terms of the notice requirements, which sets out. The type of thing that would be more likely to be, you know, that would be done using those powers. So we've already made a concession to try and in terms of the drafting to to to make that a bit to give that bit more clarity.

00:59:05:24 - 00:59:06:22

Um.

00:59:09:03 - 00:59:12:18

Then in that case, do you think this needs to be defined in Article one?

00:59:14:11 - 00:59:17:14

Um, when you say.

00:59:19:02 - 00:59:37:20

Land, which may be affected by the authorized project. So you're not just talking about older limits, but I know it's a phrase, but. Is, is it worth what I've got? In quotes here is land which may be affected by the authorized project. Is it worth defining that somehow?

00:59:38:16 - 01:00:01:25

Laura Fuller for the applicant. Think that comes back around to the very initial point I made in that that is deliberately drafted to provide flexibility and that it is incredibly well it's I would say it's impossible at this stage to actually define it down further and that that is an accepted mechanism and established precedent.

01:00:03:29 - 01:00:12:21

Both in IQOS and in sort of equivalent legislative powers. So we would not propose to define that down any further.

01:00:21:06 - 01:00:24:16

Uh. Do have any comments from the floor.

01:00:26:04 - 01:00:27:22

Christopher Bond bid.

01:00:27:24 - 01:00:28:12

Wells.

01:00:28:14 - 01:00:29:21

For various clients.

01:00:29:23 - 01:01:01:01

This was a point first raised at the issue specific hearing on the 20th of January. And as you remember, you said, Would I then submit a written representation, which I did, Yes, with this very point. Um, this is a restriction outside the redline boundary, which nobody knows how large it is. I was also asked to submit some examples, which I did, where it had a direct effect where possible development land could be involved. And again. Which did. Because I can't quite balance what's going to happen.

01:01:01:03 - 01:01:22:20

If you've got development land where they want to do their surveys, I'm sure that perhaps one of the team can tell me. But it's very difficult to sell land for development or similar purposes if this right extends over the said land. Because nobody's going to buy a house, as far as I can see it, if somebody can come in their guard and do surveys.

01:01:24:10 - 01:01:25:15

There is there is.

01:01:25:17 - 01:01:31:06

Provision in the article for there to be a notice given and.

01:01:32:28 - 01:01:56:24

And given that the land is not defined, it's not something that you. It's not Well, it's not defined according to what Mrs. Fuller is saying. So it's not you know, when you're selling houses, you wouldn't have to say, oh, by the way, your land comes within this dotted red line boundary around, um, around the sheringham and dudgeon, um, construction area.

01:01:57:07 - 01:02:20:17

I don't like, disagree, madam, but I don't see why not. If you sold a plot of land for development, it would have to be disclosed on the searches, wouldn't it? I just don't see how you couldn't do it. Well, it wouldn't get sold to start with. That's. That's the problem with it. And so I gave them three examples and they're very helpful. Helpful comment. Came back on all cases saying the respondent's comments, I noted whatever that might mean.

01:02:22:22 - 01:02:29:14

Um, so as I'd say, we've got a large area of land blighted adjacent to the red line boundary.

01:02:30:18 - 01:02:33:27

Undefined necessarily always adjacent, because it does.

01:02:34:09 - 01:02:39:28



Exactly. It may not even be adjacent. And it's completely undefined how large it is. Mm hmm.

01:02:41:15 - 01:02:42:13

Uh, yeah.

01:02:42:15 - 01:02:43:12

Miss Staples.

01:02:44:23 - 01:03:16:05

Uh, thank you. Staples for the leg. Um, think on other projects, instead of having the wording affected by the author or project we have seen adjacent to which I don't think is included in this. On those schemes, again, we have actually gone and queried adjacent to or we've asked for a definition of adjacent to be included. And we've even requested, well, can we have a distance that is set from the order limits so that we know.

01:03:16:22 - 01:03:18:13

Actually the area of land.

01:03:18:23 - 01:03:30:10

That might be affected because they know the certain surveys they might have to go and carry out outside of the order limit. So it's just some way of tightening this down.

