

Medworth ISH2_12 April_PT2

Created on: 2023-04-12 11:27:00

Project Length: 01:35:28

File Name: Medworth ISH2_12 April_PT2

File Length: 01:35:28

FULL TRANSCRIPT (with timecode)

00:00:05:14 - 00:00:32:08

Good afternoon. It's positive o'clock now, so it's 12:00 now. So it's time to actually resume this hearing on each specific hearing on the development consent order. Um, before I resume and take us back to the point where we stopped, I'm just I'm just conscious that Mr. Alford, I believe that after we actually, um.

00:00:34:16 - 00:00:37:26

Broke for interval in the meeting. You

00:00:39:22 - 00:00:56:04

believe that you tried to communicate with us, but obviously we couldn't take any questions at that point because the meeting had been officially adjourned, but would just like to give you an opportunity to, if you are still with us, virtually, to actually come back and ask any further questions or points that you might have.

00:00:58:00 - 00:01:15:21

Was. Yes. I was only asking if you can hear me as we've raised the issue, raised the issue regarding the requirement 27, whether there's any need to whether can withdraw from this hearing. Do I need to attend further?

00:01:19:04 - 00:01:53:21

Um, Mr.. Offered in terms in terms of that specific requirement. So I believe that we have covered that sufficiently for the purposes of this hearing and we have registered action specific to that. So my question would be, if there are no further issues or further items that you would like to cover, then, um, you know, it would be up to you if you want to if you want to join us and sit for the rest of the hearing. But, um, but I believe that that issue has been covered, uh, thoroughly.

00:01:53:23 - 00:02:06:23

So if there isn't anything else that you would like to do, then, um, I just would hand over that decision to you. You are free to join us or you are free to log off if you do not wish to raise any further point.

00:02:07:22 - 00:02:10:02

Yeah, I'm happy to log off. Thank you.

00:02:11:09 - 00:02:13:07

Thank you very much, Mr. Alford. Thank you.

00:02:13:09 - 00:02:13:24

Right.

00:02:14:27 - 00:02:18:24

But so before we begin, the agenda can raise a procedural matter. Please.

00:02:18:26 - 00:02:19:21

Especially.

00:02:20:26 - 00:02:36:16

That's Andrew Fraser for the councils in the discussion of the matters we were going to cover today and the matters for tomorrow. We mentioned this point about what we've summarised in our letter as insufficient land take within the DCO.

00:02:36:25 - 00:02:38:04

Yes. Which we discussed that.

00:02:38:06 - 00:02:39:14

We might take tomorrow.

00:02:39:21 - 00:02:41:11

Let me point.

00:02:43:01 - 00:03:18:11

We regard this as quite an important issue because we think it does fundamentally affect the deliverability of the scheme, both with respect to new bridge lane and the widening of that and the provision of a safe and appropriate junction at the new bridge Lane Cromwell Road Junction. Now, I'm not gonna say any more about the substance of that, but that is an issue which we want to have the ability to contribute to. And if that's to be tomorrow, so be it. Um, I'm not available to attend tomorrow and I don't think my team can physically be here either.

00:03:18:21 - 00:03:49:06

So we were wondering, first of all, whether it would be acceptable for us to join the meeting tomorrow just to deal with that issue, and if that is to deal with it virtually rather than to join virtually to deal with that issue. And if that's acceptable, um, where you might think that would come within the agenda items for tomorrow, um, so that we can only be. They're available when we're needed because we all have other commitments and we hadn't anticipated needing to make time for these proceedings tomorrow.

00:03:49:12 - 00:04:02:14

Now, of course we will make time, but it would be extremely helpful if at some point I'm not saying necessarily now you could give us an indication as to when you think that issue might be accommodated with the agenda you've set out for tomorrow.

00:04:02:23 - 00:04:40:12

Fortunately, I can respond to part of your procedural issues now. So in terms of joining us, virtually certainly that is a possibility. It's going to be a hybrid hearing. Therefore, there will be a virtual component as well as an in-person component. So that is definitely okay and acceptable to us. What I would ask would be for the members of your team that would like to join us virtually to actually contact case officer. That will be Tracy Williams, who you have the email address for in terms of the net worth mailbox.

00:04:40:14 - 00:05:20:27

So you can actually contact her through that so that we ensure that the team actually receive a link in order to be able to join virtually. So certainly from that point it's acceptable. And in terms of which point of the agenda, um, perhaps I would, I would suggest that it would be at some point in the post requisition hearing to which will deal with site specific issues. But if you'd like more information in

terms of which item within that hearing then would probably be able to perhaps confirm that to you further today.

00:05:20:29 - 00:05:27:07

That would be extremely helpful, sir. Appreciate. It's not an answer for now, but at some point today, if you could, that would really be very helpful.

00:05:27:15 - 00:05:56:20

Certainly. Thank you very much. Thank you, sir. Um, if that is all that we want to cover before we start again. So I think that we, um, finished item four of the agenda. But before I do finish officially, can I just ask very quickly if there have been any further queries on this item that anyone would like to raise? And if not, I'll move on to item five and that will be Article 1112 and schedule 11.

00:05:59:11 - 00:06:10:06

Virtually. No. Don't think that we have any further questions. So item five, then. Now, please. Article 1112 and schedule 11. Um, so, um.

00:06:16:10 - 00:06:55:28

My set out on the agenda that we have published. On the specific points, I have stated that the examining authority will ask Cambridgeshire County Council to explain and expand on its comments on the draft, including in their comments on the applicant C1 submission that would be wrapped to 031. So similar to what I have done previously. I'm going to ask Cambridgeshire County Council to expand on its comments in relation to protective provisions as set out in comments on the applicant C1 submission.

00:06:56:00 - 00:06:59:19

That's REP two of 31 as said previously.

00:07:04:00 - 00:07:21:28

Um, and so could I ask, please, can we chair County Council to expand on your concerns in relation to the articles 1112 and schedule 11 which I believe also relate to concerns raised in your relevant representation and that would be relevant representation. 002.

00:07:23:17 - 00:07:24:20

Yes, sir. Um.

00:07:27:28 - 00:07:28:24

If we.

00:07:31:02 - 00:07:33:20

Examine. But.

00:07:35:09 - 00:07:37:15

Articles 11 and.

00:07:38:19 - 00:07:39:16

12.

00:07:42:17 - 00:07:44:10

Um. In.

00:07:45:10 - 00:08:11:09

The broadest of terms. They grant powers to the applicant to alter the layout of public highways and to construct. New or amended accesses. Um, and obviously that affects the highway network, the producers network. Now we expressed a concern at.

00:08:12:25 - 00:08:39:17

3.13 3.19 of our relevant representation about the relative lack of. Detail within the protective provisions as to the ability of the County Council as highways authority to.

00:08:42:12 - 00:09:07:07

Be involved and to give approval as matters proceed through the design process and the construction process of those new highways. And we seek more detailed provisions setting out a.

00:09:09:06 - 00:09:33:27

Effectively a list of the various points at which we say the County Council ought to be. Quired by the to be to give its approval to be approached to give its approval. So. Exercises control. We set that list out at 330. The response that we got and the knowledge that we did get a response to that.

00:09:35:12 - 00:10:05:01

Was and summarize it in perhaps a slightly unkind way, but it simply was to say, Well, that's the way it's been done in previous years. There wasn't a, as we saw it, a substantive response to the points that we've raised. So that's the the nature of what we say concern is. And we say that the protected provisions in particular ought to be amended to build in at least those provisions. Now, precedent.

00:10:05:15 - 00:10:06:00

No, no.

00:10:06:05 - 00:10:08:01

But please, please, let's continue.

00:10:08:05 - 00:10:10:03

Did ask for you to see Ben.

00:10:10:27 - 00:10:46:00

To ask a question, sir. So, um, now, obviously, a lot of these materials are covered in the detailed section 28278 agreements that will be forthcoming. Um, and we're obviously aware of the need to avoid any possibility of conflict between the subsequent two 7/8. But we do say that the, um. So the bare bones protections that we've set out in our relevant representations ought to find their way into the protected provisions so that they're there in the main DCO don't know I'm next.

