



Hearing Transcript

Project:	Oaklands Farm Solar Project
Hearing:	Issue Specific Hearing 1 (ISH1) - Part 2
Date:	22 October 2024

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Oaklands_ISH1_22 Oct_PT2

Created on: 2024-10-22 13:11:40

Project Length: 02:09:16

File Name: Oaklands_ISH1_22 Oct_PT2

File Length: 02:09:16

FULL TRANSCRIPT (with timecode)

00:00:04:24 - 00:00:29:10

2:00. Um, and this hearing is restarting. Um, please, could the member of the case team confirm that I can be heard clearly and that the live streaming and recording have restarted? Yes. Thank you. Um, once again, please keep your microphones muted until I invite you to speak. Um, please, could a copy of the agenda be shared on the screen?

00:00:31:26 - 00:00:35:01

And we're item five. Sorry, 4G,

00:00:36:22 - 00:01:08:00

just a couple of, um, quick points before we restart. Um, I understand that there's some difficulties in picking up people's voices, um, at stages this morning. Um, so if I could, uh, remind you to try and speak very clearly into the microphone, make sure you're not too far away when you speak, please. So it I think there were 1 or 2 gaps in capturing submissions this morning. Make sure that you switch the microphone on whenever you speak, please. That would be much appreciated.

00:01:08:11 - 00:01:44:08

Um, I'd like to apologize a little bit for the length of the session this morning. It was a little bit excessive. Three hours in one stint is and what I would prefer to do. Um, but thank you for bearing with that. Um, we need to complete at 5 p.m. today, so we're restarting at 10 a.m. tomorrow. Um, there is an open flow hearing at 6 p.m. today, so we need to finish in good time for that. So we'll make as much progress as we can by 5 p.m.. Um, I am proposing to take a short break partway through this afternoon.

00:01:44:10 - 00:02:18:20

Might only be five minutes or so. Um, but, um, at least gives a chance to, um, recharge your batteries ever so slightly. Um, so we left this morning. Um, towards the end of item four, um, item G and I highlighted that, um, we would go through the funding for decommissioning timescales for decommissioning. So let me introduce the funding discussion first of all, and just highlight a couple of the submissions that have been made on this.

00:02:19:21 - 00:02:42:22

Um, the applicant deadline for stated that, um, it considered that the proposed securing of decommissioning funds within the DCO would be highly unusual and that it has no precedent in comparative schemes. Um, and that it maintains no justification for a decommissioning fund to be put in place.

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Um and referred to, um, a breach of the terms of the order, um, and the potential for criminal proceedings, if that were to happen.

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Um.

00:03:00:26 - 00:03:02:03

I think from,

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um, there have been a number of concerns raised by interested parties, actually, as well as the councils about the funding for decommissioning. Um, some of the issues that, um, that I'm considering, um, are in relation to at the stage of decommissioning starting, um, the generation of electricity will have stopped by that stage. The income from the proposed development, uh, which relies on generation, will essentially have largely stopped, if not totally stopped.

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So there is just a cost from that period forward, um, of decommissioning. Um, there were the issues in terms of what what are the incentives for the applicant to undertake decommissioning. Assure that the funding is in place for that against that sort of background. Um, there are facilities within the draft order for, uh, the Undertaker to be, um.

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A different company at the time of decommissioning. Um, so that raises thoughts about what is the nature of the Undertaker at that stage. Um, what are their drivers at that stage? Um, so I think I think there are a number of things which lead to wanting to explore this topic. Um.

00:04:38:06 - 00:05:01:06

And see whether it is appropriate for funding for decommissioning to be secured in some way. Um, the councils have made representations on this, and there has been a suggestion of discussions between the councils and the applicant about the wording of the relevant requirement of the DCO. Um.

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I'd like to explore some options around this because, um, you know, might there be options of a decommissioning fund being built up over a period of time rather than, or being put in place at the start of operation? Say, might that be a way forward? Um, escrow account has been mentioned. That's that's a mechanism that's often used to secure funding for future mitigation measures. So there does seem to be a mechanism there if it were needed.

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So I think just a broad discussion about, um, the need to secure funding for decommissioning initially. And if I could invite the council's maybe just to comment on this initially.

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Yes.

00:05:53:27 - 00:06:26:20

Thank you sir. I think I think you've summed up the issues and the concerns pretty well. Obviously, what the councils don't want to be in a position is that, um, after 40 years, um, this, uh, solar farm is, is effectively left, um, without there being an appropriate body and mechanism and appropriate funding available in order to do that. You know, that we're talking obviously, 40 years hence, uh, probably beyond working life of many of us sat around this table.

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Um, and, um, it it's really about having that assurance, uh, and insurance so that, um, this, this will be appropriately dealt with. And there is a mechanism for doing that.

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Thank you. Anything to ask from Derbyshire County Council. Anything to add to that? So thank you. Okay. There'll be an opportunity for the submissions later. Could the applicant just. I think the starting position is very clearly set out, but I think it would you particularly respond to the types of concern that I've just summarized that the Council of summarized that interesting parties have raised as well, please. So thank you, uh, Patrick Robinson, for, uh.

00:07:11:18 - 00:08:01:16

Viva. And I think I can open by saying, uh, our starting position is that it's inappropriate and, and we are strongly of that opinion and we remain strongly of the opinion. Um, it's not a subject, uh, that, you know, has not come up before in the context of renewable energy. And interestingly, so you pointed us today to a number of instances in MPAC in three where very specific, uh, comments are About in one was about culverts, uh, applied apparently to, you know, sites whenever they came up, which would have been very site specific, on site specific considerations.

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Now, I cannot think of a subject, uh, that would be more generic across all sites than the ability to, uh, to, uh, decommission properly in funding to support it. And so you also said it made reference to experience you've had in other, more highly regulated, uh, land use situations where, um, decommissioning is very tightly controlled and, and absolutely, uh, in a number of highly regulated situations, minerals being one, waste disposal being another, uh, radioactive, you know, nuclear development even more.

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So then there are very clearly, um, design regimes or processes which follow those, but these generally do not find their way into renewables. And I'd start the reference by NPS. And three would be the obvious place under the policy sections, which you'll find at 2.10 0.68,

00:09:04:08 - 00:09:54:09

that it would be a matter of concern for you and for the Secretary of State to ensure there's adequate funding for decommissioning. But not only is there not a reference to that end, but when we get to, um, ten .2. 10.68, it simply starts with the sentence solar panels can be decommissioned relatively easily and cheaply and and then doesn't go into anything else. To raise that as a concern. Um, so you ask the question, you know, raised by interested parties, what would be the incentive For somebody to to properly comply with the, with the controls that we have said are the adequate controls are there through the DCO.

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And so I point you in everybody else to to I think would be the strongest differentiating character. The land is returned to the landowner for that beneficial use that we have been talking about extensively this morning. Now, that is a is a markedly different situation from a mineral, poorly restored mineral site or a badly maintained waste, uh, waste management site, or a site with even more hazardous waste which simply cannot be signed off and put over to some other beneficial use so that controls between landowner and developer, uh, are going to be very strongly, uh, enforced.

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Both as a landowner and a developer level, and obviously at a local authority and developer level. And on that question, you say, well, it could be somebody other than the Undertaker at the present time. Yes, that's absolutely right. That's the nature of, uh, planning permissions generally. And DCO is of course, they can transfer between different people. But the added protection here is that in granting this consent, you consider and the Secretary of State will consider the financial standing of the applicant, their ability to meet these liabilities, and that will continue in force for any, um, transfer.

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So the Secretary of State will be seized of the opportunity. And obviously, as a permission gets older and gets closer to its position of decommissioning, that becomes an ever more present question. If you're going to transfer, the benefit of the undertaking is the person who's taking it on got appropriate financial standing to meet the decommissioning liabilities that are coming. And.

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So I think those are the main reasons we will direct you to them. But we also noticed those and I would say thank you very much for supporting a we were getting near to lunchtime but be giving a time to just, you know, prepare our thinking on this because obviously the question of funding wasn't uh, we hadn't so clearly seen in the questions. It was very helpful to, to gather our thoughts over lunch time. But we did go back and check when when we had said there is no precedent for it. And I wouldn't go as far as to say there is no precedent whatsoever, because I wouldn't be in a position to have to have checked all of that.

00:12:24:07 - 00:12:44:22

But we have checked back over, if we call them the big four, the four most recent, uh, solar CEOs. And as far as we're aware, there is nothing to this point. And again, that just emphasizes the point. I cannot think of a subject that would more obviously lend itself to an industry wide and therefore policy wide approach than than funding decommissioning.

00:12:46:01 - 00:12:47:12

Thank you. Um,

00:12:49:07 - 00:13:07:16

president is valuable and I'm not aware of president on CEOs, particularly solar CEOs for funding for decommissioning being substantially discussed, never mind secured. Um.

00:13:10:24 - 00:13:45:11

I think we are in a large scale. Solar is relatively new. So, um, notwithstanding president, I think it is also true to say that issues come to the fore that may not have come to the fore before, for whatever reason, they may just not have come to the fore before. So I think. the lack of president doesn't restrict us in wanting to explore different issues.

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So. So I would make that point. Um, I think that and also solar project, it's a little bit unusual because of their temporary nature compared with other types of national infrastructure project. Um, so that that brings more to the fore the need to address decommissioning than many of the other types of projects that come under the regime. So in some ways, it doesn't surprise me that we're entering new territory because of the newness of looking at solar, because of the temporary nature.

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So that doesn't surprise me in many ways. And I think, um,

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it just filled to me quite compelling that parties are seeking,

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in the words of the council, reassurance and insurance for those activities. Um, at that time, um, I do question whether some of those might be dealt with in a way that isn't unreasonable. Um, which is why I raised the potential for a decommissioning fund to be built over a period of time.

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Um,

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you know, recognising the financial position of the applicant for this project. Um.

00:15:16:03 - 00:15:25:07

So there is a question in my mind as to whether there's a mechanism there that could help to address concerns without being unreasonable.

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Um, if something could be constructed of that type. Um.

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And I think, you know, I'm not suggesting. I'm not. It's difficult territory in some ways because, um,

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uh, I don't want to question the credibility of the developer or anything of that sort. It's just genuinely trying to deal with these types of issues and some of the pressures that an organization might be at when the income is stopped and there is just a cost of decommissioning in the future. So I can kind of understand a lot of the concerns. Um.

00:16:07:07 - 00:16:50:29

So I would encourage the applicant against that background to see whether a way forward could be constructed that deals with a lot of the genuine concerns that have come from many different parties. It was one of the most common issues that were raised in relevant representations. These issues, um, the councils have been very consistent in their views. Um, so I don't think we're going to get much further on this at this moment, because I think there are some important issues for the applicant to consider, and there are obviously commercial implications of it to consider that.

00:16:51:15 - 00:16:54:09

Could I ask you to perhaps revisit.

00:16:56:15 - 00:17:00:20

That position in the light of some of the things that we've just described?