01:03:31:14 - 01:03:32:25

So Miss Staples.

01:03:32:27 - 01:03:55:27

Are I'm I'm not aware and correct me if I'm wrong, but I'm not aware anywhere where the distance from order limits where this, um, where a provision of this article might apply has been agreed and included in the or anywhere. Can can you tell me if one but, uh.

01:03:56:20 - 01:04:10:16

Don't know that it has, but that's, that's what we've raised mean can definitely tell you where we've raised it numerous times because it comes up every time. Yeah. Yeah. That this is a problem and it just seems to be being agreed just because it's been agreed previously in a year. Yeah.

01:04:10:25 - 01:04:11:14

Yeah.

01:04:11:17 - 01:04:43:23

I think I do tend to agree with Miss Staples there that, you know, to agree it just because it's been agreed in other DCS is not a reason good enough. But the point about definition just just to define it a bit um and again I'm just going to raise a 4 to 8 blackout to Caxton Gibbet. The definition of land adjacent to has been included in that DCO and that was with specific reference to survey and that has been accepted by the Secretary of State.

01:04:43:25 - 01:04:54:28

So if Miss Fuller, if you want, that's, you know, something that you might want to look at. Um, would you like to come back to the point raised by Mr. Bond?

01:05:01:16 - 01:05:08:22

Laura Fuller for the applicant. Is this the point related to the assertion that that would blight wide areas?

01:05:12:09 - 01:05:31:04

Think the starting point there is that these powers exist already for various other bodies. That what is being sought here is no different really to what the current status quo is. That's the full you know, if you read the full article.

01:05:32:20 - 01:05:54:13

It sets out, as you've said, the notice period, it would set out what you're doing. We are talking about a very temporary, you know, temporary nature of activities. It's not anything that would be permanent. And there are provisions for compensation included in the drafting as well. So I just thought I'd highlight those points. Um.

01:05:56:09 - 01:05:57:11

In response to that.

01:06:00:03 - 01:06:19:21

Mr. Bond, the particular point about the fact that this. This provision is provided by other legislative regimes, do you have anything to say on that? Mean isn't that if does that blight land because it land might be affected by it by survey powers.

01:06:22:17 - 01:06:33:18

Difficult to comment without looking at them, but I still rather like the matter we were discussing of the 99 years. I think we have look at this case in its own merits.

01:06:35:12 - 01:06:40:03

Well, Burgess Hammond seemed just to refer back to historical what has happened in the past.

01:06:42:15 - 01:07:11:03

Mean, temporary nature of activities, finite kind. Except that I'll only be in this house garden for a couple of days. Well, so be it. And compensation. You can't pay compensation for that, can you? For the. For the loss of whatever you're going to lose. It's not common suitable because if it's not. If it doesn't sell, there'll be no houses. So there can be no compensation. So I just don't think they've really got a grasp of this. I'd like a written reply, please, if that's possible.

01:07:14:09 - 01:07:15:08

I think it's fair.

01:07:15:10 - 01:07:23:11

Miss Fuller, that especially the examples that Mr. Bond has submitted into examination, if the applicant could provide a fuller response to that, that.

01:07:24:27 - 01:07:27:17

Would would help all parties.

01:07:39:07 - 01:08:13:25

Julian Boswell for the applicant. We'll reflect again. But it's not a small thing to say that this has been considered repeatedly and the secretary and exactly the same arguments that have been put today and in writing will have been considered by the Secretary of state, and he's applied his mind to the balancing act that we're talking about here and the needs of a project like this as a nationally significant infrastructure project. And yes, the impacts and, you know, some degree of uncertainty that is created as a result of that as what is effectively sort of reserve power.

01:08:13:27 - 01:08:45:19

So the secretary of State has applied his or her mind to this repeatedly and come down in favour of the wording that we are putting forward. And so there's only so many times that projects and promoters should have to go round the houses. On making the case on on a on a repeat point like this. That's that's our starting point. Yes. We will reflect further. We'll look at the black hat example that you gave, but there are reasons why promoters seek these powers. There are reasons why they're in the legislation.

