

Good morning everybody. Uh, and welcome. It's now for me time for me to open this issue. Specific hearing number two, into the draft development consent order, which is being held in connection with an application made by North Lincoln Cha, green Energy part limited for an order for development, consent for the construction operation and maintenance of the North Lincoln Cha Green Energy part.

Project development proposes the construction and operation of a combined heat and power enabled energy generating station with an electrical output of up to 95 megawatts, incorporating carbon capture, associated district heat and private wire networks, hydrogen production, ash treatment, and other associated development.

Before I go further, can I confirm with the case team that the teams is working? And I can be heard and seen and that the recording and live streaming of this event has commenced. Thank you for those people watching the live stream. Let me explain that. If the proceedings are adjourned at any point, we'll have to stop the live streaming in order to give us clear recording files when the meeting is resumed, you will need to refresh your browser page to view the restarted livestream.

I will remind you again should we need to adjourn. I also understand, uh, for those of you who were, uh, either trying to watch the livestream yesterday, that there was a period after lunch before we, uh, ceased, um, and, and recommend later on in the afternoon, there was some interference during that, um, live streaming event.

I do. I, I am assured that when the, uh, video is published on the national infrastructure website, That, that interference will not be there, so you should be able to view it and hear it clearly. So hopefully for those of you who are observing or and so on, it will provide some assistance. But I'm sorry that during the event it didn't work as well as we would've wished.

Now, uh, just introduce myself and my colleagues. My name is Edwin Mo. I'm a charter town planner and planning inspector, and I've been appointed by the Secretary of State as the lead member of the panel of examining inspectors that together comprise the examining authority for this application. The other member of the panel is Dr.

Phil Brewer, and he will now induce him, introduce himself to you.

Thank you, Edwin. Good morning. My name is Dr. Phil Brewer. I'm a member of the acoustics and a planning inspector and have been appointed by the Secretary of State. For leveling up housing in communities. As a member of the panel of examining inspectors to examine this application, I will now hand back to Mr.

Ma.

We're also assisted at this hearing, uh, this morning by the inspector it's Case Team. Today we have our case manager, Sarah Norris, supported by Jake Stevens, both here in person and Steven Parker are supporting us remotely. If you have any questions or queries about the examination or the technology we are using, this should be your first point of contact.

Their contact details can be found at the top of any letter you have received from us or on the project page of the National Infrastructure Planning website. So before I go into the main part of this hearing, I'll ask Dr. Brewer to highlight a few housekeeping and background matters for you today.

yes. Particularly for the benefit of anyone attending today for the first time, and I can see a few new faces around them. Um, as explained in the examining authorities of all six letter at NX E, the issue specific hearings will be live streamed and recorded. The recordings will be published on the project page of National Infrastructure Planning website as soon as possible.

After each hearing, clear closes to assist viewers and listeners, anyone speaking should introduce themselves each time they speak. As the recordings are obtained and published, they form a public record that can contain personal information to which the General Data Protection Regulation applies. The VOL eight letter includes a link to the planning inspector, it's privacy notice, which provides further information on this topic.

If there's a need to refer to information that participant. Would otherwise wish to be kept private and confidential. It should be in written form, which can be redacted before being published. If you prefer not to have your image recorded, you can of course switch your camera off. I will repeat the request made in the arrangements conference.

That's in order to minimize background noise. Please ensure your microphone or telephone is muted and that you stay muted unless you are speaking.

In order to avoid fatigue is our intention to take a 15 minute break at about 90 minutes intervals and a longer break over lunchtime period. I expect about one o'clock. I'll now hand back to Mr. Mor, who will cont outline the purpose and conduct of this issue specific hearing.

Thank. This issue specific hearing provides an opportunity for the issues raised by interested parties and in particular difference between them to be explored further by the examining authority. Um,

we are today focusing on draft development consent order, but my intention has always been to seek an overview of that today rather than going to it line by line.

And we will have a further hearing on the DCO in all likelihood later on during the examination process. But the purpose or is set out in section 91 of the Planning Act is held. The examining authority decides it is necessary for the examination to hear oral tations to enable adequate examination of the issue or to ensure an interested party has a fair chance to put their case as indicated in the agenda.

Questioning at the hearing led by a member of the panel supported by the other panel member. It is for the examining authority to determine how hearings are to be conducted, including the amount of time to be allowed at the hearing for making of a person's representations. Participants should note that written summaries of oral submissions to this hearing should be provided to the Inspectorate by deadline one, which is the 1st of December.

And so at this point I'd like to in invite parties to introduce themselves please. So I'll start with the applicant.

Good morning, sir. Uh, Claire Brook on behalf of the applicant. Um, I will be dealing with, uh, parts of the session today, but I will also be supported by two of my colleagues. I'll let them introduce themselves separately.

Good morning, sir. Sarah Price, DWD on behalf of the applicant. Um, I'll be principally dealing with the agenda matters relating. For the requirements today.

Good morning, sir. Francis Everett from Wamble Bun Dickinson on behalf of the applicant. And I'll be um, talking to agenda item eight, which is the protective provisions.

Sir, I should have said also we do have, um, Kevin Murphy, uh, on behalf of the applicant as well online. Uh, should there be any particular questions, um, that we need to defer to him. Thank you.

Thank you. I can turn now to North Lincolnshire Council. Good morning, sir. Andrew Law representing North Lincolnshire Council

and the Environment Agency.

Good morning, sir. Annette and representing the environment.

Thank you.

Come next to Mr. Nicholson.

So I Nicholson representing Rain Residence against Incineration.

And is Mr. Connell present? Would you care to introduce yourself, Mr. Connell? If we will? Do you have a microphone to thank you.

Good morning and my name is David Connell and I'm here as a very interested observer.

Thank you. Now is there anyone else here present who would wish to introduce themselves at this point? Council mop. Uh, council Elaine Marper, uh, ward member for Burton and winter term, which includes

Thank you. And is there anyone, uh, on teams who would win, wish to introduce themselves at this point?