00:10:46:02 - 00:11:15:09

Sitting next to me is Mr. Ashman, who is the relevant highways. They have a number of different offices within the Highways Department at the county being one of our major statutory responsibilities. But Mr. Ashman deals with highways and records of these matters, which involves, in effect, the approvals process. I don't know whether there's any need add to what I've said. But please do so if you can and identify yourself or take first. Thank you. Yes. I'm Daniel.

00:11:15:11 - 00:11:50:26

Ashman. I'm the Highways records manager for Cambridgeshire County Council. Um, actually, Andrew, I think you summarized it very well for us. Um, I won't, I won't go on. But we, we, we looked at the articles 11 and 12 very closely. Um, I did note that there is a. In later on in the in the document, there is a requirement seven of schedule two, which does refer to the County Council having a role in the approval of changes to access.

00:11:51:10 - 00:12:09:23

That doesn't to me seem to cover the requirement to be involved in the design and approval of more substantial work, such as those on new Bridge Lane, which would be covered by Article 11 of the DCO. And that is a substantial reconstructing of a road which we would like to be properly protected when we're involved in.

00:12:09:27 - 00:12:24:02

You, not just ask you to just bear with us for one second because you have mentioned, I think was it Article seven of Schedule two? Yes. Yes. Okay. Just bear with me for one second while I just try and find that specific article.

00:12:30:19 - 00:12:36:06

But I understand how it supports your, your your submission now. Um.

00:12:40:12 - 00:12:45:15

Right so offered to the applicant tend to reply if you would like.

00:12:46:29 - 00:13:24:03

For the applicant. I think Masako was being slightly unkind in his characterization of our response, if I may say so. The applicant in response to the concerns raised, did deadline one submit and updated figures showing the improvement works to Newbridge Lane and Al Gore's way and construction traffic management plan was updated. Outline plan was updated and submitted at deadline one with with additional detail around the process and commitments around engagement and consultation with the Cambridgeshire.

00:13:24:10 - 00:13:55:09

And part of our response was also to signpost to requirement seven and schedule two, because that is relevant to both Articles 11 and Article 12 and subparagraph two of requirements. Seven provides that no part of work number for A, and those are the new bridge lane works and no part of what number four be, which is all cause lane improvement works may commence until written details of the access improvements have been submitted to and improved and approved by the relevant planning authority.

00:13:55:11 - 00:14:25:11

So there is that control mechanism whereby approval of of design details covering both Articles 11 and Articles 12 is captured by that requirement. In addition to that, however, as we've already responded, we are now progressing discussions on a Section 278 agreement which will cover some of the other concerns that were raised and heads of terms were sent to Cambridgeshire County Council Solicitor in March, and we've now had comments back on those.

00:14:25:13 - 00:14:49:25

So those discussions are progressing as well. And I'm I'm instructed in light of what we've heard today, that the applicant is content in principle to consider protective provision, drafting, subject to the point that we would want to avoid duplication and overlap between the different control mechanisms and to make sure that they all dovetailed appropriately and not inconsistent.

00:14:49:29 - 00:15:27:02

Thank you for that, Mr. McGovern. But can I just clarify in terms of your answer, you mentioned a provision seven schedule two. Um, and obviously it is useful for you to direct our attention to paragraph two of that specific provision in terms of the work that it applies to. Nevertheless, obviously it does seem to me from the submission of Cambridgeshire County Council that um, it seems to the concern seems to be more, um, it will, it will include sites other than just of sites.

00:15:27:04 - 00:15:42:10

So I think that that is really the key concern here. So how would, um, so I understand the provisions that you are making in terms of those specific sites, but how will that apply to the rest of the year of this year would be my question.

00:15:54:24 - 00:15:59:21

It's just to assist in this point. Your your point is right in that, um.

00:16:01:09 - 00:16:12:18

Comment seven deals with access. Our concern is broader in terms of control over the design of the highways themselves and not just the access to those highways.

00:16:12:24 - 00:16:34:05

Thank you for that. That actually clarifies that. That's helpful. But it just clarifies my question. In terms of the the issue that was pointing out and really for the purpose of this hearing, I do think that it would be useful if we could just get some view of the applicant in terms of the wider issue, not just the access.

00:16:35:10 - 00:16:39:17

That got him covered for the app. And so just to clarify, and this may be.

00:16:41:13 - 00:17:08:00

Misleading as a result of the way that the requirement is titled Highway access. But the intention of Part two of requirement seven is to cover all of the totality of the improvement works captured by what number four and four be. So new bridge lane. And our goals are not just specific accesses, so stop paragraph one deals with new accesses and paragraph two is intended to deal with improvement works to new bridge lane. And of course we hope that's helpful.

00:17:08:08 - 00:17:32:21

But it seems to me that there is potential at the very least for confusion because the the phrase access improvements, if that means how you get from the A40 or how you get from Cromwell Road to the plant, if that's what access improvements means, then that seems to me needs at least to be clarified because otherwise there is the potential for the confusion that you've identified.

00:17:35:29 - 00:17:42:20

So we're certainly happy to clarify the language and to avoid any confusion over the scope of requirement seven.

00:17:45:04 - 00:17:58:20

And thank you. Well, I think that we can certainly support us getting an action, Please. Oh. In terms of further clarification on that, but I would like, um.

00:18:00:15 - 00:18:31:09

I would like to further examine this point and I would like to draw our attention to the work plan because obviously it links with specific wording that you are relying on. And seven paragraph two, which is not part of works number for A or for B may commence until written details of the access improvements for that works number. So for info b have been submitted to and approved.

00:18:31:11 - 00:18:44:23

So if we actually look at the plans um, for A in for B. That seem to restrict themselves to a very narrow area

00:18:46:09 - 00:18:55:27

of the site proposal. Or am I misreading the works plan? If you could clarify, please.

00:18:56:26 - 00:18:58:17

So could you just give us a moment to find it?

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

So you certainly simply actually, could I please ask the case team if it is at all possible to share as well the work plan? And I am looking at sheet one of the work plan and the library reference is.

00:19:18:03 - 00:19:19:28

Bear with me for one second, please.

00:19:23:29 - 00:19:26:15

AP 007.

00:19:32:12 - 00:19:40:09

And can I just ask. Just take a moment. So until we actually have the plan available online so that people can follow the discussion.

00:21:21:28 - 00:21:22:22

Down a bit. Yeah.

00:21:39:24 - 00:21:43:07

Sorry, sir. Could the person controlling the screen just scroll down?

00:22:10:09 - 00:22:43:21

Thank you for that. First, must apologize to those that are following us online. Um. It's a high resolution map. And therefore, if we zoom in too much into the information, then you lose the the key of of the map. So but we'll try and make it work. Could ask actually first of all the applicant then in that case to actually confirm to the examination the works that that provision refers to.

00:22:43:23 - 00:22:54:22

So those would be the specific words for a just so that we make sure that we are looking at. So that works. Number four and works number four be correct.

00:22:56:01 - 00:22:57:02

Correct, sir? Yeah.

00:22:57:09 - 00:23:23:09

Okay. So. And could you point us or at least try to explain as best of your ability in terms of what areas within the site that would actually apply to in those works are restricted to Just to confirm that we are all looking at the same sort of works. I believe it is an area highlighted in green and that would be works number four BS. That's the case, yes.

00:23:23:11 - 00:23:34:09

The area highlighted in green is work number four B, which works on all goes away. And Mr. is kindly for those in the room pointing at the screen and.

00:23:34:11 - 00:23:38:12

Then works for please. Thank you, Mr. Frazier.

00:23:39:22 - 00:23:51:09

It's along the south west. The line that Mr.. Indicating the gray hatch area which extends from the bottom of the site all the way along to the junction with Cromwell.

00:23:51:16 - 00:24:20:27

So for those that are not into Rome and cannot see the outputs being pointed to, can I just try and express it? I think it will be what most people would refer to locally as Newbridge, away from the whole extent that is actually highlighted within the map that we are sharing, which is right to the southeast of the site. Can we confirm that? Yeah, correct. Right.