00:17:03:22 - 00:17:22:12

So Patrick Robinson for five. Absolutely. We didn't I didn't want to leave anyone in the room in some way. So we'll take away and look at it. That could mean a lot of things. So we do want to make very clear what our position was and the reasoning behind it. However, against that, if you ask us to go away and look at it, we will.

00:17:22:14 - 00:17:25:17

Thank you. I mean, please bear in mind. Um.

00:17:28:18 - 00:17:39:18

I'm not going to commit myself at all at this stage, but I do feel minded to secure something in the DCO

00:17:41:05 - 00:17:56:01

on this matter. So please bear that in mind. So my mind isn't made and and the Secretary of State may take a different point of view. I'm not sure, but, um, it does feel to me like something

00:17:57:27 - 00:17:58:26

to address.

00:18:00:29 - 00:18:05:12

Anything more from the councils on the funding issue, please?

00:18:06:11 - 00:18:39:08

Um, only to say, uh, you know, thank you for asking the question because I think you're absolutely right. It is a it's probably a relevant and emerging point. Um, as far as large scale renewables go, um, and, you know, clearly we've got representative of the county council here, but they, they will obviously be coming from a position of being aware of minerals and waste sites where these things have perhaps not been dealt with as effectively as possible, or as flexible as they might be in the past.

00:18:39:12 - 00:18:51:26

Um, so there's a there's a kind of once bitten, twice shy element, I guess, to this, um, and it's, it's really just having that reassurance, as I say. So I do appreciate you raising the question. So because it is an important point. Thank you.

00:18:53:14 - 00:18:55:27

Right. Just bear with me a moment, please. Um.

00:19:50:00 - 00:20:27:18

Okay. So the, um, the second part of this item is to look at the timescales for completion of decommissioning. Um, so just to summarize a couple of the submissions made on time scales. Um, and these were in response to the second round of questions. Question 5.4. So, um, Derbyshire County Council, consider that a DCO requirement for decommissioned restoration to be completed within a specified timescale would add certainty that to the decommissioning process give a shit to Londoners about the return of the land.

00:20:28:18 - 00:21:10:00

Um, South Derbyshire state that such a requirement should be provided in that up to two years would be acceptable to them. Um, the Environment Agency suggested that a requirement to secure a timescale would ensure that decommissioning is done and would enable enforcement. Um, Derbyshire County Council, uh, then uh, said that they consider that commencement and completion of decommission should be linked to the cessation of energy generation, if earlier than 40 years following the date of final commissioning of the first phase of work number one.

00:21:10:26 - 00:21:11:11

Um

00:21:13:03 - 00:21:26:25

South Derbyshire um suggested that timescales should be identified in case a unit fails or is left dormant derelict for some time before the 40 year life has expired. Um.

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The Environment Agency suggested that it be required for decommission to be completed within two years of energy generation ceasing, or within two years after the 40 year expiry date, whichever is sooner. Um.

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So just, just just to add some other thoughts to that. Um.

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Currently

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decommissioning is to commence, um, 40 years after, um, the final commission of the first phase. Um, there are no provisions around decommissioning, decommissioning being required to start earlier if generation stops earlier than the 40 years. Um, so that leads to, um, concerns that at that time, there would still be a number of adverse impact of the proposed development, um, when there are no benefits in terms of energy generation, electricity generation, which feels like a significant anomaly, the site could be left in an unused state without the benefits.

00:22:50:29 - 00:22:51:14

Um.

00:22:57:01 - 00:23:11:04

Would the council, uh, like to add anything to that? Very brief summary. No, sir. No. Um, I'll come back to the Environment Agency later to see if they have any comments. Could they? Could the applicant just respond to.

00:23:13:08 - 00:23:25:26

Um, whether the time for decommissioning commencing could be refined And whether the period for decommissioning complete could be secured.

00:23:26:22 - 00:24:02:04

Thank you, Patrick Robinson, for the, um. I think on the first point, um, there may be some slight cross-purposes of which I thought would lie with us, because I don't think the intention is that, um, the site, for whatever reason, basically falls into disuse and then sits there for decades, uh, until 40 years comes along. And I think the intent is that that would be swept into the, uh, to that wording at the start of um, requirement 22 within three months of the decision to, um, uh, to decommission.

00:24:02:06 - 00:24:31:06

But I suspect following your lead from this morning. So you'd say. But that's in the that's in the hands of the undertaker as to when they decide to do that. So where's the external trigger to make that happen? So the issue can be take away and come back, presumably again based around such industry standard. And I appreciate also what you said about precedent. It would be appropriate to look at other situations where that, um, long term disuse would lead to there are going to be consequences for it.

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I can't recall the exact instance, but I do recall seeing instances of a requirement for decommissioning to commence within a certain period of operation ceasing effectively. So it's something of that nature.

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Failure to export for X period of time. Yeah, yeah.

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Something of that sort that feels like a fairly straightforward. Yeah, yeah.

00:24:53:26 - 00:25:35:09

Um, the second question as to securing within, uh, decommissioning should finish within a defined period of time. I shall allow anyone to my right who wishes to come in and comment. But again, I, I suspect the starting point is, uh, the flexibility is there to avoid prejudging that before the planning authority of a property got a chance to look at it in a decommissioning plan in the circumstances prevailing at the time, however, our starting point would be that period is at the approval of the planning authority in discharging the decommissioning plan.

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So, um, it isn't in there now, but it's it's a matter for the planning authority to be able to, uh, control at that point. But I pause that point if there's anything more from

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finally not.

00:25:50:26 - 00:26:21:22
I think it's um, so I, you know, I recognize there are things outside the applicant's control at that stage, the undertakers control at that stage, potentially. Um, but it is it does feel as though it should be possible to secure some sensible and fair measures that prevent decommissioning from being an endless process and, you know, unreasonably taking an unreasonable length of time, if you like. Just feel as though that should be possible.

00:26:21:24 - 00:26:41:01
And presumably qualified by all such other period as may be agreed by the planning authority, for example, because all these things are indicators when you actually come to it, and the thinking when the condition was put together, which is there is a figure, unless there are other circumstances that militate at the time. Mhm.

00:26:43:18 - 00:26:57:09
That feels to me like a reasonable way forward. So, so a commitment to a period. But for that to be subject to or able to be varied with the agreement of the local planning authority, something of that type.

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Yeah. That sounds reasonable sir. Yeah.

00:27:05:03 - 00:27:05:24
Thank you.

00:27:09:11 - 00:27:14:23
It feels to me that that's something that perhaps should appear in the TCO itself.

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Yes. You expect it to? Yes. Requirement? Yes. Yes.

00:27:52:21 - 00:28:08:20
Thank you. Anything else? Um. That anybody would. Sorry. Let me first turn to the Environment Agency. Did the Environment Agency have anything to add on what we've just discussed about funding and timescales for decommissioning, please?

00:28:10:01 - 00:28:16:08
Lewis Pemberton, the Environment Agency. We appreciate the applicant is going to look into this and we have no further comments to make.

00:28:16:23 - 00:28:25:06
Thank you. Anything else that anybody would like to raise on item four of the agenda, which is um,

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I just lost the title of, um.

00:28:33:11 - 00:28:35:11
Agriculture. Um,

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soils and decommissioning. Sorry. Anything else anyone would like to raise on that note? Right. Yes. Sorry. Yes.

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Please. Sam Franklin again for the council, sir.

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It's a.

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Small point which I think will be.

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Picked up.

00:28:49:00 - 00:28:51:19

Um, in the next session. Session under.

00:28:51:21 - 00:28:52:25

Biodiversity.

00:28:53:09 - 00:29:01:00

Um, one of the areas of of some concern, um, given the sort of the amount of undulation over the site is that.

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When.

00:29:01:21 - 00:29:29:09

Rainwater runs off the solar panels, um, there's a danger of a drip line creating, um, and that can lead to diffuse pollution of, um, soil phosphate and nitrate, um, leaching into the watercourses. I think it's probably going to be picked up, uh, later, but there's a sort of a soils aspect as well as a, um, a pollution and biodiversity issue.

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Okay. Thank you. Could we.

00:29:40:05 - 00:29:45:21

That is a matter that's been addressed in writing to a large degree already. Um.

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I don't think I want to take time in this hearing to go through that. But if there are things that the council would like to put in its deadline five submission, then I'd prefer to take that. Continue the written process on that, please. Thank you.

00:30:06:02 - 00:30:14:16

Um, right. Item five. Biodiversity. Um, the first question is, um, Patrick Robinson.

00:30:14:18 - 00:30:16:28

Beaver, can we just do a quick change of. Please do.

00:30:17:00 - 00:30:17:17

Yes, please.

00:31:15:23 - 00:31:25:27

Okay, so, um, item five on the agenda. Biodiversity. Um, a number of points to go through here. Um,

00:31:27:22 - 00:32:00:18

item A is in relation to the River Mi's, um, Special Area of Conservation, or SAC and Site of Special Scientific Interest Policy. Um, the topic is in relation to the suitability of the mitigation measures, including chemical cleaning of the panels, establishment of grassland within the Mes catchment and any outstanding concerns there are in relation to the SAC and the policy.

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Um, if I just quickly summarize a couple of things and we will come on to National Natural England's email as well in due course. Um.

00:32:19:06 - 00:32:49:10

Natural England did, early in the examination, raised a number of concerns about the assessment of impacts on the River Mesarch um, and were initially of the view that it couldn't be a stain beyond reasonable scientific doubt that there would not be an adverse effect on its integrity, and identified concerns in relation to potential pathways for mobilization of sediment, um, and the use of chemicals in the cleaning of the panels.

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Um South Derbyshire District Council raised concerns similar concerns. Um, and uh mentioned the potential of suds as mitigation. The deadline for the applicant referred to correspondence from Natural England, um, where Natural England was quoted as saying that Suds are not required, um, and that the removal of annual inputs from intensive agriculture would provide an overall improvement in water quality.

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And it was suggested that Natural England. Um, sorry, the applicant stated that it considered there would be no adverse effect on the integrity of the SAC. Um, and the applicant suggested that Natural England was in agreement with its position that there wouldn't be an adverse integrity on the sack. Um, and said that this would be confirmed through a statement of common ground.

00:34:00:00 - 00:34:21:14

The applicant also referred to a Natural England suggestion, um, that um, to help eliminate possibility of sediment runoff during construction. Um, that suitable mitigation would be to so an established grassland within the River Mees catchment at the earliest opportunity.

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Um a commitment was added to the Outline Operational Environment Management plan, um, for harsh chemicals not to be used for the cleaning of the solar panels.

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Um, and if we look at Natural England's unpublished submission from yesterday, please. And I think we're doing this for the last time, if that could be brought on the screen, please.

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So, um.

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Again,

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there is an opportunity to give written responses to this submission later. Um, but during construction, Natural England have noted the mitigation measures in the Outline Construction Environmental Management Plan. Um, they consider that when the final camp is completed and implemented, then an impact on the sack could effectively be avoided.

00:35:34:06 - 00:35:34:21

Um,

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during operation, they note the inclusion in the, uh, Landscape Environmental Management Plan paragraph 4.26 for grassland to be established.