Okay. I'm not seeing any raised hands, so that's fine. I'll proceed onto the next item. Thank you everyone.

Um, I think, uh, it's likely today we'll clearly be looking at the draft development consent order, which, um, for those looking at the exam library, it's as 0 0 6 or 0 0 7 depending on whether you're looking at the clean or tracked version. Uh, the explanatory memorandum, which is a P 0 0 9, um, the policy and legislative context, which is a P zero.

And again, the project description and alternatives, which is a P 0 5 1. Should we refer to any specific page numbers, uh, we make during this hearing? That will be the electronic page, reference of that document rather than a, uh, a paper version. So if we can come on then to item three, which is the articles and schedules of the draft of a consent order, but excluding articles 42, 43 44, schedules two and 14, if invite the applicant to provide us with a brief overview of each part of the DCO to explain, uh, the purposes and, and the elements for us.

Thank you.

Thank you, sir. Claire Brook on behalf of the applicant,

the latest version of the draft eeo. Um, As Mr. Mon has articulated is AS 0 0 6 with a clean version as 0 0 7 for the track version, and I will be interchanging between those, those two versions. The draft order itself is a statutory instrument which is required and includes provisions and drafting to enable the DCO to be constructed, commissioned, operated, and subsequently maintained.

The DCO itself is split into seven separate parts with 47 main articles and 14 separate schedules, setting out massive detail referred to within the articles themselves. And what I'll try and do is cross refer to the relevant schedule when I speak about each particular article and, and do stop me if I'm going too fast, giving too much information, um, or, or getting it about right.

Hopefully. So part one, um, of the order itself is the preliminary section and that contains three separate articles. Article one provides the name for the order itself and the data on which it will come into force. Article two then defines a number of terms. So there's fairly long list of definitions incorporated in Article three.

And then finally, article three deals with how electronic electronic communications will be dealt with. Part two of the order contains the principle powers for the order itself. This is really the key operational part of the order, and in particular, article four, which provides development consent for the authorized development.

The authorized development itself is set out at Schedule one, and I'll come back to that. And then articles six and seven. Will provide for the maintenance and the operation of that development. Schedule one, as I've referenced, actually defines in a lot more detail what the authorized development constitutes that is separated into individual work numbers, which are then cross reference to work plans to indicate the elements of the development.

Article five deals with what's referred to as the limits of deviation in relation to the works, so the maximum parameters within which specific works can take place, and that is illustrated on the works plans themselves. There is also separately a parameters table, which is contained in Schedule one, which sets out some maximum parameters for certain elements of the authorized development.

In addition to that, we also have what are referred to as. Vertical parameter plans. So defining the respective maximum heights of, um, various buildings that form part of the authorized development.

And the reference for the vertical parameters plans is, is a P 32. Um, if we need to make any reference to that, the development consent is then subject to the requirements which are set out in Schedule two, and MS.

Price will come back and talk about those in, in more detail shortly. Article eight then allows the undertaker to apply for separate planning permission on the site pursuant to the Town and Country Planning Act for any other material operations within the order limits, but out with what may be consented within the order.

And that just ensures that there isn't then a breach, um, as between any permission that might be granted. And the DCO itself, again, a fairly. Standard provision within dcos. Finally, on the principle Powers, articles nine and 10 deal with, um, who has the benefit of the order itself. That is principally the applicant as undertaker who will have the initial benefit of the order.

But then there is also an ability in certain scenarios to transfer the benefit of that order. And that is dealt with in Article 10, which again provides a standard mechanism for the transfer of the benefit with the consent of the Secretary of State. In certain limited cases, there is an ability to transfer the consent without, uh, sorry, to transfer the order without the consent of the Secretary of State.

And that's where, um, an undertaker who holds, for example, an electricity generating license themselves. Um, they are also a statutory undertaker or a highway authority. So it enables potentially aspects of the development to be transferred to other parties in very controlled and restricted circumstances.

Um, and on occasion requiring that consent from the Secretary of State. Part three then deals with streets and there are a number of articles there dealing with various powers, uh, pursuant to the order that enables works that either affect or inter act with various different streets. So firstly, article 11 allows the carrying out street works for the purposes of the authorized development without having to obtain separate license from the street Authority.

And Schedule three is the relevant schedule in that context, which lists out, um, each of the individual streets that will be subject to that. Particular power. Article 12 then deals with any need to alter the layout of any particular street for the purposes of construction and maintenance of the development that can only take place with consent of the relevant street authority.

Article 13 provides for any permanent stopping of her streets, um, and also where a substitute may then be provided for that permanent stopping up. In particular, this does relate to the stopping up of

part of Stay the Road with the details set out in the corresponding schedule four in that case. And there are also corresponding rights of way and access plans.

And again, the reference for those plans is a P 15. They indicate the extent of any proposed stopping up, um, and any new highway that is to be provided in substitution. Article 14 and 15 deal with temporary stepping up of stopping up of streets. Also the creation and temporary stopping up of public rights of way.

And they are correspondingly set out in Schedule five and again indicated on the rights of way and access plans. Article 16 deals with private accesses, um, and the needs to either address those permanently or temporarily, um, or improve those accesses depending on the construction works that that take place in and around those private access arrangements.

The details for those are set out in Schedule six and again are indicated on the rights of way and access plans. Article 17 deals with the creation of new clear away and waiting restrictions, so signage in particular. Again, the details there are dealt with in Schedule seven and also shown on the TRO drawings, which is a P 33, articles 18 and 19.

Can I just pause you there? Yes, of course not everyone will know what TRO is. Apologies. Yes. No, that's consistent within the DCO itself. Cause that's one of the terms that isn't defined. Okay. So it's, it's a minor point, but I think it'd be helpful for everyone to know. Uh, thank you sir. So, a TRO is a traffic regulation order and those orders are required in order to do certain works to streets and generally speaking applications will be made to the local authority of street authority to secure those relevant.