00:24:24:08 - 00:24:43:25

When you say the Southeast, it's hard to distinguish. There's an area which is blue, which goes further along and the hatched area doesn't. It overlaps with the blue. I don't know if someone can point out, but it doesn't. It's not continuous all the way down to the I think the. No, it just sort of slightly sort of a bear.

00:24:44:14 - 00:24:57:25

Can just say for the purpose of the record of the recording that it is. Mr. Kerry. Sorry. Okay. Yes. And can you please clarify your your your exposure now or the point that you're trying to make orally, please.

00:24:58:06 - 00:25:21:00

It's not very clear on the screen. I was just trying to clarify that the hatched area that covers works for a doesn't cover the entire length of Newbridge Lane. It stops at a point slightly to the south, slightly to the southeast of the proposed site, but it doesn't go all the way down to the a47. That's the point I'm trying to make.

00:25:21:03 - 00:25:44:12

Thank you. Um, I would perhaps suggest that considering the difficulty that we have had in understanding the maps that perhaps the applicant considers, um, if there is, perhaps. An inset that we can actually do of the versions of the map to actually clarify the situation. So I would ask, first of all, if you agree for an action for that to be to be carried out, please. Yes.

00:25:44:27 - 00:25:54:08

For the applicant. Yes. So we're happy to try and provide some clearer figures. What we might be able to do is to separate out the layers so you're not seeing all the layers over there.

00:25:55:01 - 00:26:08:08

Thank you very much. And now that we have established that, then actually, if I could pull this back to the DCO particularly, and, um.

00:26:12:10 - 00:26:16:19

Okay, So that's the schedule that that we were looking at.

00:26:19:21 - 00:26:21:22

That rely on.

00:26:25:00 - 00:26:25:18

Just.

00:26:28:29 - 00:27:05:05

Could the applicant please confirm to me actually the number of the schedule? I believe it was scheduled. Seven How was access it? Yeah. Um. Apologies. Article seven, Article seven, Schedule two requirements Highway Access seven. So as we were stating paragraph two states, no part of work

number for A or for which now we have established what works are may commence until written details of the access improvements for that work number have been submitted to and approved by the relevant planning authority.

00:27:05:26 - 00:27:22:09

Considering now the point that Mr. Kerry has actually very helpfully made for the applicant, it does appear then that the intersection between the A46 and Newbridge Lane would not be included as part of that.

00:27:25:05 - 00:27:35:14

The pork area for the A47 being the main trunk road to the south does not form part of our works. No. Not not part of for a.

00:27:36:12 - 00:27:56:14

So in terms in terms of going back to the question that Cambridgeshire County Council first asked and that you relied on your answer in terms of covering in terms of highways access, then how would that work if part of the major access to the site, as you are proposing, would not be covered?

00:27:59:15 - 00:28:35:08

Clare project for the applicant. All of the Highways works that are proposed as part of the development are contained within work number for a insofar as they regard and relate to Newbridge Lane. The remainder of the length of Newbridge Lane, which Mr. Carey referred to, which is the point beyond the access road into the site to the A47 is included within the order limits because works to install the grid connection and the water connections to take place in the road there.

00:28:36:00 - 00:28:42:02

No highway improvement works are required. There would be street works which are governed by

00:28:43:18 - 00:28:44:12

Article ten.

00:28:50:20 - 00:28:51:10

Thank you.

00:28:52:12 - 00:28:53:18

And make an observation, sir.

00:28:54:15 - 00:28:56:09

Just. Just one moment, please.

00:29:09:05 - 00:29:40:22

So believe, think, think. It might be useful for all of us to actually revisit how we started discussing this issue and where this question actually arose from. And it was to do with. Um, Article 11 and 12 and schedule 11. And in terms of neither Article 11 or 12 not protect should provisions with schedule 11 of the draft year have been amended to reflect changes requested by County Council? This was the point that they have made in their relevant representation, as I believe.

00:29:41:07 - 00:29:54:15

And then in terms of asking for protective provisions are requested in order to protect the local highways Authority that will have to. Um.

00:29:56:08 - 00:30:38:00

Maintain and undertake responsibilities for the affected highways. Is that the case? Is that the point that you're trying to make? Okay. Thank you very much for confirming to the local authority. You then on your answer relied on schedule two. Seven. How is access? So my question still remains and I'm still not clear on this point. How is that how is Article seven of of schedule two requirement highways access going to cover all of the different accesses that to then you are expecting the local highways authority to take control over.

00:30:39:15 - 00:30:44:18

In terms of not having protected provisions to actually secure that.

00:30:54:02 - 00:30:57:09

Sorry, Paul Kerry for that applicant.

00:30:59:02 - 00:31:25:02

To be clear, access on and off the side is only through two routes, two gates, one goes on to Newbridge Lane, and that's for the HGVs to deliver waste, and the other one would be off of Al Gore's way, which is for visitors, not for HGVs visitors, friends and families, etcetera. So there are only two points where we would connect to the road network.

00:31:27:06 - 00:31:29:03

The bottom part of Al Gore's way.

00:31:30:27 - 00:32:01:19

Is currently privately owned. So we seek rights of access over that. But there needs to be some modifications to the point at which we join our causeway. That's for B. And the length of Newbridge Lane from Cromwell Road, including parts of Walmer Road across the railway line and a short length of Newbridge Lane to the main access for lorries would need to be modified. That's for a and all of those works would be subject to the Highways Authority's approval.

00:32:02:28 - 00:32:14:18

As prescribed in Article seven of Schedule two. So I'm trying to give the gentlemen opposite assurance that we're not trying to bypass him, but it's just written in a different part of the BCO.

00:32:14:20 - 00:32:21:09

Okay. Thank you for that assurance. But can I ask if Cambridgeshire County Council would like to comment on that, please?

00:32:22:07 - 00:32:34:29

Subject to anything, Mr. Ashman adds. And our initial reaction is is really threefold. First is to say that even if one is able to place reliance upon

00:32:36:16 - 00:33:10:10

Article seven, schedule two highways access. Description. It's still only provides the most bare bones of control. Written details of the access improvements as part of the work we set out. Repeated in detail the more extensive control that we think is necessary. That's that's observation number one. Observation number two is a matter of drafting within the access vision that that article, which is that seven two.

00:33:11:04 - 00:33:23:13

Refers to submission to an approval by the relevant planning authority. Now, clearly it seems to me that needs to be amended to say the relevant highway was the authority.

00:33:23:17 - 00:33:24:03

Yes.

00:33:24:05 - 00:33:58:04

And the third point is that it's important. And it's partly builds on what I've said in observation. Number one, important not to simply be sucked into to a debate which begins with the premise that this is adequate. Even though we've explored it in detail, we say. As I've already suggested, that's still not adequate. Now, I noted in the exchanges a willingness on the part of the applicant to consider drafting within the requirements.

00:33:59:04 - 00:34:32:03

To help assuage our concerns and to build in the level of control which we think is appropriate in the DCO. But apart from the Section 278 agreement within the DCO, that is something which we think you, we would respectfully suggest ought to be an action as you describe them. For us to present the examining authority at deadline 3 or 4. I don't think it depends on how much time will be needed for the process with an appropriate redraft with our comments upon it.

00:34:32:28 - 00:34:37:00

Right. That's that's that's where we see this debate has taken us thus far.

00:34:39:00 - 00:34:39:15

I'm.

00:34:47:04 - 00:35:13:16

Yes, I would generally agree with that, but would actually like to start with the applicant on this specific point so can actually get an action from the applicant to continue negotiations with Cambridgeshire County Council and continue conversations on this matter and to actually clarify the wording of the DCO and to actually report back to the examination in terms of.

00:35:15:08 - 00:35:20:27

Progress with that specific issue if an agreement is not reached.

00:35:23:19 - 00:35:26:29

Gary McGovern for the applicant. We're happy to accept that as an action, sir.

00:35:27:09 - 00:35:27:29

Thank you.

00:35:44:08 - 00:35:44:23

Um.