01:08:45:21 - 01:09:00:15

The the other legislation that Laura has referred to and as I've just said, there's only so many times that the Secretary of State can approve something before it should be accepted. That is going to be the outcome.

01:09:01:10 - 01:09:02:09

I'm going to close this.

01:09:02:11 - 01:09:09:05

Discussion down because we can go back and forth quite a bit. So very quick point from you, Ms.. Staples, and then I'm going to move on to the next agenda item.

01:09:09:23 - 01:09:29:02

Thank you to Staples for NFU. And it was just to say that I think if the wording adjacent to can be included and a definition like under the A48, I think that improves things greatly. I will speak to a colleague because they were involved for NFU members on that scheme. So thank you.

01:09:29:25 - 01:09:30:15

Thank you.

01:09:32:16 - 01:09:33:12

Anything further?

01:09:33:20 - 01:09:45:12

Well, only that some schemes may concede points, you know, by exception from time to time, but it doesn't mean to say that the overwhelming decision sort of list isn't what it is.

01:09:46:25 - 01:09:47:13

Okay.

01:09:58:24 - 01:10:00:24

Right. Moving on to the next agenda.

01:10:00:26 - 01:10:31:01

Item, I think we can take the next agenda item and the agenda item after that together. Now, I've asked this question, um, in first written questions, and I'm not satisfied with the response, which is why it's here again and again. It's just worth saying that precedents of including a provision and other orders is not the fullness of the justification that we're after. Um.

01:10:32:04 - 01:10:33:02

So.

01:10:34:29 - 01:11:14:25

So just moving on. So basically, this is about Article 20. Uh, in, in one instance for, for, for this next agenda item and for the following. One is the interaction between Article 26, Article 20 and Article 20 article. The interaction between Article 26 and Article 20. And basically our concern is that the

provisions in these two articles allows you to impose undefined new rights over any of the older land and not just plots listed in Schedule seven, including over land only for temporary possession.

01:11:14:27 - 01:11:17:07

So can you confirm that that is the case?

01:11:20:09 - 01:11:21:14

Laura Fuller for the applicant.

01:11:24:18 - 01:11:30:19

The provision think you're referring to there is the article 27 eight.

01:11:32:05 - 01:12:08:19

Which one read along with articles which you say when read along with articles 21 and 22 provides for that. Um, I'm not I'm not sure that I entirely agree. However, what we have been doing is giving this quite a lot further consideration since you raised it in first written questions and because obviously it is on the agenda for today and. The intention certainly is that those plots that are listed in Schedule nine are for temporary possession only.

01:12:09:25 - 01:12:11:26

So the applicant is.

01:12:13:24 - 01:12:40:24

We are suggesting that at the next deadline or sorry, we are saying that the next deadline we will be amending Article 27 eight to reflect that situation. So it will remove sub paragraphs A and B, and it will confirm. Through The drafting, as we're aware, has been done not on other offshore wind discs, but on some other orders.

01:12:41:21 - 01:12:50:10

Sorry, Miss Fuller, just so that we're absolutely on the same page, I am looking at revision of the DCO and I think the article you're talking about is 20 apologies.

01:12:50:12 - 01:12:52:11

Yes, it's 26. 27 is the.

01:12:52:15 - 01:12:53:02

Maintenance.

01:12:53:04 - 01:13:28:27

Yes. So we will be amending article 26 eight. So paragraph eight. Yeah. Um, to, to remove the limbs because they're not necessary. Okay. And just to confirm that the undertaker will not compulsory acquire new, uh, new rights over or impose restrictive covenants over the land that's referred to in paragraph one and that is the cross-reference to where you get to schedule nine, which lists out those plots for temporary possession, because the purpose of that is that they are temporary possession only.

01:13:31:14 - 01:13:39:18

I think that's going to satisfy us. But let's see what your. I'll have to read it before I can come back to you. Um.

01:13:50:06 - 01:13:58:14

Actually I'm going to tend reserve all my subsequent questions after I've seen this drafting because I think it's possible this drafting could resolve a lot of the concerns that have.