So then articles 18 and 19 provide for the classification of and setting up of particular speed limits, in particular for the new access road that is due to be constructed. And the relevant schedules. There are schedules eight and nine, and again the rights of way and access plans, as well as the traffic regulation order drawings.

Article 20 makes provision for new and permanent and temporary traffic regulation orders where the consent of the relevant traffic authority is required. Um, and that's where it may be necessary in conjunction with constructing, maintaining, or operating the relevant development. And then finally, in this section, article 21 allows the undertaker to enter into particular a.

With the street authority relating to the construction of a street or the carrying out of works in a street and the alteration and diversion of the street. So in particular there that that might be a section 38 agreement for a new road Section 278 agreement, which deals with works within the highway as well.

They're the specific references to sections within the Highways Act itself, so that deals with part three. Part four of the order then sets out the relevant compulsory acquisition powers that are being applied for by the applicant. Part four allows the undertaker to acquire land and right and take temporary possession of land required for the scheme.

The way in which those powers can be exercised is controlled by the drafting of the articles themselves. And also the related details contained within schedules 10 and 12. And also the other relevant document here is the book of reference, which is a p p 10, and that describes in detail every parcel of land that is potentially impacted by the authorized development.

And there are separate land plans which indicate that particular land. The land plans are a P 14.

The articles then go on to set out how and when the powers can be used, including in relation to statutory undertakers. The drafting also ensures that we reflect the optionality, in particular in relation to the district heating and private wire network, where there is an option A and an option. In respect of the northern arm of that district heating network, there are two options, only one of which can be pursued, and the order makes it clear that it's an either all.

Article 22 requires the undertaker to have in place adequate financial security to demonstrate that in terms of any compensation liability for relevant land owners, that financial, um, funding is available. Finally, on this section, article 24 imposes a seven year time limit from the coming into force of the order for those powers to be exercised.

The justification for the extent of time to exercise those powers is largely by reference to the complexity and the scale of the project. Um, we are dealing with and the construction. Is intended to last for approximately six years.

Moving on to part five, there are, um, a couple of supplementary powers which are incorporated within the order itself. Again, these are relatively standard powers for a DCO of this type with provisions governing firstly, discharge of water into water courses, sewers and drains. And then secondly, granting authority to survey and investigate land within the order limits, or which may be affected by the authorized development to ensure that development can be carried out appropriately and safely, uh, within the that environment.



Moving on to part six of the dco, this deals with, uh, two further sets of operations where powers are. firstly to give powers to fell orlop trees and shrubs in certain defined circumstances where they may be in the vicinity of the development and may be impacted by that development. And then secondly, by reference to schedule 13 in this case, which deals with hedges, the ability to move, remove certain defined hedges, which are shown on specific hedge plans.

And that references a P 22 with the consent of the local authority and also to remove others that are defined, um, as hedges or important hedges separately. And they're set out in detail in SHE 13. The final part in terms of the articles for the DCO is part. . This is a miscellaneous and general section, which includes a number of provisions, um, which we will come on to talk about in part in the next two, three items.

So firstly, uh, the dis application of certain legislation that being landlord and tenant law, which is relevant if there are going to be any leases granted, um, by the undertaker at the premises. It also deals with the article on operational land, which we'll come back to the defense for proceedings to statutory nuisance, which we will also come back to.

And then procedures for serving of notices and procedures in relation to any approvals that might be required under the order and an arbitration provision in the event that agreement can't be reached. Finally. Part seven also gives effect to the protective provisions, which are set out in shed schedule 14.

We will deal with protective provisions separately later in this agenda, but in essence, protective provisions are for relevant statutory undertakers, um, Ang and water gas companies, Northern Power Grid, um, where they have apparatus that may be affected, impacted by the development. And we negotiate legal provisions with them to ensure that their assets are protected and where we need to divert them.

We, we seek specific powers to do so. So that deals with the articles within the dco. I can very quickly list the schedules, but I, I mean, I've referred to the majority of those, so I'm in your hands if you would like me to briefly refer to each one. Uh, thank you. I don't think that'll be necessary. Has been very helpful.

Introduction to it. Okay. Thank you. Just come back to one of the points you, uh, did raise though the seven year period Yes. Which is obviously longer than perhaps what would be normally expected, and you sought to suggest that it's due to the complexity of this particular proposal. Um, yesterday we were hearing about the phasing of the construction, which indicates a shorter time period for the actual construction program.

So, uh, how do you square that circle where your construction program is potentially less than the time period that you would seek to have for compulsory acquisition?

So, so in terms of the exercise of compulsory power, They relate to a number of landowners impacted by different aspects of the scheme and in relation to each aspect. It may be that later on within the development proposals, we will seek to implement. For example, we've discussed the plastic recycling facility and the timing of that development may be delayed and may not occur within that initial period of time.

So it gives the flexibility to have that broader extent of powers to implement, um, and exercise those compulsory acquisition rights.

I, I can understand you are seeking the flexibility, but, uh, in light of what you were saying yesterday about the phasing, um, and obviously a agreeing a phasing, With the council in advance, I'm still not clear how you can have a phasing strategy, which is less than the period you are asking for compulsory acquisition.

Cuz clearly I assume that you will need the land before you actually start, uh, that particular phase. And so it, um, it, maybe it's not an answer you can give me today, but I just, it's not making sense to me at the moment how one can be longer than the other when the shorter period for construction clearly, uh, couldn't happen without that acquisition having happened.

In essence, it relates to when you commence that program. So in terms of exercising the powers, you're correct, you would need to exercise the relevant compulsory acquisition powers in order to be able to commence development. So this is about deferring that period in essence. And then it may then ensure that we, in terms of the, the land acquisition, that we may not need to compulsory acquire all of that.

It may then limit aspects that we need to acquire, but we can certainly look at that and provide more detail justification in terms of why we've sought seven years. Ordinarily, I think orders do request five years. We've sought to extend it to seven, but we can certainly provide more explanation around that.