00:35:49:26 - 00:36:05:05

Are there any further comments? Can I ask County Council in relation to the issue that was actually raised in was referred to in our agenda item? If they would like to make any further comments on the specific, um, the specific articles and schedule.

00:36:07:07 - 00:36:07:22

But.

00:36:09:07 - 00:36:11:07

Just give me one moment, sir, if you wouldn't mind, Please.

00:36:24:15 - 00:36:56:00

Yes. So there's one other completely discreet and separate issue under this heading and and it's this, um, the. It's obviously going to be the case that the increased usage of the highway by the number of HGVs, which will be serving the facility, will cause damage to the fabric of the highway just by ordinary usage over and above that which is ordinarily to be expected.

00:36:56:06 - 00:37:44:22

This is a matter that we did raise in the local. To report. Now we're entitled, as they may not know, under section 59 of the Highways Act, to recover. Described as excess expenses, and it's a relatively normal provision. But within the echoes of this sort to require pre development condition survey of the highway, followed by monitoring of the condition of the highway as the development goes through its lifetime to arrive in due course at an appropriate compensation figure, uh, for that additional highway damage caused by the extra traffic.

00:37:44:24 - 00:37:49:14

And we say that that's absent from the and it should be there, right?

00:37:50:21 - 00:38:00:08

Can ask the applicant to respond, please, on this specific point. And if the applicant believes that it should be included in the DCO. Um.

00:38:14:07 - 00:38:31:26

I got him. McGovern from the applicant. Can I just clarify before we respond that the particular point about pre and post surveys is focused on the additional usage of Newbridge Lane, and it's not a more general point that's being made.

00:38:32:26 - 00:38:47:26

Daniel Ashman For County Council, it would also relate to Cromwell Road because that's the key artery linking the A47 to Newbridge Lane. There's clearly going to be an impact on that road with an increased number of heavy goods, vehicles and construction traffic.

00:38:49:02 - 00:39:22:08

I cannot just suggest to the applicant that perhaps if we don't have a clear picture in terms of the applicant's view on the specific issue, you can actually ask that that is added to the action that I have highlighted before in terms of negotiation with Cambridgeshire County Council on this specific issue. If both parties accept that into obviously report back on any changes in the wording or any developments that they might have on this specific issue.

00:39:29:01 - 00:39:31:21

Yes. So happy to include that as part of the action.

00:39:31:23 - 00:39:42:07

Right. So if we could include that as well, please, as part of the previous section that I have highlighted. Thank you. And anything else on this specific item, please, from Cambridgeshire County Council.

00:39:44:05 - 00:39:46:06

So no. Thank you very much.

00:39:46:08 - 00:39:46:27

Thank you.

00:39:48:23 - 00:40:00:01

And can I now ask to those joining us virtually if there are any further comments that anyone would like to make on item five of the agenda?

00:40:03:27 - 00:40:05:15

And anyone else from the room.

00:40:08:18 - 00:40:29:09

Yes, please. If we have someone that would like to make a comment in the room, if you'd like to. Yes. Sit and join us. Please do press the right button to activate your microphone. And before you speak and ask you to identify yourself for the recording and also in your organization that you might be representing today, please.

00:40:30:11 - 00:41:06:09

Yes, My name is Diana Mortimer. I'm part of the West Wing Anti Incinerator Group. I just wanted to add a little bit to what the Cambridge County Council are asking for, um, to do with the conditions of the highway. Why? Why are Cambridge County Council not actually asking for the Al Gore's way to be included during the construction phase? Because that's where all the lorries are coming in for the construction phase, three years of construction.

00:41:06:11 - 00:41:13:27

And surely it will be benefit to them if they can include that. In getting reparation.

00:41:15:26 - 00:41:24:07

Um, actually, I think that it might be more helpful if I ask the applicant, first of all, reply to that specific issue.

00:41:29:18 - 00:41:30:10

To most.

00:41:31:14 - 00:42:04:07

Ten marks for the applicants in terms of the construction phase and the use of Al Gore's way at the start of construction. That would be the access into the facility site. But once constructed, the new bridge lane access route will be the principal access into the facility site. So think in the documents we talk about approximately a 65% of the HGVs going new Newbridge Lane and 35% Al Gore's way on completion of construction.

00:42:04:18 - 00:42:32:06

Al Gore's way will only be used for visitors and staff accessing the facility. And then in terms of Al Causeway itself, past 19 Al Gore's way, this is where it becomes a private road owned by Fenland District Council. And it's not an adopted highway. So without taking anything away from what the applicant the council may wish to say about this, they do not have a highways responsibility for the maintenance of that road.

00:42:33:02 - 00:43:07:25

But thank you very much for that. The applicant would also say that if there are any further queries or questions that you have in terms of access, and as we have highlighted today, there will be other hearings, issue specific hearings, and we will we will be carrying out a hearing on transport, which that will then be announced and advertised as per explained within the preliminary meeting, and maybe raise any further questions in terms of accessibility to the site then where we can actually take a more coherent view in terms of your questions.

00:43:08:09 - 00:43:17:22

Is that is that helpful? Yes. Thank you very much. Thank you very much. Right. Um, is there anyone else that would like to ask a question on this specific item?

00:43:21:03 - 00:43:32:20

And in that case will move us to the next item. Then will be item six, Article 12 and schedule six.

00:43:39:13 - 00:44:14:00

So I believe that, again, as highlighted within the agenda published. And on the specific article and schedule. Um. In the County Council will ask the Council to explain and expand on its response to examiner questions. One DCO 1.6 that would be to 030 in the applicant will be asked to respond and I think and believe that it is actually linked linked with a confirmation that um.

00:44:15:24 - 00:44:36:20

By moving the references to Al Gore's way to schedule six Part two. Those parts of the access to be maintained by strict authority that the applicant now intends for any completed works to Al Gore's way to be maintained by a third party landowner in not by the Local Highways Authority. And can I actually ask if that is the case?

00:44:38:21 - 00:44:43:15

If that is the case of your submission. At Cambridgeshire County Council. Thank you, sir.

00:44:43:17 - 00:45:06:12

Yes. Andrew Fraser. For the councils. Yes. Mean think the this arose effectively from a concern on the part of the Highways Authority that they didn't accidentally get lumbered with the responsibility for maintaining accesses which which weren't properly theirs to deal with. Um, and Article 12 two of the.

00:45:08:14 - 00:45:11:00

Refers to.

00:45:14:08 - 00:45:15:05

Those.

00:45:17:09 - 00:45:53:28

Accesses, which are not intended to be a public highway. And they and that requires their completion to the reasonable satisfaction of the street authority. Now we have taken that to mean and. Um, think we expect the applicant to agree with us on this point, but it doesn't mean us, bluntly speaking, where it refers to Al Gore is way. And that then leads on to the need for schedule six.

00:45:55:06 - 00:45:58:18

Which is also referred to from Article 1212.

00:45:59:10 - 00:46:00:27

Which sets out.

00:46:03:18 - 00:46:23:06

Tables relating to which bits are going to be maintainable, which are the access to be maintainable at the public expense, which to be maintained by the street authority, which does. Um, and I think now that that's been.

00:46:24:08 - 00:46:27:28

Partially recast. Um.

00:46:28:28 - 00:46:32:11

Then the issue probably goes away.

00:46:32:13 - 00:46:33:11

However.

00:46:33:23 - 00:46:34:08

Um.

00:46:34:15 - 00:46:36:15

We were just.

00:46:36:17 - 00:46:41:16

Also concerned about the interrelationship between.

00:46:43:02 - 00:46:43:18

A.

00:46:43:28 - 00:46:49:06

A6 and A8. On the one hand there and A7.

00:46:49:23 - 00:46:53:02

Because ACE and A6 are still.

00:46:53:13 - 00:47:01:08

In the maintainable expense and A7 isn't. Not quite sure we saw the logic of that.

00:47:02:21 - 00:47:03:16

And it may be that there's a.

00:47:03:18 - 00:47:08:06

Need for further refinement of schedule six. Does that make sense?