01:14:01:09 - 01:14:41:22

Thank you, Madam Laura Fuller, for the applicant. I would just also add that as part of the part of this review, we are also suggesting that we could add some slight clarity to Article 23 by adding a cross-reference to the book of reference so that it is clear that that should be read. That would add on to the end of that Article 23, the wording and as described in the book of reference currently it just refers to schedule seven, but the clarity around exactly which rights are to be exercised over each plot we accept is in the book of reference.

01:14:41:24 - 01:14:55:19

So we feel that that is a point of clarity that would also be worth making alongside this other change, as we've just been discussing to the temporary possession article, just to make that as clear as we possibly can.

01:14:56:01 - 01:14:57:14

Could you just explain to me just.

01:14:57:16 - 01:15:07:16

One more time why that would clarify why a reference to the book of reference, Isn't there a potential for duplication and one being out of kilter with the other?

01:15:08:20 - 01:15:42:03

Laura. Philip. For the applicant? No, I don't think there would be out of kilter. Think when you look at schedule seven, it lists out the plots and it says the purposes for which they would be taken. And we reference the work numbers, which is very standard. But obviously in the book of reference, we also have set out the menu of rights. So against the plots as well as the description of the works, you have the the allocation and the full description of what those rights are. Okay. So by including a cross-reference to a certified document, the book of reference, where that is more fully set out.

01:15:42:05 - 01:15:45:18

Yeah. Yeah. Very good. Is a clarification fine.

01:15:45:28 - 01:15:50:29

Okay. No, that helps. Um. Great. So think we.

01:15:51:01 - 01:15:56:05

Can move on. So if there are. Are there any questions to what the applicants just clarified?

01:15:58:12 - 01:15:59:06

Okay.

01:16:02:12 - 01:16:03:07

All right.

01:16:05:10 - 01:16:36:06

And then the final agenda item under this agenda 16 is notice period under Article 26. And here again, um. There's been a lot of precedents where a 14 day notice period for temporary possession has been agreed. And indeed there are increasing number of press made orders, which include a 28 day notice period. So my question to you is, um.

01:16:37:14 - 01:16:43:15

What would be the implications on your construction program if that were increased to 28 days?

01:16:45:14 - 01:17:10:25

Laura Feller for the applicant. Madam, we we did refer to this last week and said that we had been considering it. Um, and we have taken that consideration forward. And at the next deadline we will amend the notice period to 28 days for this article. Um, we have obviously discussed that and consider that that can be accommodated in the construction program.

01:17:16:20 - 01:17:19:00

Um, any of the affected.

01:17:19:02 - 01:17:20:14

Persons or agents.

01:17:20:16 - 01:17:23:20

Of affected persons have any comments on that?

01:17:26:24 - 01:17:27:23

Just say thank the.

01:17:27:25 - 01:17:34:28

Applicant for that. Okay. Thank you. Yeah. All right. I don't see.

01:17:35:00 - 01:17:36:02

Any hands up.

01:17:36:10 - 01:17:37:17

If you take a.

01:17:59:07 - 01:18:03:17

Okay. Um. So that brings us to.

01:18:03:19 - 01:18:19:12

All at the end of our agenda items. What I was going to propose we do is we've got our actions, summary of actions ready here. We delve straight into that. And then, um, before close, we can just cover off AOB.

01:18:20:29 - 01:18:21:15

Yep.

01:18:22:01 - 01:18:23:29

Okay. I'll hand over to Mr. Wallace.

01:18:25:12 - 01:18:55:24

Thank you very much. Yes. I shall read out the list of action points that have been collated from today's meeting. But of course, these will be embedded into our next round of written questions with responses for deadline three, unless of course, stated otherwise. And of course these actions will be for the applicant unless stated otherwise. So. The first action is for the applicant to consider whether it is appropriate to demarcate on the lands plans.

01:18:55:26 - 01:19:00:13

The area of a cable corridor for a single offshore wind farm scenario.

01:19:02:08 - 01:19:17:21

The second is for the applicant to reflect on whether any mechanism could be incorporated into the compulsory acquisition or to the DCO to ensure that the developer only takes the amount of land that they absolutely need.