I think that would be helpful. But also I, I think going beyond that, giving more, um, substance to your argument about the complexity of the case. Um, I've seen other very complex cases where, um, five years was still the period being, uh, sought. So I, I think to, uh, justify the. Additional period, you need to provide a very persuasive case.

Um, because obviously the recipients of that, um, would looking would I'm sure, be looking for certainty as soon as possible. Yeah, a absolutely. Um, and if I may just cross refer you to the explanation memorandum in particular where that deals with Article 24 and, and certainly one aspect of the development I should have referred to is the district heating and private wire network, where, for example, it may be that that comes on stream later because it will tie up to end heat users.

And so the flexibility to exercise powers of compulsory acquisition in relation to that aspect of the scheme in particular would be helpful given that it may be that that doesn't come on stream as quickly as the other elements of the scheme. So that was part of the rational. As well. No, I, I understand that, and it may be, I'm not understanding correctly the relationship between, uh, commencing a phase of development relative to, uh, exercising compulsory acquisition powers.

So if when you are looking at your written response that's spelled out, then I think that would be helpful for us. Yes, certainly. So we can do that, come next to, uh, the council, um, particularly in light of the issues that were raised on street works, uh, appreciate. You are not a highway representative, but, um, I, I think it will be important, um, that we hear from the council on the highway elements and make sure that you are content.

So I don't know whether you wish to say anything this morning. Um, I'm just asking for that reassurance in due course. Yes. Thank you. Says Andrew Law Orkin Council. Um, yeah, we will be setting out a, um, a comprehensive response, um, in due course. Um, I do have some minor points of clarification that I could raise this morning, if that'll be helpful.

Thank you. I should say that's us seeking clarification rather than providing it. Um, it just with regards to, um, article 11, um, there doesn't seem to be a provision within that article for, um, the streets to be reinstated once works are undertaken and completed. Um, whereas there is a, a, a provision for reinstatement within Article 12.

Um, so I think the, the local highway authority would, would obviously expect that whether road to be subject to works and damage that it would be reinstated once those works were complete. Um, we'd also be seeking some clarification on the, the definition of app apparatus to be cited within the highway within Article 11.

Okay, thank you. Uh, are there any further submissions on what's been heard so far before I go back to the applicant? Mr. Holson, Simon Nicholson from Rain? Um, I, I'm a little puzzled, just again looking for clarification. Um, in the initial proposal, the timeline for the development of the whole project was to break, uh, break ground in 2023 and commission in 2026.

Can I ask why the timeline has double.

Um, I'm not sure where that comes from in, within our agenda today. Um,

Simon Nicholson from Rain. It, it's, I, I can't understand why the whole project was gonna be done in three, possibly four years and now it's extended to possibly seven as is, as is detailed. I'm just thinking about local disruption, that's all. Okay. Um, I think it'd be helpful if you can put an explanation to us in writing as to where you've got your dates from or the time period for construction from, cause that's not clear to me at the moment.

Proposal documents that were prior to the application submission? Yes. As part of the consultation process. Okay. If, if you can, um, set that out to us and then I'm sure the applicant will then be able to respond and give us a clarity as to the, the current program, that would be helpful. Thank you. So, cla Brook on behalf of the applicant, I, I suspect it comes back to the discussion you in,

in terms of the distinction between the reference in Article 24 dealing with the time limit for exercising compulsory acquisition powers. And we are seeking that to be a maximum of seven years rather than five years. That isn't the length of time that it will take to deliver the development. We are seeking to ensure that we've got the ability to exercise compulsory powers within that extended time period if an element of the scheme should be developed later in the program.

For example, the district heating network, potentially the plastic recycling facility. It doesn't relate to the construction program itself once development has commenced in terms of the main ERF facility. So we're not seeking to extend the program of works. It may be the, the timing for when those works take place in terms of when they are delivered.

That helps to clarify the point.

Okay. Thank you for that. Um, we move on then to

the next item, which I think is item four, which is Article 42 and the definition of OP operational land.

I appreciate it. If you can provide an overview of that article, um, and then we'll come to some questions potentially. Thank you, Claire Brook on behalf of the applicant. Just trying to check my microphone is directed. Can you hear me? Okay. So Article 42 on Operational Land. This, this is a model provision which, um, initially when dcas were first brought into play in the legislation, a set of model provisions were provided, and this was one that was included in the original model provisions.

What it provides for is that for the purposes of Section 2 64 30 A of the Town and Country Planning Act, the development consent, once granted by the order, is then to be treated as what's referred to as a specific planning permission. And the effect of that provision is that the Order land itself then becomes defined as operational land for the purposes of the Town and Country Planning Act, and that's within the meaning of Section 2 63 of the 1990 Act.

I'm happy to go to the definitions if, if required and if that assists. In essence, what this means is that once the land is defined as operational land, then as a consequence of that certain general permitted development rights are acquired, and that's by reference to the Town and Country Planning Act, general permitted development order 2015, and those permitted development rights will then apply to that authorized development.

In terms of the article itself that we have incorporated within the dco, that's based on. Article 23 of the South Hum Bank Energy Center Order 2021. And similar provisions have been made in a number of other orders, including in particular the her way in generating station order progress, power and REM gas fire generating station orders.

And I'm taking those references from our explanatory memorandum. So yeah, if you want to look back on those, the rationale for incorporating this is that by virtue of the order, the applicant will become a statutory undertaker. They will have a license under electricity act as a gen electricity generating license.

And as a consequence of that, they become a statutory undertaker. And hence why it was felt appropriate in the model provisions to ensure that a statutory undertaker, they have certain. Limited and defined permitted development rights. Um, hence why we've sought to incorporate it within our order as well.

That's very helpful. The reason I was particularly interested in this article is that your scheme is not just a power station. There are various other elements to it, but the way that it's drafted, I think would give you permitted development rights for the entire DCO land, including the rail, the wharf, and all the land to the east of the access road, which is, uh, federally a greenfield site as it were.