00:47:09:04 - 00:47:19:29

It does to me. But can I just ask the applicant then, if the applicant would like to reply in terms of changes to schedule six Part two. Um.

00:47:22:07 - 00:47:27:01

And comment on the question and the issues raised by Cambridgeshire County Council.

00:47:30:06 - 00:48:01:22

Guy McGovern for the applicant. And I'm happy to say that we don't disagree with what Mr. Kerr has set out in relation to the Street authority point, and he's correct to note that the revised version of the Echo has amended tables and schedule six so that Al Gore's way it has been removed from the table, listing those parts of our accesses to be maintained at public expense. And we're grateful for the acknowledgement of that and addresses their concerns in part.

00:48:02:09 - 00:48:14:22

And the final point of his query in relation to the relationship between the access points Mark and E7, I think we might need to have a closer look at and come back to you.

00:48:14:24 - 00:48:24:24

Answer But can I get then an action please for the applicant to confirm its position in relation to A7 intersection.

00:48:26:20 - 00:48:27:16

A thanks.

00:48:28:11 - 00:48:56:16

Thank you. Dan Ashman for the County Council on our on analysis of the access and rights of way plans and display of the highway boundary. On those plans, there are a handful of other accesses where we just have question marks for clarification about whether the accesses are intended to become highway maintainable at the council's expense or not. And it would be helpful to have a conversation about those. Just to get clarification on which part of the Schedule six they should be in.

00:48:56:24 - 00:49:27:06

Okay. That yes. So the has got to actually reflected wording very correctly. So can I ask for an action then for review for the applicant to engage with Cambridgeshire County Council in order to actually review concerns regarding access and within schedule six, if those which streets and locations should actually form part of in essence, table for table five.

00:49:27:18 - 00:49:43:01

Um, and that is the question, correct? In terms of, um, not table six, because those are those works to restore temporary access which will be maintained by the street authority. So not that table. Can you confirm that please? Yeah, right.

00:49:46:13 - 00:49:52:22

And it just asked me if you could agree with an action to take away on that, please. Yes, sir. Thank you.

00:49:58:20 - 00:50:04:07

Uh, are there any other comments that anyone would like to make on item six of the agenda?

00:50:07:15 - 00:50:11:20

Anyone online. Before. Move us to item seven.

00:50:15:14 - 00:50:31:00

Now. I don't see any hands raised from mine, so I'll move on then to item seven, which will be Article 13 and schedule seven. So, um. On this specific question.

00:50:33:01 - 00:51:05:15

DCS would like to ask the applicant to please explain how and why the temporary prohibition of restrictions of use of streets and public rights of way will be implemented at Article 13. So I'll actually refer back to Article 14 of the DCL and then particularly justified need for the power sought and the Article 13 and particularly would like us to focus on paragraph five and to clarify if this position has been agreed with the Highways Authority.

00:51:07:08 - 00:51:08:23

It's over to the applicant, please.

00:51:13:06 - 00:51:14:23

Gary McGovern for the applicant.

00:51:16:13 - 00:51:53:08

The reference to paragraph five of 213. Paragraph five is a limitation on the general power in Article 13, which is set out in paragraph one, which provides a general power to temporarily impose restrictions on the use of streets within the order limits. And it's considered that power may be necessary in order to facilitate the safe and efficient construction of the facility and the provision for clarification.

00:51:53:10 - 00:52:18:16

So it might be useful for me to clarify. And I think that the. My concern is particularly linked with 5G. In terms of any street specified in paragraph four without first consulting the street authority. So it's more that issue that would actually like us to focus on. Hence why the second part of my question was going to be if you have had the agreement from the Highways Authority on this.

00:52:26:27 - 00:52:27:28

Got him covered for the applicant.

00:52:28:18 - 00:52:38:05

I'm not aware that we've had agreement from the council on that particular point. We'd be happy to hear any comments that they may have today on that matter.

00:52:39:01 - 00:52:39:16

Right.

00:52:42:04 - 00:52:54:10

And just to be clear, paragraph five provides that we cannot temporarily prohibit or restrict any street listed without first. So we have to first consult the street.

00:52:54:19 - 00:53:04:17

Apologies. No, you are absolutely right on that. That yes, that actually clarifies. Hence why we have. Okay. Thank you very much. Notice that is really useful.

00:53:20:20 - 00:53:24:20

Get clarified situation. So thank you very much for that. Don't think that we need any action on that point then.

00:53:32:20 - 00:53:43:00

Right. So I'll move on to item eight. Before I move on to item eight, just ask if anyone else has any further questions on item seven of the agenda. That would be Article 14 and schedule seven.

00:53:43:11 - 00:54:01:01

So yeah, so we had we had one detailed point on schedule seven itself. Yes. Simply. And this is something which we can probably deal with outside the hearing in detail, but just to give the existing authority a sense of what we're, what we're going on about. Um.

00:54:02:16 - 00:54:03:09

It's our.

00:54:03:25 - 00:54:07:17

View that certain public rights of way which.

00:54:09:00 - 00:54:09:26

Cross the.

00:54:09:28 - 00:54:44:03

A47. Or which come to one edge of the a47 and then go down the a47 a bit and then go out the opposite direction from the a47. Um, we'll be impacted by the potential closures or restrictions on the a47 and we think that Schedule seven ought to be amended to deal with those possible disruptions of public rights of way, and that it may be necessary to provide some additional signage for users of those public rights of way.

00:54:44:21 - 00:54:58:03

Um, I don't want to say much more about it now because it would involve getting lots of plans out and explaining things so forth, and it's probably better done discussing with the applicants. But that's where we get an issue to resolve.

00:54:58:10 - 00:55:17:10

And I believe that that also relates to the items that we covered under item three of the agenda today that were then subsequently raised on your submission to us following the publication of the agenda. Um, in terms of non-motorised user and rights of way into local impact report.

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

Yes.

00:55:24:00 - 00:55:52:14

And maybe in that case, if it is and that is the confirmation that was after may actually suggest that perhaps we take that issue. Then when we actually look at transport transport issues more widely because think that that might be beneficial in terms of us being able to adequately assess the information that you're after. Unless there was any specific requirement in relation to the wording of the decision now that you would like to put forward.

00:55:55:17 - 00:56:07:11

Daniel Ashman from the County Council. I don't think there's any specific wording that would need to be changed within Article 13. Um, it's more about the content of, of schedule seven. Exactly.

00:56:07:13 - 00:56:08:01

So if it is.

00:56:08:03 - 00:56:18:14

About the need or not need and how that need will be assessed, then I actually do think that that will be more adequately assessed and a transport hearing if everyone agrees with that. Thank you.

00:56:20:23 - 00:56:25:01

And are there any other questions that anyone would like to raise in this item, please?

00:56:37:06 - 00:57:10:18

If not, then I'll move us on to item eight, which is Article 25 link to schedule eight as well. So I would like us now to turn our attention to schedule light of the day that is lent in which only new rights etc. may be required of the DCO in first of all, actually, just for everyone's reference while we are going through this, cannot just confirm that. Am I right in thinking that the article shouldn't be 25 but rather than 24?

00:57:15:01 - 00:57:29:13

Gary McGovern for the applicant in the main body of the order. As a result of the change, the change, all of the numbering of the articles has moved on. So it is Article 25 and what does need to be.

00:57:29:26 - 00:57:31:28

Article 25 not good to win. Yes.

00:57:32:21 - 00:57:41:06

We did spot that. The Schedule eight, which cross-references still refers to article 24 that needs updated to refer to article 25.

00:57:41:26 - 00:57:48:25

They are quite different articles, so I just wanted to clarify that before we actually move further on. I just.

00:57:51:03 - 00:57:59:28

I'm just trying to find the particular schedule now so that I have all of the information in front of me. Bear with me for a second, please.

00:58:12:09 - 00:58:12:24

But.

00:58:14:12 - 00:58:45:13

So my questions that I have are actually going to be mostly concentrated, I believe, on the first two sections of Table eight in terms of the number of plots shown on the land plans and then the rights which may be acquired and rights that may be acquired. So that will be column two. And I'm going to ask several questions on that, but it's mostly on those first two cells that you have on the table in terms of the number of plots.