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And they consider that where grassland is Established sediment mobilization during construction would effectively be avoided. And if we could just scroll down a little bit, please, just to that final paragraph.

00:36:11:10 - 00:36:46:24

So Natural England, note the mitigations in section 4.2 of the Operational Environmental Management Plan. Whilst it is specified that no harsh chemicals will be used, no detail of the chemicals to be used has been provided. Um. Nonetheless, Natural England say that um where grassland cover is maintained underground, the panels um, any cleaning of chemical cleaning product or chemical runoff is likely to infiltrate and be attenuated within the soil prior to reaching the sack.

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So, um, apologies for people not having earlier sight of this submission is quite an important one. And I think, um.

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Quite a helpful one. It does seem to substantiate, um, the comments that the application applicant was making at deadline for, um, about Natural England, natural England's, um, becoming satisfied about, um, the sack. Um, I think in terms of the chemicals.

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I'm just wondering whether there's something to be clarified there in terms of the chemicals to be used.

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So it feels as if perhaps that hasn't been totally closed out. Um.

00:37:47:18 - 00:38:21:17

So it's a it's a little bit general in the outline of our environmental management plan about, you know, we don't define what harsh chemicals means. Um, no specific chemicals are listed, so I think that perhaps needs to be tightened up a little bit and maybe, you know, maybe appropriate for the types of chemicals to be used to be subject to approval by the party at the relevant time. But I think, I think perhaps if the applicant could look at the provisions in respect of harsh chemicals.

00:38:23:09 - 00:38:25:20

Please. Yeah. Um.

00:38:26:03 - 00:38:45:27

Sorry, I just Ashley Mckinnis that, um, on behalf of the applicant, um, the chemicals that may be used, that would be the equivalent of a household detergent. And cleaning would only be once per year, per our maintenance schedule. So it would be sort of minor, not harsh chemicals, but we can provide more specific.

00:38:45:29 - 00:38:54:01

Yeah. I think just to be specific about what we mean by the chemicals, it's a little bit general at the moment. Um.

00:38:56:13 - 00:39:29:23

So again, I think if, um, similar similarly to the way that we described this morning, I think if, um, we could have confirmation either in the statement of Common Ground or elsewhere from Natural England, that specifically references the previous concerns they've raised, and that specifically shows their position for each of those previous concerns. Please, that that would be very helpful. Um, it just feel to me as if there's a way forward on this one.

00:39:29:27 - 00:39:32:05

Do the councils want to comment any further?

00:39:33:28 - 00:39:54:18

Uh, yeah. Gareth Price, uh, ecology for the South Derbyshire District Council. It's just in relation to the grassland that is proposed to be seeded, how that will be managed and whether that would act as almost a flood meadow in some respect. Um, and it would also be good to have that area, Uh, in terms of Hector Ridge. Thank you.

00:39:57:04 - 00:40:02:17

So, the ongoing management of the grasslands. Um. And, sorry, what was the other one?

00:40:03:06 - 00:40:11:20

The ongoing management set up. That was a flood. Yeah. Um, and it would be good to have that area. Yeah.

00:40:23:25 - 00:40:26:01

And the location or is that.

00:40:26:13 - 00:40:29:09

Yeah, the location and the head ridge would be great. Yeah.

00:40:32:00 - 00:40:34:11

Appears reasonable. Any comment from the applicant on that?

00:40:34:29 - 00:40:54:16

So Patrick Robinson? Absolutely. And I think this is definitely something we would seem right to be going into a statement of common ground. Um, and obviously we'd like we'd ask that we can move along at a fast time scale given where we are in the examination process.

00:40:54:18 - 00:41:06:18

Thank you. That would be very helpful. And and, you know, the normal tests in terms of making sure the mitigation for chemicals and grassland are properly defined and robustly secured, please.

00:41:25:00 - 00:41:31:03

Okay. That um, deals with item A, item B, um,

00:41:33:00 - 00:41:39:07

so, um, woodland bordering the former Direct Clough Power station site, um,

00:41:41:04 - 00:41:42:18

which the applicant

00:41:44:04 - 00:42:06:16

described at deadline one as lowland mixed deciduous woodland. Um, whereas the Forestry Commission and its relevant representation, um had an alternative um definition um which um.

00:42:11:14 - 00:42:14:08

Which I'm just looking at now. So, uh,

00:42:16:01 - 00:42:20:11

they considered that there should be defined as lowland mixed deciduous woodlands.

00:42:23:08 - 00:42:25:28

And as such, they would um.

00:42:30:02 - 00:42:56:02

Require specific conservation action. So I think there's a there seems to be a disagreement about how that area of woodland should be defined, which would obviously have implications in terms of impacts and, um, the level of mitigation that should be provided. Um, I don't think the council has commented on this at all. Does the council have a view about the definition?

00:42:57:03 - 00:43:00:08

Um, yeah, I've consulted my tree offices. Um,

00:43:01:26 - 00:43:32:28

in the ARB report. Uh, full access wasn't obtained to that area. Um, but there are slight differences between the agricultural report and the BNG condition assessments. That being being condition assessment has it down is, uh, poor, poor condition habitat, whereas the agricultural assessment says it's considered high quality category woodland. Um, so we would like that addressed. Um, likewise it's on the border of poor condition assessment.

00:43:33:00 - 00:44:01:25

So if um sycamores classed as an invasive species, if you possibly discounted that it would be moderate. Um, so I think we'd like that showed up. Um, but I think we would be happy with either designation as it is deemed on quality of the woodland as opposed to distinct woodland type. So it's more on the quality of the woodland where I think is the is the major difference. Okay, okay.

00:44:02:24 - 00:44:03:10

Applicant.

00:44:07:25 - 00:44:11:04

Uh, David Green, on behalf of the applicant. Um.

00:44:12:03 - 00:44:43:19

Yeah. I don't think we're particularly far apart on this. I think it's it's a bit of a grey area. Um, we've we've recently been to site, um, our agricultural specialists and ecologists, and we can confirm that the, the woodland more closely aligns with other broadleaf woodland than it does with lowland mixed

deciduous. Um, I mean, it's almost a little bit of a moot point because actually that the mitigation and the impact assessment.

00:44:43:21 - 00:45:14:24

It wouldn't change those things. You're talking about nuances. The main the main difference comes down to within the bag metric, in that the woodland that we've classified it as, um, would be of lower distinctiveness than what the Forestry Commission have said. I mean, what I would say is, given the small area affected and the fact that we're predicting a bag of 120%, if you did change it, it would be negligible in terms of the the implication.

00:45:15:01 - 00:45:53:02

Okay. But I mean, we're we're happy to put together some more robust evidence. The, the UK hab simply describes, um, the differences between the two woodlands. Um, because sycamore is dominant as a non-native. I mean, actually people would question that, but the, the UK had definition for what we've called it, which is. W1GR. The broad leafed woodland specifically refers to stands of non-native broadleaf tree species and references sycamore, which is why we've gone down down that route.

00:45:54:17 - 00:46:06:11

Thank you. Are there, um, impacts on that woodland from the proposed development? Would that woodland be harmed in any way by the development?

00:46:07:08 - 00:46:33:03

Yes, yes it would. We need to find a route through it. Yeah. Um, it's primarily an agricultural question and I think that is in your schedule. Um, but we've been to site and much of the woodland is open. So we're confident that in terms of ecological impacts, we can find a route through that that minimises any, any potential for significant impacts to habitats and species.

00:46:33:13 - 00:46:47:00

Yeah. So, so, so if that woodland was categorised in the way that the Forestry Commission suggested, Um, should the impact assessment reflect that as a reasonable worst case, I.

00:46:47:22 - 00:47:12:20

I don't think the change in in habitat affects the impact assessment because we're still recognizing the importance of woodland. I see in the impact assessment, it's actually gone down as being of national importance because it's broadleaf woodland. Okay. So the implication is really focused on the biodiversity net game okay. Where UK Habs and the distinctiveness of habitats has a bearing.

00:47:13:02 - 00:47:15:10

Does the council agree with that?

00:47:16:06 - 00:47:30:28

Um yes I think I think so. I mean The Woodlands we've valued it on um, OS mapping is around 100 years old. Uh, former deer Park woodland. Um, so we would probably say it's, it's it's not ancient woodland. So I think we, we'd be happy with. Okay.

00:47:41:02 - 00:47:48:15

I think it would be helpful for that to be included within the statement of common ground. A discussion around that point, if possible.

00:48:06:12 - 00:48:12:13

Thank you. Um. Item C um.

00:48:17:18 - 00:48:18:21

Not. Oh, sorry.

00:48:21:08 - 00:48:31:23

So, the borrower cultural survey report submitted at deadline for, um. So, um.

00:48:41:26 - 00:49:15:10

So this is in relation to concerns previously raised by South Derbyshire District Council. Um, in relation to ancient veteran highly valuable trees. Trees subject to a tree preservation order. Um mitigation for those trees where the prior consent of the local planning authority should be required to fill up any tree. Um, so I think, um, there are two related questions here. So, um, one question is whether, um,

00:49:17:04 - 00:49:46:22

valuable trees, ancient veteran trees subject to TPO have been identified. Clearly. So does the arboriculture survey report correctly identify all of those trees? That's my first question. And then the second question is to do with the control of any works to those trees by the DCA. So if we can take those two aspects. So, um, a um.

00:49:48:28 - 00:50:01:22

Has the council had an opportunity to review the updated arboriculture survey report? Is the council satisfied that all of those trees have been identified appropriately?

00:50:02:29 - 00:50:20:22

Um, yes. Gareth price. Um, yeah, I think we we do feel that it is, um, now an acceptable report. Um, so we are happy with that, but we we would like to have the consent, um, to approve those tree works.

00:50:21:06 - 00:50:32:10

Okay, so let me. I will come to that. Um, there has been an exchange about the need to identify trees. That there may be works, too, in the DCO.

00:50:33:27 - 00:50:36:24

Um, so, um,

00:50:38:21 - 00:50:42:11

the applicant has suggested that, um.

00:50:47:18 - 00:51:18:22

Details of the specific works that may impact a tree subject to a TPO tree preservation order cannot be provided, um, for reasons that, um, the proposed development is subject to detailed design, such that it is not possible at this time to definitively identify the relevant trees. So the applicant is suggesting it's not possible to identify TPO trees that may be affected in the DCO for that reason. Um.

00:51:39:03 - 00:51:40:17

So I just bear with me a moment.

00:52:15:14 - 00:52:47:19

There was an exchange, um, about the guidance. So planning, government guidance. Planning Act 2008. Content of the development consent Order required for nationally significant infrastructure projects. Um, the applicant quoted um, that guidance and suggested that the key requirement is to clearly set out the conditions which must be met before the power to fell, lop or cut back roots of trees.

00:52:47:21 - 00:52:49:10
Subject to TPO

00:52:51:01 - 00:53:20:03
reading that guidance more fully, the end of that same sentence, which the applicant didn't quote a deadline for, is that not only should the conditions which must be met before those powers can be used be set out, but it says, and I quote specifically to identify the affected trees and the works permitted to each tree in a schedule.