And, uh, I was trying to understand how the assessment of effects through the environmental statement, had considered the potential for these permitted development, right. And, uh, because obviously those permitted development rights would allow for structures and other elements. So I just need clarity on how the, uh, environmental statement, the assessment of effects has considered those potential permitted development, but also in light of the various components of your proposal, whether it's right to have those rights on all of the land.

So Clearbrook on behalf of the applicant. Um, yes, I understand, um, the question and that's certainly something that we can look at. I appreciate that. In terms of how it's currently defined, it does relate to the full extent of the authorized development. So we can certainly look at that and see whether or not we need.

Contemplate constraining it in, in any way. Thank you.

North and Kiner Council. Thank you sir. Andrew Lo Kiner Council, just to clarify that the, the local authority would have concern with, with, um, the entirety of the works being considered operational and for the reason you've outlined there that then the permitted development rights associated would, would cover that the whole of that land.

So I think we would definitely appreciate the applicant to look at that point and, and look to restrict, um, the areas of the psych of about, uh, bi 42. Um, yeah. Thank you. I think it would be helpful also if the council were to consider what area of land they felt, uh, that article should relate to so that that can perhaps be so.

Uh, within the statement of common ground, so we get clarity from both parties as to the, uh, positions you're taking with regard to that. Yes, certainly, sir. We'll continue dialogue on the statement of common ground. I think that's a sensible approach. Thank you.

Uh, don't see any hands up either in the room or virtually. So I'll just come back to the applicant and see if there's any final comment or submission you'd wish to make, uh, on that item. Uh, nothing further, sir. Thank you.

I think, um, moving on then to article 43, the defense to proceedings in respect to statutory Nuisance. Um, again, I think this is a fairly standard, uh, provision in, in a lot of dco. And I think the key point that I was trying to get clarity on is the environmental statement has assessed air quality, noise, visible plumes and artificial lighting, I believe.

But I think the way that the article is currently drafted, it would potentially exclude all categories of nuisance. And I wonder whether that's justified. So, um, perhaps you can set out the explanation of the approach you've taken.

Thank you, sir Clearbrook on behalf of the applicant. The other key document that it's worth referring to in, in order to respond to your question, sir, is a P P 40, which is the statutory nuisance assessment statement, which is required as part of the, um, application documentation. and that seeks to go through each aspect, um, in terms of the types of nuisance that might be anticipated by virtue of this development by reference to section 79 in particular.

And it, and it runs through in section three in particular, each of those different aspects. So touching on air quality, noise, visible plumes, and lighting in in particular. Certainly in terms of the point that you raise, section 79 itself does include a range of different types of nuisances and we're certainly very happy to look at that full list to see whether or not each and everyone ought to be included for this type of development or again, whether or not we can potentially look to shorten that.

Specify within the wording of the article itself. Simply particular references within section 79 1 A to H is the list that's given. So I'm happy to revisit that and look at that. Thank you. Do the council have anything that they would wish to raise on that aspect? Thank you, sir. Andrea, law Kin Council, um, I mean, we would be happy to engage with the applicant to consider a, um, restricted list of, of nuisances.

Um, again, that's something that we could include within the, the statement of common ground.

Thank you. So I'll come to other parties again, uh, see if there's anything further, any points anyone would wish.

Well, okay. Um, again, giving the final word to the applicant, if anything further you'd wish to raise. No. Thank you, sir. Thank you. So then moving on to article 44, uh, the documents and plans to be certified, um, I think there were two elements here that, uh, we were particularly keen to understand why they weren't included, and that was the navigation risk assessment and the design and access statement.

So perhaps you can, uh, set out the reasoning why you've got the documents you have and perhaps why those two documents are not included and whether they should be. Thank you sir. Clearbrook,

on behalf of the a. In terms of our approach to Article 44 and the documents and plans that will be certified on the grant of the DCO itself.

In essence, what we have sought to do is cross reference from any plan or document that is referred to within Schedule two. The requirements for the order to ensure that every single document that is referenced within the requirements itself is then replicated as a plan that will be certified, and hence, currently there's no reference to either the navigation risk assessment or the das within the requirements themselves.

The purpose of certifying the plans is, is to ensure that if there is any need to refer to those defined documents in order to interpret the order and interpret in particular, How a requirement will operate that those plans are clearly certified and it's clear to all involved in particular the rather planning authority as well, that, um, those are the documents to be referenced.

But currently that's would explain why we, we don't currently make reference to those two documents that you've referenced. Uh, I think it would be helpful because I think with respect of both, um, part of the submissions you were making yesterday were relying on a lot of the content of the design and access statement.

And obviously we had some discussion about the navigation risk assessment and the final navigation risk assessment once completed, and it'll be helpful to understand, uh, how you ensure that the development consent order delivers. the content from both of those documents if they're not included within the DCO as reference materials, either as certified plans or, or something else.

And I think, we'll, it may be dealt within questions, but clearly one of the aspects that we'll be keen to understand is in terms of design, how the design codes document links into the design and access statement and brings through the assessment and understanding and, uh, commitments perhaps isn't the right word, but the explanation of the design approach that is set out in the design and access statement that isn't obviously yet secured through the design codes.

Yes. So CLA brick on behalf of the applicant, I was going to cross reference the design principles and codes. In terms of the document that is to be certified, that is cross referred to in, uh, I believe it's requirement for that deals. Is it for that deals with detailed design? So it's three, it's three, sorry, part, it's requirement three that deals with detailed design and cross refers to the design principles and codes document.

But certainly we can clarify how that draws out the key principles of design from the das and whether or not that means there is still a need to refer to the das, um, or whether or not we can satisfy you that it's sufficient to refer to the codes and principles document as a certified plan. I, I look forward to seeing that.