00:58:46:04 - 00:59:01:23

But before I do, can I just ask the applicant to briefly explain its position and intention in relation to Article 25, compulsory acquisition rights and impositions of restrictive covenant and why we need that article. Just to set context, please.

00:59:05:16 - 00:59:44:04

Go McGovern for the applicant? Yes, sir. So Article 25 entitles the undertaker to acquire existing or new rights or to impose restrictions on any of the older land. And the purpose of this particular provision is that it would allow the applicant to minimize the extent of land that may otherwise have needed to be compulsory acquired in terms of the freehold ownership. So the structure of the compulsory acquisition provisions and provides a series of options, this being one of them which are intended to provide alternatives to actually acquiring freehold.

00:59:44:06 - 00:59:57:05

So where it's possible to only acquire rights to achieve the purposes of the scheme, then Reliance would be placed in Article 25 instead, and that minimises interference with property rights as the backdrop to the.

00:59:58:09 - 01:00:07:06

Right. Thank you very much for that explanation. Um, so. I would like us to take then to, um.

01:00:11:19 - 01:00:44:24

Article 25, paragraph two, which states, in the case of the order land specified in column one of the table in schedule eight, when in which only new rights, etcetera may be acquired. The undertakers powers of compulsory acquisition are limited to the acquisition of existing rights and benefit of restrictive covenants for that land and creation and acquisition of such new rights and disposition of such new restrictive covenants for the purposes specified in column two of that table in the schedules that the correct position.

01:00:45:04 - 01:01:19:13

Right. Okay. Nevertheless, if we look at wording in schedule eight and in some of the rights that are mentioned within two, the wording is actually very broad and includes rights to construct, use, maintain and improve permanent means of access, for example, and right to pass in repossess on foot with or without vehicles, plant and machinery for all purposes in connection to the construction, use, maintenance and decommissioning of the authorized development.

01:01:20:15 - 01:01:30:27

This strike me as actually quite broad. So can please ask the applicant why does it believe that it requires such powers?

01:01:36:13 - 01:02:10:19

Therapeutic for the applicant in relation to the provisions that you gave as an example these plots? Relate to the use of existing access ways. So one at the entrance to the substation at all spoken there currently a private access track owned by Eastern Power Networks and also Al Gore's way, which as we've had quite a discussion on, is is not a public highway, is a privately owned track.

01:02:10:21 - 01:02:44:23

And without acquiring a new right to use that access, the undertaker wouldn't have the ability to access and egress from the site using Al Gore's way. So the powers that we've sought here are to give us an easement effectively and access easement over Al Gore's way, for example, in order to be able to use that road in order, in order to be able to use it properly. We have we require not only a right of access, but also a right to upgrade that access.

01:02:44:25 - 01:02:54:15

So if it fell into disrepair, for example, that prevented access, we would have the ability to carry out maintenance works to that road. It would also prevent.

01:02:56:10 - 01:03:27:06

Others from putting in place obstructions. So that's why restriction is required in addition to a new right of access so that it would prevent the obstruction of the use of that access. Right. Each of these rights, as we set out in the statement of reasons, can only be used to either facilitate or in or incidental to the authorized development. There is that overarching restriction on the use of compulsory acquisition powers and therefore we feel that the rights are proportionate and reasonable and only required to facilitate the development.

01:03:29:08 - 01:04:05:09

Thank you for that clarification, Miss Broderick. And can I ask as well then, if we're going to schedule it in page 50, uh, the purpose specified in column two, um, that I have mentioned before in terms of any other works as necessary, which actually apply to a series of different sites, which are sites listed, which are broadly, if may refer to them as sites within sheet 1 to 11 of the land plans which will be um yes.

01:04:05:11 - 01:04:23:06

Will be what the what the wording that I'm interested in is and any other works as necessary which do apply to a very vast area. So can we please just, um, can I ask the applicant to please confirm why such broad powers are needed for such a broad area?

01:04:27:05 - 01:05:07:19

The project for the applicant and the wording. If you take, for example, the first row, which these are all rights in relation to the word connection. So the rights are fairly broadly drafted as if these are all of the requirements we consider a necessary to actually install, use and maintain and then ultimately decommission the grid connection. We've listed some of this specific rights that were required, but it's

standard drafting and considered appropriate to include other works that might be necessary so as to avoid listing in the schedule every single write that might be required in relation to the works.

01:05:07:21 - 01:05:26:18

So it's an overarching power in connection with the installation use and maintenance of the grid connection. But it's the the purpose of Schedule eight is to set out the purpose for which they may be acquired rather than necessarily prescriptive listing every single night.

01:05:26:20 - 01:06:01:08

I understand that. And and I understand the reason behind that specific wording. Nevertheless, it still remains that within the schedule, within the wording, present wording of schedule eight of the DCO, it does state and any other works is necessary together with the right to fail treatment. And then it goes on to actually specify what you believe mean in terms of the work that you anticipate that you actually need to do. But the wording as it stands now would be quite broad and could be interpreted as quite broad.

01:06:05:24 - 01:06:37:10

That of the applicant. I think that it's important to note that the rights are can only be exercised in connection with the proposed development. So that's in order to construct the works that are listed in Schedule one or that are required to facilitate or incidental. So no rights could be compulsory acquired that had that were not related to the proposed development because the power to be granted compulsory acquisition powers is limited by those provisions in the Planning Act.

01:06:37:12 - 01:06:55:13

So think that whilst it is knowledge that it's a fairly broad power, um, that is to ensure the deliverability of the scheme and prevent the need to list absolutely everything in the schedule. But there is that overarching restriction on the use of compulsory acquisition powers that they must be related to the proposed development.

01:06:56:01 - 01:07:25:04

That's very useful. Thank you. Ms. Broderick. And that actually leads me to the next point, which was actually linked with then the rights that apply to the plots that I have mentioned, which are broadly the plots within sheet one to sheet 11 of, of the work plans, but actually want us to look specifically at the following ones which apply to um.

01:07:27:27 - 01:07:28:27

Besides.

01:07:30:26 - 01:08:11:22

13 for sea 13 4D in 14 for a which was a change that you have made to the most recent version of this show. And in terms of the rights that apply to those plots, it includes the right to pass and repass on foot with or without vehicles, plant and machinery and machinery for all purposes in connection with construction, use, maintenance and decommissioning of authorized development. I will now actually ask because think it will be useful to illustrate my point if we could share um sheet number 13 of the land plans online, please.

01:08:15:02 - 01:08:53:17

Um. And. While we have that, while we are trying to share that specific piece of information. Um, my question is actually linked with the fact that those sites broadly referred to the an adopted section of Al Gore's way and that we have discussed previously. And obviously even today, Mr. Kerry has recently confirmed to examining authority that actually there is no intention to use that specific access to the sites for vehicles.

01:08:54:10 - 01:09:16:04

Um, if you have if drafting currently at the moment actually states that you have the right to pass and re-pass on foot with or without vehicles planted in machinery for all purposes in connection with the construction use, maintenance and decommissioning of the authorized development, then isn't there a contradiction there?

01:09:19:07 - 01:09:20:13

That project for the applicant.

01:09:21:21 - 01:09:30:15

The and thank you just one moment to thank you just to confirm that we now have the the plans being shared. Thank you. Sorry to interrupt. Mrs. Broderick. Please continue.

01:09:31:29 - 01:10:00:01

The applicant, as Mr. Marx mentioned, obviously the use of Al Gore's way will be required during the initial construction phase of the project. But then there will also be a need to utilize Al Gore's way during operations for other vehicular traffic, including staff and visitors. So an ongoing right of access is required permanently along Al Gore's way and.

01:10:01:18 - 01:10:34:01

The need for a compulsory right is because at the moment the applicant has been unable to reach agreement with the owner of Fenland District Council who are not currently willing to grant a voluntary easement along their. And that's why compulsory acquisition powers are being sought for both construction and for operational purposes, because all causeway will be required during operation for staff and physical visitor and. Vehicles, as we discussed.