00:53:21:23 - 00:53:39:04
So the guidance actually does Suggest that works to trees subject to TPO, and the works permitted to each tree should be set out in the schedule to the DCO.

00:53:42:09 - 00:53:48:11
And it reads fairly unambiguously in that respect, I might suggest.

00:53:51:16 - 00:53:57:02
So there's rather more to the guidance than the applicant set out at deadline for.

00:54:02:03 - 00:54:09:27
Works to hedgerows have been identified in the DCO. Um in schedule eight I think. Um.

00:54:14:21 - 00:54:18:12
So I think return to the original question as to whether.

00:54:23:00 - 00:54:44:15
The general powers requested by the applicant are appropriate, and the general powers were that it would have the ability to fell, lop or cut back roots of trees subject to TPO without having to identify them or identify the works. The guidance is suggesting the trees under work should be identified.

00:54:46:18 - 00:54:49:18
Um, with the applicant. Like to comment on that.

00:54:51:12 - 00:55:23:06
Thank you, Sir Patrick Robinson, for that. Um, indeed. There's a there's a clearly a sentence there that we haven't, uh, addressed when we've been making this submission. So we understand that point entirely. Um, if I have it right, the way it's been put by you and by, um, South Derbyshire is it's got to be one thing or another. You either tell us now which protected trees and then we could take a decision on it. And therefore you have the power be subject to the conditions in the requirement, or you have to get local authorities consent, uh, to do so.

00:55:24:06 - 00:55:25:29
Is that how you, um.

00:55:26:12 - 00:55:44:13
So if if the government guidance is does have a status, and I think if that government guidance is not being followed, then that needs to be clearly, very clearly the reason why it's not necessary to follow it. Um.

00:55:46:24 - 00:56:05:20
I haven't yet heard that compelling reasoning why it shouldn't be followed. So I think the starting point would be to require the DCO to include a schedule of three subject to TPO, the works that would be permitted of them.

00:56:08:11 - 00:56:32:22

And for that to be specifically included at this stage. If the applicant isn't suggesting that, and has a very good reason why that guidance shouldn't be followed, and that an alternative of seeking local authority approval for any works, then we need to consider why that's an acceptable way forward rather than follow the guidance. Can I can I just check? So

00:56:34:14 - 00:56:47:08

if the DCO does list all of the trees and the work's permitted to those, it's the council happy that it then doesn't need to be consulted on each individual tree.

00:56:49:09 - 00:56:55:12

At some point, as long as we can get our tree offices to look at those trees and accept those works, I think that's fine.

00:56:55:14 - 00:56:59:03

So you'd still want to look at each tree at that stage?

00:56:59:18 - 00:57:01:28

I think so, yes. Yes. Okay.

00:57:09:25 - 00:57:13:09

I'd like to consider that further. I think, um.

00:57:16:11 - 00:57:30:14

The first question is either the guidance should be followed a very good reasons given. Why not? I think we can deal with the secondary issue of council approval for each and every case, as it were, as a separate thing.

00:57:35:14 - 00:57:49:13

Uh, yes. Indeed, sir. The, um. I'll just check with them because it's very much tied in as well with this. Effectively, this is where the cable route is going across. And if there's anything you'd like to tell us on that.

00:57:50:19 - 00:58:21:11

Um, Ashley Mckinnis, um, on behalf of the applicant, the the difficulty with the cable route up at the Drake Clow substation. Um, for the final part of that, connecting into the network is, um, the uncertainty at present about the exact route to be chosen. Um, the the main reason for the uncertainty is it lies with the national grid themselves. They have a lot of control over how that route is designed, where it's going, and there's a lot of existing infrastructure in that area.

00:58:21:29 - 00:58:48:15

Um, and there's other developers, of course, trying to connect as well. So it's a lot of competing concerns. And at this point in time, um, we've been to site with National Grid. We've had walkovers, tree surveys, ecologists all on site together. We've identified a route that we believe is suitable and viable and can avoid trees, um, in that area. But it's difficult to get that level of certainty at this point.

00:58:48:17 - 00:59:17:09

Okay. We appreciate those challenges. So there may be a different approach for different parts of the development. So what you described is a very specific set of circumstances. And I can understand that, um, it might not be possible at this moment in time to specifically identify every tree. So that would be good reason for not following the guidance in that area. But that would also, um.

00:59:19:20 - 00:59:52:00

Seemed to me an appropriate case in which agreement with the local authority for works to any tree in that area would be appropriate instead. So there's still the flexibility to deal with the other issues you talk about. But there are still some control in terms of having local authority involvement in that area. So there might be a specific set of provisions for that area, but perhaps you could consider that elsewhere.

00:59:52:27 - 01:00:05:26

But um, there is more certainty if you like, there are less trees that are potentially impacted. It might be possible to follow the guidance more to the letter. Does that seem reasonable?

01:00:06:16 - 01:00:07:07

Yes, sir. It does.

01:00:17:05 - 01:00:18:17

So I just bear with me a moment.

01:01:05:07 - 01:01:07:14

Okay. Thank you. Um.

01:01:10:10 - 01:01:37:12

So item five D habitats. Constraints. plan. Um. Um. Thank you to the applicant for updating, um, the relevant management plan. Um, with respect to the contents of a habitats habitats constraint plan. And, um, providing more clarity on the buffers, various buffers that we would be provided. Um.

01:01:39:25 - 01:02:07:17

So we're talking about the outline camp here, and we're talking about provisions in, um, the um, sections that are listed in the agenda has, um, have South Derbyshire District Council, Derbyshire District Council had an opportunity to review the updates to the camp in relation to the constraints, plan and buffers and other any outstanding comments or concerns on that please?

01:02:08:16 - 01:02:24:08

Um, in the first instance, I think we appreciate the, the new buffers. Um, just one main point, really. A series of interpretable maps that we can clearly get to grips with. Uh, for the species. And sensitive features would would be appreciated.

01:02:25:09 - 01:02:29:09

Is that something that you think is required at this stage or in the final plan?

01:02:29:24 - 01:02:50:18

I think it would help at this stage, um, to get to grips with, with certain, um, sensitive features and certain species. Um, but obviously with the extent of the cable line unknown. Um, you know, we accept that it could be a certain time period before that is established.

01:02:51:07 - 01:03:11:04

Okay. I think I think it would um, I would certainly find it helpful in considering the mitigation that secured at this stage to have picture speak a thousand words. That can be very helpful. Um, I think the council have said it would be helpful to have at least a draft of

01:03:12:21 - 01:03:16:11

that at this stage. Is that something the applicant might be able to provide?

01:03:18:03 - 01:03:22:15

Yes, sir. Uh, David Green for the applicant? Yes, we'd be we'd be happy to provide that.

01:03:22:17 - 01:03:23:13

Okay. Thank you.

01:03:32:01 - 01:03:40:27

And if that could be linked into the camp as a draft document to be updated as the camp is more details added to the camp. That would be helpful, I think.

01:03:51:06 - 01:03:51:24

Thank you.

01:03:53:17 - 01:04:15:10

Um, item E? Um. Skylark. Um, so, um, South Derbyshire District Council, in its response to question second set of questions, question 7.6 um Suggested um, some um mitigation measures for Skylark um,

01:04:17:08 - 01:04:43:12

a skylark plot, and it provided some detail on um the shape that mitigation should might be. What what what a skylark plot. Um, um would need to include. So I'm not going to repeat, but this was um, in in South Derbyshire District Council's response to questions 7.6. Um.

01:04:46:02 - 01:04:57:24

Just as far as I can see, none of that mitigation mentioned by South Derbyshire is currently included. Um, is it reasonable mitigation that should be included?

01:04:59:10 - 01:05:29:08

Thank you sir. Uh, David Green for the applicant. Yeah. Um, skylarks. Not straightforward because I mean, But so we maintain that impacts the skylark are not significant in air terms. Um, but we recognize that there is a residual impact. I think the area of disagreement. Um, if I understand correctly, is, is essentially we're we're putting the, the, the scale of impact lower than I think SDC would. Um.

01:05:31:13 - 01:06:03:19

So whilst we maintain that the study area may be of district value for Skylark, because you've got 19 pairs that were recorded nesting within the site or attempting to nest within the site. Um, our assessment of it being a lower scale of impact, um, is sort of predicated on a few additional considerations. So things like, although you've got 19 pairs attempting to breed the conditions on site in terms of the way that the agriculture is managed is suboptimal for Skylark at current.

01:06:04:03 - 01:06:39:18

So there's a high chance that you're not getting 19 successful breeding attempts. What? What we might be getting, we don't actually know, but probably less. Um, we're also seeing a body of emerging evidence, albeit that is exactly what it is, is emerging, um, that when solar farms increased biodiversity, the skylark in and around the, the, the local area benefit and their nesting productivity increases.

01:06:39:20 - 01:07:20:06

So it's not just a simple case of 19 pairs gone. Um, there are some nuances to it. And the other thing is actually within within the site, there are areas retained in terms of the grassland areas and corners that are large enough to accommodate some nesting. It may be a couple of pairs, it may be up to several. Um, we do on the side of precaution and say it's probably towards the lower end. But factoring those things in, we think that the actual level of impact is is lower. Notwithstanding that, um, we've we've

taken on board what the councils have said, um, their concerns, we recognise that there's a risk through the planning process.

01:07:20:17 - 01:07:41:27

Um, we recognise that there's a difference of opinion. Um, so we have pursued options for providing offsite mitigation. Um, so I'd like to think we're trying to find a consensus and we're listening. Um, it's probably easiest now if I, if I turn to Ashley, who can provide a bit more information on on what that provision looks like.

01:07:43:00 - 01:08:27:17

Yeah. Ashley Mckinnis for the applicant. Um, yeah. As David said, we our view is that specific mitigation for Skylark is not necessarily but acknowledging Styx. Um, differing opinion on the matter. We have undertaken steps to explore if there might be suitable land, um, available within arable fields in the vicinity of Oaklands Farm, um, for the provision of skylark plots. So we're currently in discussions with the landowner, um, about the provision of skylark mitigation through a unilateral section 106 agreement, and we can provide an update, an update on progress at deadline five.

01:08:31:22 - 01:08:32:09

Thank you.

01:08:32:23 - 01:08:34:23

Um, sir, if I could please.

01:08:35:12 - 01:08:36:01

Please. Um.

01:08:36:09 - 01:08:39:21

Thanks, Ashley. One one thing I should point out is that

01:08:41:09 - 01:08:56:14

what that would do, if that's provided, it would change a minor residual impact or albeit SDC probably thinking it's moderate impact. It would change a residual impact into a a benefit for the species.

01:08:57:09 - 01:09:06:12

Yep. Understood. Um. Thank you. Thank you for the progress that's been made with that. Any response from South Derbyshire, please?