01:19:20:01 - 01:19:26:09

The next is for updated accounts for equinor new energy limited to be provided.

01:19:29:01 - 01:19:52:18

In relation to various plots of land recorded. There was a commitment from the applicant to add in all the admitted plots until the relevant documentation and schedules, and also to put forward a list of all those duplicated plots. Setting out the reasons for them and setting out those to be removed due to error.

01:19:54:14 - 01:20:11:09

And tagged onto that, the applicant resolved to review the next version of the book of reference, specifically table one to improve its legibility and to include tighter cross references to table 11 one in the statement of reasons.

01:20:15:00 - 01:20:35:17

The next action is for the applicant to review the statutory undertakers table following a color coding approach as seen in the compulsory acquisition schedule and, where necessary, set out disagreements and also the implications arising if agreements are not reached.

01:20:39:10 - 01:20:55:23

Next is for the applicant to provide an update for the heads of terms and option agreements process with consideration as to the likelihood of reaching completion of options agreements prior to the close of examination on a case by case basis.

01:20:59:13 - 01:21:20:03

Next is the applicant to provide a position statement akin to a statement of common ground with Mr. Clive Highsmith and his representatives with a particular focus on the additional 20 acres of land and the scope of the interaction of that land with the powers afforded under the DCO.

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

Next is for the applicant to provide some clarification of how tenants are going to be treated or accommodated for in various land matter discussions and negotiations with their landlords.

01:21:38:13 - 01:21:55:04

Next for the applicant to respond to Mr. Bond's query regarding a construction access being formed and the interaction of such access with the cycle paths and the trees in that area and a drawing to be supplemented to help explain that.

01:21:56:28 - 01:22:33:16

The next action is for the National Farmers Union, and this is to provide all evidence, particularly that submitted for the tried to know scheme of the point regarding the 99 years versus in perpetuity and the discussions that are. Ended, if you like, with the voluntary agreements being made in that particular case and tagged on to that, an action for the applicant to provide information on the need and proportionality case for the rights to be maintained in perpetuity as opposed to 99 years.

01:22:34:13 - 01:22:59:29

And then finally, for the applicant to review the black cat to Caxton Gibbet development consent order with a view to seeing if the definition regarding land which may be affected should or could be

written into the DCO. That's the full list of actions I have and as anyone else wish to raise any. Right. Anything from the applicant on a nose or any other mitted?

01:23:03:01 - 01:23:35:09

Oh, yes. Thank you, Mark Warner, for both Smith and Paul Middleton. So the representations I've made, thank you for confirming the action point. The representations I've made today have been on behalf of both Clive Smith and Paul Middleton. Um, so we are trying pragmatically to combine representations as far as possible, but I would be grateful if you were confirmed. The action point also applies to Clive, sorry to Paul Middleton, sorry, who is an interested party affected party in his own right.

01:23:41:15 - 01:23:44:14

Is the applicant happy for that amendment to the.

01:23:46:02 - 01:23:46:26

Action point.

01:23:47:25 - 01:23:49:22

Dan Ashworth for the applicant. That's fine, sir.

01:23:50:02 - 01:23:53:27

Okay, then that is recorded. Yes, indeed. Thank you for that.

01:24:00:01 - 01:24:01:07

Okay. As.

01:24:03:09 - 01:24:28:29

As Mr. Hyde clarified at the outset of the hearing. These items recorded here as action points will be raised in written questions. May I remind everyone that post hearing notes, documents and answers prepared in response to these post hearing actions or written questions should be provided by the next deadline in our timetable, which is deadline free, which is the 2nd of May 2023. I'll now hand back to Mr. Hyde for Agenda 18.

01:24:29:28 - 01:24:42:20

Thank you very much, Mr. Wallace. Just wanted to thank everyone for their participation today. Um, unless there is any other business that anybody wishes to raise, and I'm looking for hands here.

01:24:45:05 - 01:24:56:23

Uh, I will go ahead and close this hearing. The time now is exactly 4:55 p.m. and I close this compulsory acquisition hearing. Thank you, everyone.