01:10:34:13 - 01:10:46:08

I understand that and I understand the intention behind it. Nevertheless, it's still, in my view, that is not clearly demonstrated within the wording of

01:10:47:27 - 01:10:59:06

of Schedule eight, particularly when it does not caveat in any way, shape or form. Um, in terms of the use.

01:10:59:08 - 01:11:00:02

Which.

01:11:00:09 - 01:11:14:15

Is obviously going to be the main issue that, that we have identified. And my question would be for, for the applicant to actually point the examining authority to where else within the DCO there might be provisions to actually secure and guarantee that.

01:11:17:19 - 01:12:03:13

Collaborate with the applicant in terms of management of traffic that is dealt with within schedule two to the DCO. So during construction requirements 11 relates to the construction traffic management plan and that lists out in the outline construction traffic management plan, the usage of both our causeway and new bridge lane during construction during Operation Requirement 12 of Schedule two requires an operational traffic management plan to be put in place, and that would specify the routes which vehicles delivering waste to the facility would be required to take, and that would therefore restrict the use of Al Gore's way for such vehicles.

01:12:03:15 - 01:12:12:09

So it is the use of the compulsory acquisition powers does need to be considered in light of the other requirements that place restrictions on the development.

01:12:12:18 - 01:12:25:06

Right. Thank you very much for that information. Um. Can I ask if there is anyone else that would like to ask any further questions on Article 25 and also obviously link to schedule eight.

01:12:29:18 - 01:12:36:13

Can I ask you virtually. Is there anyone else that would like to ask specific questions on this point on this item?

01:12:39:05 - 01:13:02:28

I can't see any hands raised. Can I also please ask to? Then in that case, stop sharing the land plans as they are now. Because I believe that we have now just completed this item then. So I'll move us on to item. Nine articles 28 and 32 and schedule ten.

01:13:04:29 - 01:13:18:22

So first of all, I would like us to look at Article 28, please. Um, so if we could start with that. And my first question would be for the applicant in terms of please explain the position and intention in relation to Article 28.

01:13:22:10 - 01:14:05:08

Gary McGovern for the applicant. So Article 28, for the benefit of people watching, provides a power to override easements and other rights. And it is again, as was indicating earlier, it's a supplementary to other compulsory acquisition powers and needs to be read alongside a number of other articles, including Article 27, which deals with private rights. But it provides for a situation where there are rights or restrictions that continue to apply, and buying the older land is a situation where, by dint of the fact that the land is not the freehold has not been acquired, which would trigger the extinguishment of such rights and all their new rights been acquired.

01:14:05:18 - 01:14:41:25

It's in order to make sure that any pre-existing rights or restrictions that apply would not interfere or hinder the implementation of the proposed development. It may also provide for a situation where access to the land for the purposes of the authorised development occurs prior to the vesting process of where during construction works may be progressing and it can be done pursuant to this particular power, which then allows at the end of construction the compulsory acquisition of land to be limited, limited and minimised to just the actual footprint of what's been built.

01:14:42:29 - 01:15:09:28

And thank you very much for that clarification. And can I draw the applicant's attention specifically to paragraph two? See. Well, paragraph two generally, and then specifically see in terms of in this article, authorized activity means see the use of any land within the order limits, including the temporary use of land.

01:15:13:27 - 01:15:15:11

Yes. Yep.

01:15:18:09 - 01:15:26:00

And just ask and explain your intentions in relation to that specific wording.

01:16:20:27 - 01:17:03:06

That project the applicant and before just go through paragraph two. It's just wanted to highlight that in so paragraph one of Article 28, it is made clear that we're talking about authorized activities that are

authorized by the order. So everything we're talking about is constrained by the, the works and the powers and the uses of land that are permitted by this DCA. The reason for subparagraph two is to divide into the sort of the three categories of ways in which the undertaker could potentially interfere with an existing right, and that could be via a construction activity.

01:17:03:08 - 01:17:40:07

So physical works, it could be by the use of a power. So, for example, the power to carry out a survey or it could be exercised by the use of the land. So in taking temporary possession of the land, for example, or using it for a different purpose, but without any physical works actually having taken place. So that's why authorized activity has been divided into three separate categories of activities that are caught by this article. But it is all limited by the works and the powers and the uses that are authorized in the order itself.

01:17:40:09 - 01:17:44:00

It doesn't extend to any use of the land.

01:17:45:11 - 01:17:45:26

Um.

01:17:46:11 - 01:18:20:18

I understand that, but in terms in terms of the powers granted and requested by the applicant, in terms of those powers are actually quite broad. So if we take, if we take authorized activity to mean the use of any land within the order limits and we revisit paragraph one with any use of any land within daughter limits, which takes which takes place within the land within 30 minutes. So actually there is there must be some wording issues there.

01:18:20:20 - 01:18:36:17

But when the activity is undertaken by the undertaker or by any person deriving title from the Undertaker by any contractor is authorized by this order. So that actually means that the use of any land within the order.

01:18:38:19 - 01:18:57:01

Is within the outer limits of drugs is authorized. But by disorder, any any sort of work in activity as long as it is in connection to the activity that is undertaken by yourselves or by any person that you have the title from yourselves.

01:18:58:24 - 01:19:02:21

So it seems to me to be quite broad in terms of its application.

01:19:06:14 - 01:19:41:14

For the applicant and. In subparagraph one and. It does bring it back to being in any authorized activity which is authorized by this order. And so it has to be an activity. So whether that's a work so those works that are listed in Schedule one, a power such as the powers to survey or sell trees or other powers that we that are in the main body of the order, or a use such as the temporary use powers of land that are authorized by the order.

01:19:41:16 - 01:20:00:02

So I. I respectfully don't agree that it is extremely broad because it is all contained by the powers and works that are set out in this order. And all of those powers are required to facilitate the construction of the authorized development.

01:20:02:16 - 01:20:38:24

Okay, I accept that. But can can ask us to actually try and apply this on a specific example. So for example, say that as requested by the author and authorized by the author. If it gets approval, we allow for the construction of the facility. And within that construction, you actually use Al Gore's way in order to get construction vehicles to access the site. Uh, do we agree that that is an authorized activity? Can I just confirm that? Yeah, that would be an authorized activity.

01:20:38:26 - 01:21:01:05

So in light of that, how would be the interests of the users of that? Well, that actually rely on that route for their access on a day to day basis and be protected in light of the requirements that you have in Article 28. And now I'm actually looking at paragraph one, two and three. Really?

01:21:02:20 - 01:21:35:20

That project for the applicant? Yes, that's that's correct. In the sense that Article 28 would give you the ability to interfere with. It's a combination of both articles, 27 and 28 that could be used to, in theory, interfere with somebody else's right of access over Al Gore's way. However, the powers in the order need to be considered in conjunction with the restrictions that are placed in the requirements. And as we've mentioned in our deadline one responses.

01:21:35:24 - 01:22:02:19

Some additional text has been added to the construction traffic management plan, which is secured by way of requirement 11, which ensures the access is retained for those premises that rely on this section of Al Gore's way for access to and egress from their property. So whilst the the power is there to interfere with those rights, that power is limited by the other provisions in the.

01:22:03:25 - 01:22:24:06

Okay. Thank you very much. Um, can I ask if the applicant would consider that perhaps it might be useful to revisit the wording of that specific article in order to clarify that specific issue or if you or if the applicant believes that that is suitably covered within the wording of the DCO as it stands.

01:22:28:18 - 01:22:57:06

That the applicant. We will have another look at the wording. We. Our initial view is that it's some fairly standard form of drafting for CEOs and it does need to be fairly broad in order to deal with any new rights or issues that might arise. And we would suggest that the construction traffic management plan is the preferred place for putting restrictions on the use of our causeway rather than the compulsory acquisition powers.

01:22:58:24 - 01:23:01:14

That's fine. Thank you very much for that information.

01:23:01:16 - 01:23:14:22

Can I ask if anyone else has any questions on this specific item issue? It would be Articles 28 and 32 and Schedule ten.