01:09:07:07 - 01:09:37:01

Um, yeah. So, uh, Gareth Price, um, ssdc. Um, so initially it was deemed as 27 pears, and, uh, we accepted 19 on the suboptimal condition assessment, so we accepted 19 pears is probably the minimum. Um, on that, um, the applicant also, uh, stated that the grassland beneath the solar panels will be a foraging potential.

01:09:38:24 - 01:10:13:23

Um, so not only are we losing the breeding territories and nests, um, but the foraging habitat would be not likely to support. Um, it would only likely support those pears capable of breeding. You know, uh, skylarks will rarely fly more than 300m is between the nest and the foraging site. So we think, you know, the foraging within the solar panels is of limited value. When I need support, those pairs capable of breeding, um, but we do, you know, appreciate the off site aspect of it.

01:10:13:25 - 01:10:20:03

And if that can be provided, I think, um, you know, the Skylark mitigation will be acceptable.

01:10:20:14 - 01:10:22:02

Thank you. So, um.

01:10:24:15 - 01:10:50:07

Obviously, for me to consider that in my report, I would need to see some robust evidence of that section 1 to 6 agreement before the close of the examination, which, um, it's potentially only a couple of months or so away. So, um, obviously, if it's a unilateral one, perhaps that's more straightforward. But even so, um,

01:10:52:04 - 01:10:56:08

those are the sorts of timescales we're working to. So thank you for that progress.

01:10:58:25 - 01:11:04:11

Okay. Moving on to f um bar now. Um.

01:11:10:11 - 01:11:19:16

So there were comments made by South Derbyshire District councillor. Deadline for um about adverse impact on bar now. Um.

01:11:25:02 - 01:11:45:20

And a comment made at deadline for by South Derbyshire that a survey by licensed barn owl worker or specialised ecologist might be better able to quantify the barn owl population in the surrounding area and identify the degree of impact. Um, just south Derbyshire have concerns that.

01:11:47:27 - 01:11:51:01

An appropriate survey hasn't been undertaken so far.

01:11:52:21 - 01:12:23:08

Um, yeah. So, uh, Gareth Price. Um, but it was a possibility that a banner was seen in a tree. Um, during another survey, um, and we have received reports of numerous barn owls in the area, and we feel it is, you know, it is adequate to ask for that population in the surrounding area to be analysed so that we can verify that impact on, on barn owl. Um, we do have a local expert who will be able to provide a survey.

01:12:23:10 - 01:12:31:27

We have got details for that, who knows the local population. Um, but our main concerns are disturbance during construction. Um,

01:12:33:20 - 01:13:02:02

and we also have concerns about the foraging, um, ability within the solar panels and the height of the grassland, um, to support barn owl. Um, you know, barn owls would prefer it to be 17mm deep, uh, grass ward. And I believe the applicant is proposing that it is continually grazed. Um, so we don't feel there is a foraging benefit for barn owl, uh, within the solar panels.

01:13:02:25 - 01:13:08:13

Thank you. Thank you. Can we come back to the survey issue first? Um.

01:13:09:16 - 01:13:13:27

Yes. Um. Yes, sir. David Green for the applicant. Um.

01:13:16:15 - 01:13:24:11

We did undertake breeding bird surveys, but we haven't undertaken specific barn owl surveys. And the reason for that is.

01:13:27:00 - 01:14:01:12

There's a very good understanding of barn owl ecology. Um, we we can be confident in how they're currently using the site and how they're going to use the site. I personally have extensive barn owl experience. I've done, uh, training courses with the Barn Owl Conservation Trust and held Natural England licences, disturbance licences for the species. Um, I've delivered countless barn owl mitigation schemes on site sites over the years. Um, I'm very happy to provide more detailed information to the council if they would wish.

01:14:02:04 - 01:14:42:18

Um, I think it's it's it's really important to recognise that this scheme will, will certainly provide a significant benefit for barn owl. Um, the barn owl conservation Trust. Um, I'm going to quote from their website, um, they, they state that solar PV farms have the potential to be of great benefit to barn owl, as the array frameworks are typically at a height from which barn owls can perch hunt. Um, they go on to say that solar farms can not only successfully mitigate lost barn owl foraging habitat, but they can enhance the foraging opportunities for owls and even give rise to net gain in biodiversity.

01:14:43:12 - 01:15:08:18

Um, the point I take the point about about the grassland, but what I would emphasize is even the Barn Owl Conservation Trust recognised that actually grazing, grazing and barn owls can be a good mix, providing that the the grazing regime is is not too intensive so that there is a leaf litter. Effectively there is a thatch in the grassland. Um.

01:15:10:29 - 01:15:47:27

Besides the presence of major roads, the primary limiting factor for barn owl populations and their breeding success is the availability of food, which they they, they get from hunting in rough grassland. What they really need is grasslands that have a thatch where, um, their primary food source, which is filled, will occur in large numbers. Now, all the solar farms I've ever seen have differences in terms of the sward height underneath them. Even when they're grazed, you'll find areas that are more grazed, and then you'll find areas at the edges of fences and at the edges of the solar array.

01:15:48:07 - 01:16:23:05

construction base, um, where thatch grassland occurs. And this can, this can all be detailed and and brought forward in, in, um, in the lamp and secured in that way. But I think it's, it's important to recognize that at the moment the habitat on site is very poor for Boma. I'm not suggesting for any moment that barn owl are not present. They will be present because you have suitable agricultural buildings that they can nest in, and you have large trees with hollows that they can nest in.

01:16:23:21 - 01:16:57:06

Now I do accept, so I don't accept loss of foraging. I think that this the proposals will significantly benefit even during construction, because the extent of suitable foraging habitat at the moment is pretty negligible. The areas that are suitable for hunting barn owl at the moment are limited right up to field edges, edges of hedgerows which would be retained and protected. With protective fencing and buffers as part of construction and offsets from retained habitats.

01:16:57:08 - 01:17:11:16

For example, at night when the construction finishes, you're going to have a dark, silent area with fencing and rough grassland around the edge. And I've got no doubt that barn owl will hunt and utilise the site during the construction period. Um.

01:17:14:22 - 01:17:21:08

The primary risk therefore, and I agree with this, um, relates to disturbance at nesting sites now.

01:17:24:16 - 01:17:37:28

That primarily within the site relates to large hollow trees and barn owls require very large hollows. Um, we haven't inspected those trees, but we can do so, um, with relative ease.

01:17:41:13 - 01:18:10:21

But a key thing would be that the mitigation that we can propose for barn owl has a really high success rate. It's very well known. The best thing we can do is put up barn owl boxes in areas where we want the owls to be, so areas where we know aren't going to be disturbed, um, during the construction period and, you know, areas that have got good links to hunting habitat. So I think there's lots of measures that we can implement that will eradicate any significant impact on the species during construction.

01:18:11:21 - 01:18:12:14

Okay. Thank you.

01:18:12:16 - 01:18:15:01

But we're happy. I'm happy to discuss it further.

01:18:15:05 - 01:18:19:11

Yeah. So if I could, um, highlight my own concerns. So, um.

01:18:24:12 - 01:18:47:12

The first concern is to be satisfied that the impact of being assessed adequately at this stage. Um, so you've described that that's based on knowledge of barn owls, their habitats, how they forage, etc.. Um, so I think it would be helpful to add further detail.

01:18:49:21 - 01:19:20:15

To what you've touched on to give me, and then the Secretary of State confidence that there has been an adequate assessment at this stage, and that it hasn't been necessary to undertake a Burnell survey to carry out that assessment. So that's the first question or the first request for further information. Um, the second is that, um.

01:19:23:01 - 01:19:50:27

Whether it should be required for a banal survey to be undertaken at a very early stage and whether and what stage that should be carried out, so should that be carried out before the site preparation works as part of the site preparation Works prior to commence construction commencing. So it feels to me, does that feel appropriate to require a survey of that type?

01:19:51:14 - 01:19:56:15

I'm not sure if Stdc have seen it, but we have updated the set up.

01:19:56:26 - 01:19:57:11

Okay.

01:19:57:13 - 01:20:16:09

To include those those measures. Um, we would be happy to provide. For example, you mentioned earlier about figures, picture painting a thousand words we'd be happy to provide, for example, a map of suitable foraging habitat within the site that would demonstrate how limited the extent of that is within the the area affected. Yeah.

01:20:16:11 - 01:20:37:06

What what I haven't seen in the camp. So 2.8.6 seems to be the relevant paragraph that's been added. Um, that doesn't seem to include for a barn owl survey to be carried out, and it doesn't seem to set out at which stage such a survey should be carried out.

01:20:42:20 - 01:20:50:21

Where where we've tied it up would be preconstruction checks. Okay. Which would effectively be a barn owl survey.

01:20:51:18 - 01:21:11:19

Could we be more specific about that? That's fine. Within the camp. Yeah. In terms of about a barn owl survey being required, what stage should that barn owl survey be provided? Should it be before construction commences? There are some site preparation activities, site clearance and the like.

01:21:13:03 - 01:21:19:07

Yeah, I mean, I would I would necessarily deem the site clearance works to be disturbance. So preferably before them.

01:21:19:09 - 01:21:22:15

Before site clearance works. Yeah okay. Site preparation work. So.

01:21:25:03 - 01:21:30:22

That feels like the most robust approach. Does that feel appropriate to the applicant?

01:21:31:27 - 01:21:33:14

Yeah. That seems reasonable.

01:21:33:16 - 01:21:43:00

Yeah. Um, and then alongside that, presumably the mitigation measures should be updated alongside that before site preparation work start.

01:21:44:07 - 01:21:45:24

Yeah. Agreed. Um.

01:21:47:19 - 01:22:07:12

So that would be very helpful. Additional detail for the Kemp. Um, also, you've just described a process of managing the grazing so that the foraging habitats are suitable. Um.

01:22:10:12 - 01:22:19:20

I don't think there's detail on that within the Kemp at the moment. So that feels like an important issue in terms of the mitigation side of it.

01:22:22:17 - 01:22:23:11

Does it does that.

01:22:23:13 - 01:22:25:24

Yeah I mean we yeah, we can provide more detail on that.

01:22:25:26 - 01:22:27:29

Yeah. Okay. Um.

01:22:32:11 - 01:22:38:15

Any outstanding concerns from subject to those things being secured appropriately.

01:22:38:21 - 01:22:40:10
Oh, no. That's fine. Yeah.

01:22:40:12 - 01:22:47:23
Okay. Thank you. Could that be submitted at deadline five? An update to the camp? Yeah.

01:23:14:03 - 01:23:40:19
Thank you. Um, let's move on to item G. Uh, 5G great crested newt. Um, some discussion previously about the likelihood of great crested newt being present in the locality and the mitigations for them, and whether a Natural England district license, uh, should be applied for. Um.

01:23:45:01 - 01:23:58:11
Again, the applicant has updated the camp, um, with some measures in relation to, um, great crested newts and mitigation measures in 2.8.7. Um.