I mean, obviously within the national policy statements, there are several references to demonstrating good design. . And so we will be looking for that to be demonstrated. Um, and equally will be looking to the council to understand their, um, I dunno where the vision of design is the correct phrase, but, uh, what they would be seeking to achieve and to ensure that you are be satisfied, um, and that be looking at ensuring that the documentation within the DCO would deliver that.

Um, so that you would have certainty that what is being said achieves that quality design that I think everyone would be hoping to achieve.

Do, do you wish to come back on anything I've said? I, I don't think so, sir. Thank you. We'll certainly, um, look into what you've raised in terms of the das. Thank you. Okay. I'm not seeing any hands raised or anybody wishing to say anything further. So if I move on now to, uh, schedule two, um, which is the requirements and procedure for discharge of requirements, and, um, if I can come to the applicant first to just give us an explanation there of, of the approach that you are.

You.

Thank you, sir. So I, I was going to just give a, a brief overview moving through the various requirements. Um, I, I won't, I apologize, uh, Sarah Price on behalf of the applicant.

So yes, I was going to give a brief overview. Um, I'll group some of the requirements together, um, and very happy to, to take, um, your questions on them as well. Um, so, uh, we have a number of requirements controlling different aspects, um, of the authorized development. Um, some relating to submission of various details and approval of those by the local planning authority.

Um, some relating to, um, delivery of the authorized development within a particular time scale. So if I just run through those in order, we have. Requirement two, which is, um, a relatively standard requirement on a five year time limit for commencement of the authorized development. And within this requirement, we have also included the requirement for the submission and approval of the phasing plan.

Um, those two have been grouped together, um, primarily, um, because of the requirement within this particular requirement, um, for the notification of commissioning of each element, um, for the various parts of the development. Um, so we, we thought it was helpful to have those two together. Um, turning to requirement three, which Ms.

Brooke referred to earlier, um, this is a, a requirement essentially that no part of the development can commence, um, other than preliminary works until design detail. Um, for those parts have been submitted and approved by the local planning authority. Um, and then also, um, relevant to the discussion we were just having, um, that those details must accord with the design principles and codes.

Um, and I'm sure that there might be some questions that, that come from that. Um, and also that those details should take account of any preliminary ground investigations. Uh, turning to requirement for, um, this requires the local authority approval, um, of a permitted preliminary development works, um, Kemp, which is the Construction Environmental Management Plan.

Um, and then subsequent approvals for Kemps for each relevant phase of the development and also that those be in accordance with the code of construction practice. The CO c p. We then have requirements group five to nine together. Um, they're fairly standard requirements that require the approval of details relating to operational lighting, landscaping landscape and ecology management, surface water and foul water.

Um, so that's the submission of the details, the local authority and their subsequent, um, approval of those details. Then requirement 10 deals with the submission and approval of the ctmp, which is the construction, um, traffic management plan, um, and also the travel plan for construction. Then turning to requirement to level, this relates to archeology and requires approval from the local planning authority for a program of.

Um, I should say that since this requirement was drafted, there's been, um, quite a lot of development working with the local planning authority on archeological matters, which, um, I'm sure will come onto. Um, but I think there'll need to be some tweaks to that requirement to reflect, um, the progress with those works.

Um, just for information now, um, we have, um, the applicant has carried out ordering works and report and prepared reports for those which have been submitted to the local planning authority. Um, they've also carried out carbon dating and provided reports of those, um, and submitted a draft, um, WSI written scheme of investigation, um, which has been substantially agreed, but waiting approval for trial trenching.

Um, so it says you might have some questions on that, but um, just in relation to requirement 11, that there's been some progress a. On that

in relation to requirement 12, then this requires the submission and agreement of a flood management plan prior to commissioning the authorized development. And then the same condition requirement 13 relating to the submission and agreement of an operational travel plan

condition requirement. I just got my language right. Requirement 14, um, then relates to the, um, essentially that there should be no commencement of the energy park works and railway reinstatement works until the new access road has been constructed to base course level. We had a discussion on that. Y.

requirement 15, which controls the fuel, um, to rdf, refuse derived fuel only. Then requirement 16 requires the submission of a decommissioning plan within two years of the date that, um, the applicant decides to end commercial operation requirement 17 then requires approval of a scheme and then subsequent delivery of the combined heat and power network prior to coming into operation of the authorized development.

And then requirements 18 relates to the carbon capture utilization and storage, um, requires notice of commissioning and also that the c. Must be constructed and commissioned within six months of commissioning of the energy recovery facility. And then the Concrete Block Manufacturing facility, um, needs to do the same within 12 months of commissioning of the CCUs, carbon capture utilization and storage requirement.

19 then controls the discussion we were having yesterday regarding the minimum level of cot to be captured, um, of circa 55,000 tons. And then requirements 20 to 21 relate to amendments that may be subsequently approved by the local planning authority.

And then finally, requirement 2020. Requirement 22 essentially requires that any approval given must be in. And then requirement 23 effectively allows for the provision of, of early information to be provided in relation to requirements before the order coming into force. And essentially that that information can be taken as information relating to the discharge of, of that relevant requirement.

So says, I hope that's a helpful overview and we're happy to take any questions. Thank you. It is, um, if I go back then to the beginning and we'll try and start, um, on the detailed design requirement three. Um, as I've already mentioned, I think it's going to be important to understand how you will get the design as it's visualized and represented in the design and access statement through the current codes.

Um, but. Also, I think, um, at the moment, I'm not sure, uh, that

all of the wording, um, you, you're saying say for preliminary works, and I can understand that, but is preliminary works the correct phrase to use? I think it's slightly outside what the legislative approach would, um, use. Um, and so it's just a question of what, whether preliminary works is an appropriate phrase, whether that's defined sufficiently clearly, and whether it would be more appropriate to have,

uh, as as line as in as in line with the sort of legislation for. You can undertake works prior to development being a material start. So that, that would be, uh, my sort of first question

cla on behalf of the applicant. So in relation to preliminary works, um, you will have noticed that that is a defined term at the front end of the DCO and specifies works akin to site clearance, removal of minor structures, various surveys, uh, compounds, et cetera. And there are a number of ways in which you can, you can address that.