01:23:19:08 - 01:23:35:24

Right. I have a further question in terms of because we covered Article 28 for the question of Article 32. So if could actually refer us to that specific article. So that would be 32. That's temporary use of land for carrying out the authorised development.

01:23:37:12 - 01:23:53:23

Um. So can the applicant please explain its position and intention in relation to this article? Article 32, particularly the broad powers requested in why design do not appear to be confined in all cases to the plots and for the purposes listed in Schedule ten.

01:23:56:08 - 01:24:36:05

Gary McGovern for the applicant? Yes, sir. The important distinction needs to be drawn out initially is that schedule ten is listing land, which will only ever be used temporarily. So in connection with temporary levies and so on as part of the construction period. And what the power and article seeks to also do, however, is allow the applicant to enter into temporary possession of any of the other order land, which may in the future be the subject of compulsory acquisition of the freehold or acquisition of rights as part of the permanent development.

01:24:36:11 - 01:25:05:29

And so the reason for doing that is to allow the applicant to carry out construction using the temporary powers in order to ultimately only acquire what they need to acquire in the context of the permanent operational facility. And without that power, it may be necessary to acquire the freehold of a larger area of land, facilitate the construction so that the purpose of allowing temporary access over the auto land in general is to facilitate the minimum acquisition of permanent rights in due course.

01:25:07:15 - 01:25:42:20

I understand. But by not restricting those sites to the plots and for the purposes listed within schedule ten. Um. You could actually buy grunting as it stands at the moment. We could. You could actually be using it for compulsory acquisition of sites that might not be needed in the future and obviously with a concern in order to minimise the sort of situation, we would need to be assured that the DCO actually protects for that.

01:25:45:27 - 01:26:30:03

That was it, the applicant. And in relation to the use of the power, it is Article 32 at the beginning and sub paragraph one does state that it's only in connection with the authorized development. So comfort needs to be taken that the powers cannot be used for any other purpose. It has to be in connection with the construction of the authorized development. The remainder of the article does include a number of protections for landowners, including payment of compensation for any loss or damage that arises from the temporary use of the land and also requirements to restore the land after the temporary use has ceased.

01:26:30:05 - 01:27:12:16

So in the event that the land was used temporarily for construction purposes, but it was not required on a permanent basis. So for example, when you're constructing the grid connection, you typically need a slightly wider area of land to carry out construction activities. Then you require for a permanent easement to maintain and to use the grid connection on an ongoing basis. So typically you might take temporary possession of a slightly wider area, carry out the construction works, and then seek only permanent rights over the slightly smaller easement area required for the grid connection going forward.

01:27:13:06 - 01:27:43:13

And those areas of land which you are not seeking permanent rights over must be restored and handed back to the landowner. And that's in accordance with subparagraph by Article 32. And the drafting of this temporary use power is based on a model provision and is standard on in all DCS and provides the flexibility for the reasons that Mr. McGovern stated, which is it's actually an ability to reduce the amount of land, take permanent land, take for these projects.

01:27:44:19 - 01:27:46:23

At. Thank you for that justification.

01:27:47:05 - 01:27:47:20

Um.

01:27:49:28 - 01:28:32:02

My query. My question still, I'm not completely. I understand the point that you have made in terms of being a standard position provision, and but it needs to be read within the in the context of the DCO itself and all of the other articles. And I'm still not fully satisfied that the current version and all of the articles of the DCO taken as a whole, would actually satisfy us that there would be no opportunity for perhaps taking land that might not be necessary for the construction.

01:28:35:14 - 01:28:36:20

That project of the applicant.

01:28:38:11 - 01:28:58:27

Our interpretation at the beginning of that article, it does state that it must be in, you know, that it's in connection with the construction of the authorized development, and therefore it would not be possible in terms of complying with the DCA to take land that the applicant had. The undertaker had no intention of using construction of the authorized development.

01:28:59:01 - 01:28:59:27

Understand that.

01:28:59:29 - 01:29:45:16

But it still remains a fact that actually one a states enter and take temporary possession of and then to any other land any other order land in respect of which no notice of entry has been served under Section 11. Powers of entry and no declaration has been made under Section four. So potentially apologies a potentially would like to actually explain. I would actually like to understand potentially what could be the ramifications of this this power, particularly when actually in point B, it does say that um, remove any buildings, fences, drainage and vegetation from that land.

01:29:45:18 - 01:30:04:27

So actually the, the the article as it's drafted at moment requires um allows the power for temporary possession in connection of the construction. I accept that but it still nevertheless temporary enter and take the possession of any other land and remove buildings without serving notice of entry.

01:30:09:19 - 01:30:27:02

Yeah. Project the applicant. Just on that last point, there is a requirement to serve notice before exercising the power and subparagraph two So there is a requirement to notify any landowner and any occupier before this power is utilized. Um.

01:30:29:00 - 01:30:34:26

Though, the landowner would have fire warning that the power was going to be utilized.

01:30:36:16 - 01:30:42:07

In in relation to the removal of buildings, etcetera. That is that is correct. However.

01:30:45:06 - 01:30:55:18

In respect of this particular project. When you're looking at the older land, we have the main site, um, which the applicant has, um.

01:30:57:13 - 01:31:09:00

Reached a voluntary agreement with the landowner in respect of and then the other areas relate to access the connections to connections and the

01:31:10:15 - 01:31:18:28

connection. There aren't. Any buildings other land owned by.

01:31:22:03 - 01:31:41:27

By that individuals bar the water connection now that the land. Get to the south of the main site that would be actually affected by this. So whilst I appreciate that as drafted, the power is very broad when you actually look at the nature order. And for this particular project, I'm not sure that there is.

01:31:43:24 - 01:31:49:05

Potential consequences that you are referring to, you do actually apply here.

01:31:50:15 - 01:31:51:25

Okay. Thank you for that.

01:31:52:05 - 01:32:21:12

And maybe this is my misinterpretation of of of the article, but, um, and I would ask for clarification when it states in one article 20 21A inter on entitled possession off. Correct. And then to any other order land in respect of which no notice of entry has been served. So that is the bit that is causing me confusion in terms of notice of entry and apologies if I'm misinterpreting or misreading the situation.

01:32:22:18 - 01:32:55:04

For the applicant. Yeah. So the reference to a notice to entry under the 1965 act is where you're seeking to acquire new rights or acquire land on a permanent basis. So there's two different mechanisms by which you can exercise the compulsory acquisition powers and articles 23 and 25. You can either use the notice to treat notice of entry method under the 1965 Act, or you can utilize a general vesting declaration under the 1981 act.

01:32:55:06 - 01:33:10:29

And what this provision is saying is that if you have done either of those steps to exercise the permanent rights, you can no longer use the temporary power. So you can only use this temporary use power for that time period before exercised. Understood.

01:33:11:06 - 01:33:13:04

Thank you for that clarification. Thank you.

01:33:15:22 - 01:33:21:22

And are there any other points on this specific article? Article 32.

01:33:33:21 - 01:33:34:06

Um.

01:33:37:07 - 01:33:53:27

I'm mindful that we have reached the 130 mark. So that would naturally be as have, as we have announced at the beginning of of the hearing, the point where we would actually break for lunch. Um.

01:33:56:17 - 01:34:27:00

I do think that would like to actually pick up item nine and finish that item and then would have item ten. To item 16 to actually cover. But I don't believe that those items are going to I don't anticipate at this point in time for those items to actually occupy the whole one hour and a half next slot.

01:34:27:02 - 01:34:42:27

So. Maybe would actually break now, as I have announced before, so that we can have a comfort break and then resume lighter. You know, just confer with my member of the examination panel.

01:34:55:16 - 01:35:08:04

Uh, right. So in that case will actually adjourn this meeting for lunch now for one hour and would ask us to be back and resume the meeting at 230, please. So approximately one hour.

01:35:08:17 - 01:35:18:25

So before we break, can I just say I think we've reached the end of the highways items, right? So I'm going to release my highways team if that is convenient to the examining authority. That is.

01:35:18:27 - 01:35:20:02

Fine. Thank you very much.

01:35:20:22 - 01:35:23:21

This meeting is now adjourned until 230. Thank you.