01:24:02:21 - 01:24:35:10
The applicant considers. So a deadline for the applicant said that it considers that the risk to great crested newt is negligible. Negligible on the basis that the water bodies of highest suitability within the site were sampled and recorded negative DNA results. Test results. Furthermore, the habitats affected were not suitable for supporting breeding of or of sheltering great crested newt. The very low risk therefore relates to the potential for transitory individuals associated with off site water bodies to move into the site during construction.

01:24:35:27 - 01:24:43:26
This risk can be mitigated successfully through the application of specific measures which are detailed within the camp. Um.

01:24:48:27 - 01:25:10:12
South Derbyshire District Council at Deadline force said it is unlikely that, given the number and proximity of ponds that great crested newt are absent in the locality, and refers to another planning application in the area where a licence was applied for. Um.

01:25:13:24 - 01:25:16:15
Could I ask the applicant just to respond to.

01:25:19:11 - 01:25:25:05
The comments from South Derbyshire about it being likely that great crested newt are present?

01:25:25:14 - 01:25:41:09
Yeah. Thank you sir. Um, David Greene again for the applicant. Um, I think But so we maintain our position that GCN are referred to them as GCN theories. Um, highly unlikely to occur within the site or to be impacted. Um

01:25:43:09 - 01:26:14:25
GCN occur in meta populations. So they they readily move to and colonize new ponds, which is why the district level licensing approach is essentially don't worry about squashing them. We'll just build some new ponds because they'll find those ponds. Now, when you get a meta population of great meta population of great crested newts within a given area, um, they will disperse and move between the ponds, typically along hedge lines, tree lines, that kinds of thing.

01:26:15:20 - 01:26:48:05

Um, therefore, if great questions that were present in offsite ponds that close to the site, they would have been recorded in the optimal water bodies that we did survey on the site. Essentially, you could say that, you know, if they're close enough to be affected, they're close enough to be recorded in the pond survey. And I think it's important to recognize that the ponds that were surveyed were those that were considered optimal. So those that scored highest in the habitat suitability index, that the highest probability of newts being present.

01:26:48:22 - 01:27:29:25

Um, what's interesting is actually one of the highest precursors to newts being present in a given water body is the the presence of newts being present in water bodies nearby. Um, so yeah, I would, I would go back to if they're close enough to be affected, they're close enough that we would have picked them up in the Edna in terms of the in terms of the DL process. It seems to be so the district level licensing, I know there's an adjacent or nearby scheme that's gone down the DL route, and that the fact that they've gone down that route doesn't necessarily infer that great Christian roots are present.

01:27:30:06 - 01:28:05:19

What is the use of the DL process? Is is a scheme which it simply reflects the process which that applicant has chosen because it provides simplicity within the planning system. It effectively eliminates the need for survey. It eliminates associated timing restriction restrictions of seasonal surveys, and it also eliminates sort of subsequent complications as being evidenced by this conversation we're having now. So the the because someone's gone down that that approach it doesn't infer that that there's newts on our site interested.

01:28:06:08 - 01:28:07:16

I think um

01:28:09:06 - 01:28:22:11

it would be helpful to get Natural England's view on this if possible. Um, I don't know whether that's included within the draft statement of Common Ground at the moment, but it would be useful to have their view. We we can ask them.

01:28:22:13 - 01:28:35:14

I would imagine that they would simply refer to standing advice for protected species, but we could potentially engage with them, um, via their paid service to get them to speak to us.

01:28:35:16 - 01:28:38:21

Okay. Um, maybe helpful.

01:28:38:23 - 01:29:04:20

Yeah, I think I think from our perspective, just to to put it into context, we we've surveyed nine optimal water bodies. That all came back negative. Um, and although I accept the point that, okay, there's 15 water bodies off site that you haven't, those 15 water bodies have actually been identified by things like Ordnance Survey. Um, we can't access all of them, but I've accessed a few recently, and I.

01:29:05:01 - 01:29:06:18

And they're they're mobile enough.

01:29:06:20 - 01:29:41:24

I don't want to introduce new information, but for example, I drove along the Cotton Road and two of the water bodies that are offsite and closest to the site actually don't occur. There's one right next to a public footpath and one right next to the site. And they're dry depressions. So some of these ponds aren't actually ponds, and some of them are going to be completely unsuitable. Um, we've got no way

of verifying that for all of them. But my point being is, if you had a pond close to the site that were suitable, we would be picking up GCN in the optimal sites that we have surveyed.

01:29:41:28 - 01:29:50:28

Okay. So, um, can you can you, um, educate me a little bit on Edna tests? So in terms of, uh.

01:29:51:06 - 01:29:57:23

So dark magic, you have some samples, send it off to a lab, and they tell you if, um, if GCN is present.

01:29:58:05 - 01:30:03:16

So. So are those considered to be. So is that a water sample that's taken?

01:30:03:18 - 01:30:18:24

They're incredibly accurate. I think it's I would I would have to come back to you on the levels of accuracy. But providing the samples are taken by suitably qualified and trained personnel. I think it's 99.999.

01:30:18:26 - 01:30:27:14

So were there were samples taken at each of the ponds that were surveyed? Yes. And tests were all so negative.

01:30:27:16 - 01:31:01:26

So for the nine that were nine that were sampled, that were optimal. So some of the ponds weren't surveyed because they didn't exist. They, they, you know, they were identified as a pond. But then when they were checked during the the survey season, they were dry or, you know, not there. And that happens, you know, you'll get a remnant on an Ordnance Survey for something that's since disappeared. Um, so the focus was on and some scored low, so some might be watercourses, but actually they've, you know, they've got fish or they've, there's, there's reasons why they score very low in terms of the site.

01:31:02:06 - 01:31:26:21

So the nine surveys were of the ponds that scored moderate and above. So those most likely to support great crested newts. Water samples were taken sent to the lab returns and all scored negative for GCN. Further to that I think the closest record biological record is I'd have to check this, but I think it's about a kilometer away.

01:31:27:03 - 01:31:44:28

Mm. Okay. Um, helpful to set out what you've just described in writing, just to add to what's been submitted to date. Um, does the council have any firm evidence of great crested newt being present in the vicinity?

01:31:45:17 - 01:31:56:27

Uh, no, it was just identified as a constraint. Um, that 15 ponds, off site ponds weren't surveyed, so that's why it was initially picked up. Okay. So yeah.

01:31:56:29 - 01:32:19:27

So it's a it's a sensible question to ask. Yeah. Um, do you agree with the comments that were made about, uh, the mobility of great crested newt? If there is a suitable habitat and they're in the area, you'd expect to pick them up there that the Edna results testing is.

01:32:20:22 - 01:32:44:00

Yeah. I mean, the Edna testing is valid. Um, but obviously, you know, um, some individuals could be on land at the time and, you know, close by and then find themselves in the pond. So it's not an exact science, but if a precautionary measure can be taken in terms of buffering of the ponds, um, and any terrestrial habitat, I think that would be welcome.

01:32:44:14 - 01:33:21:17

Okay. So so in terms of being satisfied about the assessment, then, you know, it needs to be what reasonably a reasonable worst case scenario is often the phrase that's quoted. So I think, you know, to document what you've just said would, um, help to deal with that matter in terms of the likelihood of impacts? I think if there is a there's a need for further discussion about whether sensible buffering or mitigation is in place, and it may be something that's very straightforward and at the same time, we shouldn't do mitigation just for the sake of it.

01:33:21:19 - 01:33:53:11

There needs to be a valid reason for it. Um, perhaps again, this is something that could be added to the statement of common ground between the applicant and the councils. Um, I think and sorry, just just as a general statement, I think, um, all of the different species that we're going through here, it would be very helpful if those were individually identified in the statement of common ground and dealt with within the statement of common ground. That would just help to tie everything together if possible.

01:33:55:03 - 01:33:56:18

So you're about to say something.

01:33:56:24 - 01:34:27:05

Sorry. I think that the key point was when Gareth asked, what was that precautionary approach. And we can we can agree that we've we've specified recently specified precautionary measures within the Samp or Kemp. Um, so, for example, soil handling and how that would be done. And um, you know, ensuring that we're not leaving trenches open in sensitive areas that could cause entrapment, that kind of thing. Yeah. Um, but it would be precautionary. Yeah.

01:34:27:20 - 01:34:28:05

Okay.

01:35:07:02 - 01:35:09:26

Thank you. So, moving on to Otter.

01:35:11:15 - 01:35:30:29

Um, sorry. Going back to. No, let's continue with Otter. So, um, uh, the applicant has updated the camp. Um, section 2.8.8 to add, uh, mitigation for Otter. Um,

01:35:32:20 - 01:36:02:21

South Derbyshire District Council. A deadline for said that, um, ideally, the proposed development would not result in the loss of any halts and that it fully incorporates the otters foraging needs. No works of any kind, including clearance of vegetation and storage of materials, should take place within the protection zones unless a licence has been issued permitting such activities. Um and new well established trails should be identified. Um.

01:36:02:23 - 01:36:33:18

During construction, it's essential that machinery which harm them is made safe or cordoned off with temporary fencing. At the end of the working day, um, the camp outline camp has added some detail on the proposed outline in the proposed mitigation. It doesn't add all of the mitigation suggested by South Derbyshire in its response to question 7.9, that I just quickly read through. Um,

01:36:35:06 - 01:36:39:13

should that suggested mitigation be added to the outline? Kemp.

01:36:41:08 - 01:36:52:26

It's not entirely clear to me now, off the top of my head what what we're missing. It could potentially be the licensing aspect if we find a shelter, I think. Um.

01:36:55:12 - 01:36:59:28

But yeah, I mean, essentially, we we'd be we'd be happy to provide the measures.

01:37:00:11 - 01:37:04:11

That sensible and appropriate measures. Yeah. So we the primary.

01:37:04:13 - 01:37:39:14

The main thing would be to do and you would on any scheme like this with, with Otter you'd do pre-construction checks to see whether there's a shelter present. Yeah. I mean, if I can just put it into context that actually, you know, we've got to bear in mind that Otter are an incredibly mobile species. They'll cross mountains to reach new watersheds, and they'll travel through the centre of major urban conurbations. Um, so their ability to cross a, you know, a few meters of culvert in dark farmland is, is not really an issue.

01:37:39:25 - 01:38:10:13

The issue is therefore what is the likelihood of there being construction impacts by human presence, machinery, noise, dust, that kind of thing whilst they are breeding nearby. Now female otters, they don't. Their territory is not as big as male otters, but they're still considerable. We're talking potentially tens of kilometers. Um, although they will overlap with other female otters, typically of the same, you know, sisters or mothers, that kind of thing.

01:38:11:01 - 01:38:50:18

Um, but if you drew a line of the watercourse present within the site, going right down to, you know, the mes or the Trent or an otter would be likely to have all of that within their territory. So the chance of them giving birth and having a natal den and natal halt in the vicinity of a crossing point at the time of construction is incredibly unlikely. That's that's further, more unlikely because, as you can imagine, the crossing points have naturally selected the areas of least impact.