We also have then separately the definition of what constitutes commence in terms of our approach to the drafting. We have taken the standard definition. Approach, um, set out in section one 15 of the, the 2008 Act, and we, we haven't then sought to make exceptions to what may or may not constitute, uh, a material operation.

For the purposes of of that definition. What I would say is, is, is our approach seeks to achieve this the same outcome, and we felt it was appropriate to precisely define what those works would constitute, but I, I accept there are a number of different ways of approaching that. Um, so if you do have specific concerns with the definitions, but we're happy to, um, look at those.

Yeah, I think, I think, um, I think we are all, if you're heading in the same direction, we understand that with these sort of schemes that they were works, I say works, but there's activity, um, that would not necessarily be. Um, of a nature that will require and require the submission of a, um, an equivalent of a of a or Kemp for conservation by local authority.

Um, that was app portion and unnecessary to do and would inform your detailed design and so on and so forth. And, and May, and maybe it's over definitions and interpretation, but it might, I think we felt that possibly it would become easier for you to draft your requirements if, if you presented it in those sort of pre-commencement terms, um, and maybe had a, did it like that.

I think we perhaps can clarify our points with written questions rather than conversation here. .  
Thank you. So at one point, tab Rock on behalf of the applicant, we can clarify in that regard, uh, is that there is the intention and it's reference to requirement four one that prior to even being able to commence the preliminary works.

There is still a requirement to have a separate CMP construction environmental management plan that relates specifically to those preliminary works, so that that is built into the requirement. And I think then perhaps we would obviously be interested in the views of North Lincolnshire on that approach if you'd like and so on.

Thank you, sir. Andrew Lovekin, council, um, we have no objection to the approach. I think that the key point is maybe being touched on that, you know, the definition of the preliminary works has to be, you know, precise and clear to all parties, but the actual approach is, is not something an issue. Thank you.

I think before we move on to the further requirement then, um, uh, three A, it says which to be retained following commissioning. I would just. Or does it need to be saying, following commissioning if you're intending on retaining them. Um, and then under two, whether archeology should be included within that, um, as well as the ground investigations and gas monitoring.

Now, it may be with the progress you've made on archeological investigations, that's not the case, but it's something that I'd ask you to consider.

Yes. So we can certainly consider that.

I think then, um, going onto the environmental management, uh, requirement for.

should that include the phrase for that part? It may not do, and it's just my reading of it. Is the intention that you would put in this, um, permitted preliminary development works, uh, semp for the whole scheme up front or would you be intending to do it in parts for as each phase goes? Cause at the moment I'm not sure whether that's clear

CLA brook on behalf of the applicant. In terms of the preliminary works, the intention is that there will be the separate CMP pursuant of four one, which I think is, is understood. Then in terms of the full camp, that's required for the remainder of the, the main authorized development. Start with at four.

the rationale for making reference to part is to give the flexibility on which part may, um, come forward first. And the intention then, as I understand it, would be that there would need to be a Kemp for that part that would then need to be updated should you then seek to commence a separate part of the development.

But there's the optionality to, you could provide a full ke at the outset when you commence the first part, uh, of the authorized development beyond the preliminary works. Yeah. Now I, I'd understand that it was just in terms of the, uh, permitted preliminary development works element, whether the expectation was that that was going to cover the entire DCO land or whether, cause I think that's the way it's phrased at the moment.

There doesn't seem to be an option to do it in parts. That's correct. So yes, yes. Sorry, I misunderstood your, your question. But yes, the intention would be that there would be one plan for the entirety of those preliminary works wherever they may be within the authorized development. Okay, thank you. I'll just ask the council for their view on that element.

Thank you, sir. Andrew Lo, north and Kiner council. Um, yeah, I mean that's, that's how we, we'd read the, the drafting of the, uh, the requirement, uh, that, uh, the preliminary, the ke for the preliminary works would cover the whole site. Um, we are happy with, to be honest, we would be happy with either approach, but, you know, it just needs to be clear.

Um, but yeah, have no, no objection to the approach that's been put forward. Thank you. I think my next point would be on requirement five, the lighting scheme. Um, I'm not clear as drafted at the moment, whether. Um, this just deals with proposed new lighting and what that would then do in terms of existing lighting that is already there and whether you end up with the control that you would hope to achieve by only controlling new lighting.

And so I'm trying to understand how those two dynamics work together and whether we have the necessary control overall at the end of it.

Thank you, sir. Claire Brook on behalf of the applicant. We will check the indicative lighting strategy to see how that addresses and deals with existing lighting and whether or not that is encapsulated within that strategy and, and clarify that point for you. Okay. Thank you.

Um, number seven, landscape and ecology management. Should that have an additional element that would ensure that the scheme is undertaken in accordance with the approved scheme? So Claire Brook on behalf of the applicant? Yes, it should. Uh, certainly that's something that I'd spotted on my review. So we will incorporate that.

Uh, thank you. Thank you. Um, and 10, should there also be under, um, number four reference to the construction worker travel plan in addition to the construction traffic management plan.

So CLA Brook on behalf of the applicant. Yes, I suspect that is correct. Um, we will double check that drafting. Thank you.

Go on then to I am item 12, the flood risk. I think the element that, uh, was concerned here is about the timing and I'd be interested to hear what the environment agency's view is on this, but clearly we need to have it done in a timely manner, um, and make sure that, um, it to be effective and that will need to be achieved in advance of final design and commissioning.

So, um, if I can come to the applicant first and then perhaps come to the Environment Agency to seek their views on that point.