01:38:50:20 - 01:39:24:26

So where the linear habitat is the narrowest. So you would not expect a female otter to choose those locations to raise cubs when you've got field margins very close and a very narrow linear corridor. They typically choose denser, more protected areas, often those that don't flood islands, those kinds of things. Um, so I think it's incredibly unlikely, but not impossible.

01:39:25:08 - 01:39:32:28

And pre-construction checks would, would, would resolve the residual low level of impact.

01:39:33:05 - 01:39:40:03

And that's the focus of the measures in the Kemp that. Um, any further comment from South Derbyshire?

01:39:41:15 - 01:40:18:03

Um, yes. Obviously we raised the issue of Otter because they were originally scoped out of the first proposals. So, um, we've we've focused on that. Those elements, I think the direct harm of Otter is being mitigated, but there still might be some levels of disturbance from human intervention in those

areas. So I think you could expect that a foraging otter might not use that site during construction or disturbance. Um, and another aspect would be I think they also would be particularly vulnerable to HGVs on the water crossings.

01:40:18:14 - 01:40:22:04

Uh, particularly, um. Okay. Thank you.

01:40:22:10 - 01:40:49:16

Thank you. I think, again, just to review the Kemp measures in the light of South Derbyshire's deadline for comments would be helpful. And then to add the, as we said before, the consideration of impact or not as to the statement of common ground with the other protected species, please. Would be helpful. So could I please. Yes. Going there.

01:40:52:06 - 01:41:32:19

Yeah. Thank you. Um, obviously entirely understand in terms of the, uh, the oral questions, um, the need to look at individual protected species and mitigation for all of those. Um, and it was, um, it was just a point, obviously. Um, site clearance was mentioned and sort of pre-construction of the solar farm, um, itself. And it's really just to make the point so that you'll, you'll, you'll be aware that obviously the access, um, which is a large and long element to this site overall, in order to get to where the solar wind farm, um, or the solar panels are intended to be.

01:41:32:28 - 01:41:34:26

Do you mean, do you mean the whole road through the site?

01:41:34:28 - 01:42:05:02

I mean the whole the whole road through the site? Correct, sir. That that does, um, effectively cut through, um, the lowest part of the site where the, obviously the, the watercourse is and you'll see from site visits, uh, that is the, the you know, if I can put it in this sort of layman's terms of the wildest, um, part of the, um, the overall site and that is, um, A big wide swathe.

01:42:05:10 - 01:42:49:12

Um, that will need to be cut through, uh, to effectively get to, um, the solar farm proper to install those panels. So there is a, um, if you like, a collective impact that the district council has concerns about in, in ecological terms. Um, and as I say, I understand why it's necessary to kind of pick out individual species and the mitigations for those, but it's obviously important for you to understand and to take a view on that, um, that that broad habitat impact on that perhaps most sensitive, um, element of the site.

01:42:49:14 - 01:42:50:05

I don't know if.

01:42:50:24 - 01:42:53:18

Yeah, I think that's thank you for that comment.

01:42:53:20 - 01:42:54:16

That's helpful.

01:42:54:25 - 01:42:55:10

Um.

01:42:58:28 - 01:43:04:03

I do I do need to consider the protected species, specifically those specific.

01:43:04:05 - 01:43:05:09

Policy tests.

01:43:05:22 - 01:43:27:29

For me to consider. So I do need to go through that process. Um, and in some ways, those are some of the key impacts to consider in relation to the whole road location. But sorry, I was I was, uh, not using the microphone properly there, having requested everyone to use it properly. Um.

01:43:34:10 - 01:43:47:19

Is is the council suggesting that consideration is given to adjusting the position of the whole road at this stage? Is the justification for considering that?

01:43:51:10 - 01:44:16:22

I, I don't know if that's possible in terms of, um, the logistics of doing that, but it, it I suppose the point and the concern that the district Council has is that it would appear that the route, as currently proposed, would effectively cut through what what would appear to be the, um, the area with the most habitat value. Mhm.

01:44:18:04 - 01:44:28:09

I understand the comments. So I've walked the across Britain way through that part of the site and experienced that for myself. So I understand those comments. Um,

01:44:30:04 - 01:45:00:09

I think it's a question of what it's reasonable to request the applicant to do at this stage, and whether that's reasonable mitigation or not. Um, you know, there is there is an overall expectation of mitigating biodiversity impacts within the, the policy. So there's an overall expectation of that sort. There's no real expectation of trying to have some overall benefit and exploring benefits as well as that. Um,

01:45:02:03 - 01:45:16:20

I think it's I do like the layman's terms. I'm very comfortable with layman's terms. Um, it'd be interesting to have the applicant response to those comments, I think, because, you know, we're just standing back a little bit, looking at it at a slightly higher level.

01:45:18:28 - 01:45:56:05

Yeah. Thank you sir. Um, I'm, I'm keen to. And I don't mean to be facetious. I'm keen to understand which area we're talking about because it to my mind, we've we've taken great pains to design this scheme and retain all the important areas of habitat, notwithstanding that there are some watercourse crossings, um, simply because there needed to be um, but the vast majority of the watercourse is actually outside the red line boundary dips in and there's a couple of crossing points, but I'm not clear.

01:45:56:24 - 01:46:08:16

I can't remember the exact term used, but it was all swathes of the best habitat, I think. And that's that's not my experience on the site. So I'm just keen to understand where we're talking about.

01:46:08:21 - 01:46:31:04

Okay. Could I? I don't want to create a necessary work or confusion or anything, but I think it might be helpful just to have a little summary of the consideration that's been given in the routing of the whole road to the habitats. It could just be a sentence or two, perhaps, but I think that might be helpful.

01:46:31:23 - 01:46:43:10

Yeah. We can we can provide that. That's that's fine. But equally it would be useful if that area that we're talking about could be clarified because it's more specifics. It's the first I've heard.

01:46:43:12 - 01:46:56:13

Of it okay. So if there are more specifics to on those general comments, I think in relation to those general comments. Yeah. Yeah. Thank you. Thank you. All right. Stay with me, please.

01:47:58:21 - 01:48:00:12

Thank you. Right. Um.

01:48:05:08 - 01:48:35:08

Item I. Budget license. Application. Letter of no impediment. Um. The applicant, um, at deadline for referred to a draft license application being submitted to the Natural England on 10th of September and subsequent meetings with Natural England, and the suggestion that Natural England would be in a position to issue a letter of no impediment no later than 15th of November. Um.

01:48:38:07 - 01:48:39:23

Is that still the position?

01:48:42:15 - 01:48:58:24

Hi. Um, it's Rebecca Turner from LLC. Um, on behalf of the applicant, um, a letter of no impediment has been received as of yesterday from Natural England. Um, and the measures specified in that document seem reasonable and deliverable as part of the formal licence application.

01:48:59:05 - 01:49:02:04

Okay. Thank you. So, will that be submitted a deadline five.

01:49:03:18 - 01:49:24:11

Um, so their request was to submit it as part of the formal application following consent. Um, the measures specified are relatively straightforward. So things like making sure that, um, there isn't any work undertaken within 20m of the budget set, which we've already stipulated. Okay. And yeah, we can provide detail of what, what that is as well as share the letter.

01:49:24:18 - 01:49:38:03

Yeah. So if possible, if a letter, if a copy of that letter could be submitted to the examination at deadline five. Yeah. And then just to ensure that, um, you know, set out how the measures

01:49:39:18 - 01:49:42:19

suggested by Natural England are secured as well.

01:49:43:01 - 01:49:44:18

Yeah. Absolutely. That's not a problem.

01:49:44:20 - 01:49:46:11

Great. Thank you very much indeed.

01:49:51:06 - 01:49:53:11

Okay, let's move on to, um.

01:49:55:14 - 01:50:03:28

Well, item J is a general question about species protection. Are there any other particular issues around species protection?

01:50:06:11 - 01:50:11:28

No. Thank you. Um item K, um,

01:50:13:25 - 01:50:28:03

Environment Agency. Um, in the deadline for submission, um, referred to Himalayan balsam. Rhododendron, cherry laurel. How do you pronounce buddleia?

01:50:30:21 - 01:50:35:23

Um, buddleia being recorded within the site boundary. Um,

01:50:37:09 - 01:51:08:03

and then said that, um, where possible, they should be removed. Replaced with native species. Um, if not possible, then risk of managing, spreading, spreading, invasive, non-natural, non-native species um, should be appropriately controlled. Um, a couple of other things that the Environment Agency mentioned at deadline for um, the outline.

01:51:08:05 - 01:51:13:26

Kemp mentions Japanese knotweed, but doesn't mention any of the other

01:51:15:16 - 01:51:21:28

invasive non-native species that the Environment Agency have mentioned. Um,

01:51:23:24 - 01:51:28:29

other general mitigation measures included in the Kemp. Um.

01:51:32:13 - 01:51:47:19

I think we need to ensure that those include all the mitigation that the E mentioned. Um, are there any other measures that are specific to species other than Japanese knotweed that need to be identified within the camp.

01:51:51:23 - 01:52:06:00

Yes. Thank you sir. David Green for the applicant. I think in the camp we simply refer to invasive species. Um, so the only one that as you, as you realize, the only one that we name check, as it were, is Japanese knotweed. Um.

01:52:08:09 - 01:52:19:06

There are some specific. So it says, for example, marking and protective fencing of Japanese knotweed will be installed prior to the works. Mm. It doesn't that's not a general statement about.

01:52:19:18 - 01:52:20:16

No it's not clear.

01:52:20:18 - 01:52:21:27

Whether that applies to other.

01:52:21:29 - 01:52:45:15

So that would be specific to Japanese knotweed. But then elsewhere within the camp we do regularly discuss toolbox talks for invasive species, pre-construction surveys, best working methods, um, any invasive species within or adjacent to the site will be demarcated prior to works and will be subject to chemical manual treatment. So maybe we just need to clarify what we mean by invasive species and then have a list.

01:52:45:22 - 01:53:01:17

Okay. So so provided those other invasive species are identified. Did the council have any concerns about the mitigation measures in the camp? So it's 2.8.2.

01:53:01:28 - 01:53:17:19

Uh, no, not really. It would just be to highlight the importance of water invasive species. Okay. Um, and they possibly that could get into the SAC through transportation from the site. So it would be a particular focus on them really as well.

01:53:18:01 - 01:53:21:01

Okay. Thank you. Um.

01:53:24:25 - 01:53:25:10

Okay.

01:53:27:03 - 01:53:53:01

That's fine. So if the camp could be updated accordingly. Again, actually, if that could be added to the statement of common ground with the council as an issue as well as the protected species, that would be helpful. Thank you. Biodiversity net gain item. L um, so earlier, earlier today, um, the applicant has mentioned. Biodiversity net gain. Um.

01:53:55:03 - 01:54:25:05

Biodiversity net gain is not a requirement at this point. Um, but I'm seeking clarification of what the applicant is offering at this stage, whether that's a firm offer and whether it is something that I should be considering in the planning balance, because currently there isn't a firm offer, it is not firmly secured to deliver biodiversity net gain.

01:54:25:12 - 01:54:37:26

I note that some of the recent orders have included a requirement to deliver a certain amount of biodiversity net gain. Um.

01:54:40:21 - 01:54:50:06

That has not been offered at the moment. So it's just having clarification of what should be considered in the planning balance as much as anything else.

01:54:51:08 - 01:55:27:21

So thank you, Patrick Robinson. Viva. Um, yes. Well, we've we we have considered that taking it on board our position remains. Um, it will be, but necessarily by the nature of the development, um, however, we understand where that request is coming from, and our response would be to add to requirement eight, uh, wording to the effect of, um, that the, uh, the limp will demonstrate how the plan will secure a minimum of 10% biodiversity during the operation of the authorised development.

01:55:28:13 - 01:55:35:06

So, um, the operative part within the requirement, a minimum of 10% biodiversity net gain.

01:55:35:12 - 01:55:40:10

So other. Thank you. Other. Other made orders. Um.

01:55:42:26 - 01:55:55:13

Would typically identify the percentage of biodiversity net gain in habitat units and hedgerow units in river units. So that's what's typically done elsewhere.

01:55:58:28 - 01:56:02:00

Um, I imagine the issue. Well I'll allow. Yeah.

01:56:03:11 - 01:56:34:21

Turn it off. Yes. Thank you sir. Yes, that that is that is what what's done elsewhere. We've, um. Well, in terms of the assessment, we were to do a biodiversity net gain assessment. Um, what we're demonstrating is that as part of this scheme under discussion, we're anticipating 125% gain in habitat units, uh, 20% in hedgerow and nine and 20% in, in river units.

01:56:34:23 - 01:56:41:06

You know, for a site this big it's that's an thing. That's a that's a huge benefit for the ecology of this area.

01:56:41:26 - 01:56:49:07

So my question is whether the applicant is making a firm commitment to delivering.

01:56:51:15 - 01:57:24:12

The net gain in habitats units, hedgerow units and river units in the way that you've described, whether that's intended to be a firm commitment and if it is intended to be a firm commitment that should be relied on in the planning balance, then whether that should be secured in those terms in the order, in the same way as being carried out on other projects. Because what's just been described to me is slightly different to that.

01:57:24:14 - 01:57:33:23

It's it was a general figure of biodiversity gain. Um, it didn't seem to be quite so firm as has been secured elsewhere.

01:57:35:11 - 01:58:08:17

Said Patrick Robinson. It's not intended to do anything other than reflect the legal obligation which isn't yet there for, uh, in soaps, but I understand it's coming. So in it's it's intended to have that effect and to apply to however one would define that being whether it's by units or not. No, we haven't looked at it to actually break down specific units and provide specific units for that. And I imagine we all understand the concern of that is that you are you're becoming very specific now on individual design.

01:58:08:19 - 01:58:25:26

Whereas, um, clearly we we comfortably expect to beat that 10%. Um, but we are looking to have that legal, um, delivery around that statutory figure rather than more that can go in.

01:58:25:28 - 01:58:27:27

Okay. So so thank you. Um.

01:58:33:06 - 01:59:01:14

Because of the legislative position at the moment. It is not something that I that can be insisted on in terms of delivering that biodiversity net gain. It would fall under the sort of general policy requirements to consider by biodiversity gain overall. So I think I think it's largely at the applicant's discretion. Um, this issue, um, and it's.

01:59:03:22 - 01:59:49:18

In the applicants court, in terms of the benefits, it wants to show the community that it is delivering. For example, it's in I believe it's in that general area. Um, there is so it is for the applicant to decide what it wants to offer in those terms, in terms of benefit, in terms of that have just described, I think, one of the noting that there is precedent and if a different approach has been taken on this to, you

know, the most recent made order of cotton, the Mallard Pass solar farm, made order, which do go further.

01:59:50:07 - 02:00:00:20

I think if a different approach has been taken here, I need to, um, set out to the Secretary of State. Why a different approach has been taken. So I think it would be.

02:00:04:06 - 02:00:10:07

Helpful to get the applicants assistance with setting out why a different approach has been taken here to elsewhere.

02:00:11:24 - 02:00:26:26

Thank you, Patrick Robinson. Indeed, we understand the point which is, uh, addresses on on that I it may be my inadequacy of explaining our approach, and we are much closer to what you're talking about there, but certainly understand how you're asking us to address you.

02:00:27:02 - 02:00:54:00

Okay. And it may be a shortcoming in my description of the issue, but, um, that the made the recently made orders do seem to have a very common approach, and the way that the, um, the requirement is set out in those orders does seem to be pretty consistent. Um, so so the applicant will go back and review. Thank you.

02:00:59:03 - 02:01:06:09

Right. Are there any other biodiversity matters that any parties would like to raise? Councillor Wilton. Um.

02:01:06:21 - 02:01:39:27

Thank you very much. As you're aware, I farm adjacent to this site down one side. Um, and I just wanted to. I did put my hand up earlier, but you were very busy. Um, just go back to Mr. Willoughby's point. The 74 acre whole track is. It goes through. The applicant said the field crops go right up to the brook. They don't. It's too wet down there. It's flood zone three. There is a wildlife area where the culverts are going on Fairfield Farm that I don't believe has been, they call it a pet area.

02:01:39:29 - 02:02:12:02

I don't know if it is, but I've been a wildlife area that goes up to the wood for 30 years. Um, and the cumulative impact is you've got Fairfield Beth, which is currently in 501 containers on a speaker steep aspect which abuts this whole track, 74 acres. And if you spoke to the farmer who is a tenant farmer, they've seen the otters down there with young. And we also have this video, evidence of row on Park Farm.

02:02:12:04 - 02:02:42:13

There's row I've seen row on my farm. There's muntjac. I appreciate deer probably aren't seen perhaps as important, but this is 472 acres. Um, it there is no climate benefit at all from this whole track. And this morning we heard they were going to leave the culverts in because they were going to get lorries on it. But now we've heard it's only a temporary haul truck for the build, but then it's going back in and it also takes out a 60 60 metre swathe of woodland.

02:02:42:15 - 02:03:13:06

Now I have drone footage of the area because it is such a massive area you can't see it. But I am deeply shocked that that the applicants didn't know about this area. You know, 501 containers. I know it's a different application, but it abuts and it's all a tenant farmer who will lose his farm as well. So I do have concerns because there are otters there. Um, you could speak to the farmer and he would tell you I farm down to the River Trent and back to this.

02:03:13:08 - 02:03:43:10

So I do think it's very important that we don't look at every species individually, but across the lot, because there has been very little said about this whole track. But it's not, you know, is it there for three years? Is it there for two years? Because to get lorries across a wet flooding flood zone, three peat bog area and part farm. I'm looking forward to the section 106 agreement because part farm has three bits in and it's got the 74 hole track.

02:03:43:12 - 02:03:55:23

It was originally part of the application, but but the owners fell out and they came out of the application. So I just wonder where all this wildlife will be mitigated. But that's the use of yeah.

02:03:55:25 - 02:04:23:27

Thank you. So I think we've covered some of that territory already. And I think some of the, uh, additional information that the applicant is going to provide will be helpful. Um, and understanding the reasoning for the selection of the whole route that are going to be discussions tomorrow or later today about cumulative effects. So we need to we need to go back into those as well. Um, helpful comments. Is there is a quick response from the They are content.

02:04:23:29 - 02:04:55:08

Yes. Yes. Thank you for the comments. Um, well, to start with, I'm not entirely certain of the area we're talking about. Um, all of the areas affected and impacted within the Red line boundary have been surveyed by professional ecologists with habitats, um, professionally and and expertly classified and and conditions assessed. So, um, again, any area that's pointed out to us, we're willing to look at it and provide more detail.

02:04:55:17 - 02:05:26:14

Um, but I'm not aware of this area. What I would say is, and I recognize the comment that we shouldn't look in isolation at species and I think nail on head. You know, I think sometimes there is too much emphasis on great crested newt and skylark. And actually we do need to step back. And we do need to recognise that this is a biodiverse, poor habitat. It's intensively farmed Deformed arable fields that are being turned into species rich fields.

02:05:26:16 - 02:05:48:21

The biodiversity net gain of 125% is is fairly staggering. To be honest, um, 20% for hedgerow units and 20% for river units. And I think that does need to be recognised. I think we do need to recognise that that goes beyond benefits to great crested newt, to skylark, and it goes into

02:05:50:14 - 02:06:14:02

invertebrates and plant life and all the other things that we're not discussing here. Um, I'd also reflect on comments like there are muntjac deer, I mean muntjac, and are invasive species that are of no bearing really, in ecology terms, other than the fact that they damage our woodlands and they shouldn't be here. So we're you know, I'm willing to respond to those points on, on a, on an individual basis. But I think we should look at the bigger picture.

02:06:14:19 - 02:06:16:24

Thank you. And I think it, um.

02:06:19:17 - 02:06:30:00

Would strengthen the applicant's argument even more. If those net benefits were firmly secured, I would observe. I would agree. Thank you, sir.

02:06:30:02 - 02:06:31:02

If I might just.

02:06:31:15 - 02:06:32:12

To to.

02:06:33:07 - 02:06:53:03

I suppose, echo that point. I think, um, my view would be obviously if you are, um, being asked to consider at that 125% net gain in biodiversity as a, as a benefit within the planning balance, that that really does need to be firmly on the table. If that's the case. Yeah.

02:06:53:05 - 02:06:54:09

Indeed. Indeed.

02:06:55:28 - 02:06:57:00

Yes, please.

02:06:58:04 - 02:07:34:17

Just on the temporal, possibly temporal nature of the being offered, um, whether it's heavily, heavily reliant on creating species rich grassland, uh, and the fact that, um, the site will be turned back to agriculture, um, after its time period kind of negates possibly the process of being genius, and you've taken all that time to develop species rich habitat for it to be removed. Um, and also obviously, if you're looking at species rich habitat, the benefit comes after 30 years.

02:07:34:23 - 02:07:43:18

You know, it takes a long time to establish these habitats. Um, so a long term commitment to those habitats would be would be useful as well.

02:07:43:22 - 02:07:50:03

Um, I think I've resisted the temptation to get into a discussion about, um.

02:07:53:16 - 02:08:17:25

Protected species increasing in the area, habitats improving in the area of a 40 year period to, you know, the benefits of that, but then balancing that against the agricultural uses afterwards, I think there's potentially some very academic discussions around some of those conflicts. Um, so I'm not proposing to go down that avenue at the moment, but I think, um.

02:08:20:00 - 02:08:51:01

Maintaining the habitats and having those measures in place is important. Obviously. Um, you'd expect to see there's any management plan. Yeah. Okay. I'm going to draw, uh, item five to a close. Um, it is 4:08. Um, can we take a brief break? We do need to finish at five. And I would like to get through item six before then. Um, as much as possible.

02:08:51:03 - 02:09:08:12

And there's been a suggestion that the applicant maybe has some visuals to assist us with item six. So, um, I'd be anxious to do that before we close today, but if we could just take, um, a brief pause and resume again at 4:15, please.