Claire Brook, on behalf of the applicant in addition to requirement. In terms of the works associated with providing the relevant, um, flood defenses that are required. I would also cross refer you to work number 13, which incorporates the works for the flood defenses, um, and the relevant drainage systems and also in relation to works number five, where we have, that's the new access road, sir, and the works associated with that also tie in to some of the physical works that provide the necessary, um, flood plain protection.

So in, in inherent an in belt within certain works themselves and the timing of those works and how they're secured, that I think in part addresses the point that you.

But very happy to hear from the Environment Agency in terms of any comments they may have on, on our approach to requirement 12. And it may be, I don't want to put Mr. Murphy on the spot, um, in terms of whether or not he can address any questions around the timing of those works or the content of these plans.

Okay. Um, I'll see you hand, Mr. Nicholson. I'll come to the, uh, the Environment Agency first if I may. Is there any concerns or input you'd wish to make on this aspect of the, uh, requirement? Um, thank you, sir. Yes, it was one question that I did have in respect to, um, clarity as to the in time where we are going to get the details for the mitigation, um, scheme submitted for approval.

Um, it, it was whether it was covered in requirement for the, um, To the management plan under the C E M P or whether it was covered by requirement 12. So that, that was a question I have because, um, like you, I share the concern that if it's, if it's, um, under requirement 12, then pre-commissioning stage is not, is not soon enough to allow us to approve, um, the scheme before, um, it's actually built.

Thank you for that. Um, if I can come to Mr. Nicholson then you, you had a point you wish to make Simon Nicholson from Rain? Um, yes, I agree with the environmental agency there. I've, my main, um, concern is with the, the flood defenses being put in a, to later date, the runoff into the. From this site, which, um, has an unknown at this point, an unknown amount of contamination in the ground from the Niro explosion all those years ago, um, doesn't seem to be fully addressed on a number of points throughout these three days.

Um, that's, that's one point. Um, and the other one is, and it was slipped in, very said very quickly, trial dredging. Can somebody explain what trial dredging is? I don't think it was trial dredging. I think it was trial trenching. Sorry. Which is, uh, a known term with regard to archeology investigations. Okay.

No, that's absolutely fine. , I understood that, that, uh, the dredging was a, a big no-no. Which restricted the expansion of the wolf. I think you've misheard, but I'm sure the applicant can. Can respond And Sarah Price for the applicant? Uh, yes, that's correct. It is trial trenching. Apologies. Um, for my announcement

uh, I dunno whether Mr. Murphy's wish to say anything further. So, CLA rock on behalf of the applicant. One point I can respond to and very happy to, um, let Mr. Murphy speak as well. In relation to requirement four, which deals with the construction phase, this is to respond to the point raised by, um, the environment Agency requirement four three E does provide that.

As part of the ke there will be a separate construction flood management plan that needs to be in place, uh, during that phase of construction. So then there will be a separate flood management plan that addresses the operational.

Mr. Murphy, I come to you to see if there's any further clarification you can provide for us. Evan Murphy for the applicant, except, uh, Claire's just addressed one of the points I was going to make. I think the, the, the other issue in terms of, can I just pause you, Mr. Murphy? Sorry. Um, I can only just hear you in the room and I'm not sure how well that will be coming on, on the, the live stream element.



So is it possible you can put your microphone near and we'll hopefully get a, a clearer audio? Thank you, pat. Is that any better? Much better, thank you. Good. Okay. My apologies for that. I was, um, saying that Claire, um, has already addressed the, the points in terms of the construction flood management plan, which would obviously be a requirement given the duration of the construction phase.

Um, in terms of the, the flood management plan, um, for operat. I suppose there's two elements to this. Part of it is designing, um, and constructing the, the project with flood managements in mind. And then there's other aspects of flood management, which will be, um, evacuation plans and so on. So I'd imagine that the latter would be, um, pertinent in terms of, um, being approved by the environment agency at the pre-commissioning stage, whereas the, the other aspects of flood management would require some earlier approval.

And so we'll need to look at that.

Okay. Um, that's fine. Uh, does anyone wish to come back on anything they've heard either from Mr. Murphy or any of the other participants?

Mr. Nicholson? So I'm Nicholson from Rain. Um, in Article 14, um, it was stated that the T. Would only be for RDF on the road. Can you clarify that? Plastics wouldn't then not be transported by road incoming to the site for, um, for processing.

Again, it's going slightly off the agenda, Mr. Nicholson. Um, if the applicant's content to provide an answer, then, then that's fine. But I'd like to finish this point on the, the flood management in the first instance.

I think the only thing, sorry, the only thing I would ask for the environment agency to ensure that, again, in discussions on the statements of common ground, we have clarity on, uh, both their position. North Lincoln Council's position in terms of, uh, flood authority that the timing of the approvals for the various flood management, both during construction and subsequent operation, uh, hopefully are agreed, but if not, what you would be seeking, um, if, if there is a difference of view.

So if I can sort of throw that to all parties and then, um, back to the applicant.

Thank you, sir. Um, yes, we'll, we'll ensure that we address those elements in our discussions as part of the respective statements of common ground with the agency and, uh, north Links Council. In terms of the indicative lighting strategy, I can confirm that, that that does reference and consider the existing lighting.

and then also look at the proposed. But again, we'll look at the wording of the requirement in terms of how that then feeds through to the final lighting scheme that will be approved pursuant to that requirement. Thank you.

I think for the time being, that's, uh, all the questions I have on requirements, Mr. Nicholson. I know you posed that question on delivery of plastics aren't using the road, but that's not something that I think we're really covering. Okay. So again, I think if it's a concern that you have, if you wish to put that in, in writing and then that will give the applicant the opportunity to respond to that concern.

And, um, hopefully we'll get clarity. Thank you.

I think, I think that might be an opportune time just to take a break. I think it's, uh, 25 past 11. Um, and so, uh, for those of you watching on the live stream, just remind you, you'll need to refresh your browser page when we return. Um, I think it's now 25 past, so if we can return at 20 to 12. And so at the moment, uh, we're adjourn this meeting for the time being.

Thank you.