



Hearing Transcript

Project:	Oaklands Farm Solar Project
Hearing:	Issue Specific Hearing 1 (ISH1) - Part 5
Date:	23 October 2024

Please note: This document is intended to assist Interested Parties.

It is not a verbatim text of what was said at the above hearing. The content was produced using artificial intelligence voice to text software. It may, therefore, include errors and should be assumed to be unedited.

The video recording published on the Planning Inspectorate project page is the primary record of the hearing.

Oaklands_ISH1_23 Oct_PT5

Created on: 2024-10-23 11:50:28

Project Length: 00:31:44

File Name: Oaklands_ISH1_23 Oct_PT5

File Length: 00:31:44

FULL TRANSCRIPT (with timecode)

00:00:05:12 - 00:00:38:02

Um, are we okay? We can start this. Okay. Thank you. It's, um. It has just gone 12:00. Thank you for the quick turnaround. That's appreciated. Um, I'm aiming to complete by 1:00. Um, because we have another hearing that starts at 2:00. So, um, I think that should be achievable, but, um, let's see how we go. Um, so recommencing item nine of the agenda, which in matters related to the draft development consent order.

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

Um.

00:00:46:27 - 00:01:05:08

I think the questions are generally, hopefully, um, self-explanatory. Could I could I I've been asked again just to highlight the need to speak clearly into the microphones. 1 or 2 contributions were, um, Not particularly clear earlier. So just just a reminder that please. Um,

00:01:07:00 - 00:01:09:06

so nine a the

00:01:10:23 - 00:01:28:25

authorized development wording within schedule one references to different sections of the 2008 act, and actually a variance of wording between different made orders. Um, this comment has really been made.

00:01:31:03 - 00:01:42:24

In relation to trying to achieve consistency as much as anything else, as as the applicant got any thoughts about how we might move that forward? Uh, so yes, Patrick Robinson for, uh.

00:01:43:06 - 00:02:12:03

Five and I should say I may be, um, supplemented either this or the next session by my colleague Lindsey Reed, who's here, but I'll see how much I can get done that. Uh, yes. We've, um, uh, it is a we can see it would be section 32, I think, without going into a legal treatise on 31, 32, sort of, uh, consecutive drafting, but 32 looks better. And if that's where the way the echoes are moving, we'll move with that.

00:02:12:05 - 00:02:18:28

Okay. Thank you. Um, item B, soap preparation works. Um.

00:02:33:00 - 00:03:04:16

There have been various adjustments made to the DCO in relation to mitigation for site preparation works. Um, some of the, some requirements include those within commencement. Commencement so that mitigation measures are provided for that stage. Um, I'm not proposing to go through every different case of that, but, um, do the councils have any remaining Concerns in relation to mitigation of site preparation works, please.

00:03:04:18 - 00:03:11:12

And I now would highlight previous discussions about archaeology which we had earlier traffic and the River mes.

00:03:14:07 - 00:03:25:25

Nothing specific. So I think it's just obviously important um that to ensure consistency um, and make sure that that the site preparation definitions are aligned. Um.

00:03:28:18 - 00:03:29:20

I think that's.

00:03:29:22 - 00:03:30:07

Okay.

00:03:30:09 - 00:03:30:26

As far as we.

00:03:31:04 - 00:03:43:14

Know, no particular concerns at the moment. Thank you. Let's let's continue to make progress. So, um, consent to the benefit of the order. So this is item nine. See um.

00:03:52:11 - 00:03:59:09

So this is in relation to the ability of the applicant to transfer Um.

00:04:01:12 - 00:04:39:12

Provisions to other companies? Um, certainly recent DCO, um, appeared to be very clear that, um, the Secretary of State would wish to be have certainty that the transfer the company being transferred to has has the relevant licence under the 1989 act. So that seems to be pretty clear across recent discos, um, including gate, Burton and Mallard Pass.

00:04:40:18 - 00:04:43:25

Um, could the applicant comment further, please?

00:04:45:21 - 00:05:10:21

So thank you. Um, Patrick Robinson, survivor. Um, will you have our deadline for submissions on that? I perhaps when when we say, uh, there aren't any DCO recent DCO precedents, uh, limiting, uh, transfer without consent to, uh, licence holders. Well, you've just told us there are. So we're talking. Oh I see.

00:05:10:23 - 00:05:11:18

Have I misquoted.

00:05:11:20 - 00:05:12:20

Well no I.

00:05:12:22 - 00:05:14:11

Mean or misunderstood. Yeah.

00:05:14:17 - 00:05:51:08

So I think the position is unlikely to be that you would say to us, can you consider this further? I mean, our present position is we don't think it should be limited only to, um, uh, licence holders. And

the reasoning we were giving is that the, um, uh, once you're past the point of, um, uh, any compulsory acquisition, um, or liabilities on that, then there's, there's going to be less concerned about, um, uh, Secretary of state, uh, consent for, for the transfer.

00:05:51:15 - 00:05:57:22

But, um, I'm conscious if you're, you've just quoted us at least one, uh, dto Detail example.

00:05:58:17 - 00:06:28:07

Let me. Perhaps trying to be a little bit too hasty. So let me just slow down a little and, um, refer to the gate Burton Energy Park decision letter. Okay. So, um, nine paragraph 9.7 of that decision letter says the Secretary of State has removed article 30 33C from the draft order, which sought to allow the applicant to transfer the benefit of the order to a holding company or subsidiary without the consent of the Secretary of State.

00:06:30:00 - 00:06:50:21

If the applicant is to transfer the benefit of the order to a holding company or subsidiary, the Secretary of State would expect that company to be holder of a license under section six of the Electricity Act 1989, and therefore considers this additional exemption from the need for consent to be unnecessary. So I think the gate. Burton.

00:06:55:24 - 00:06:56:09

Okay.

00:06:58:25 - 00:07:03:19

And then the Mallard Pass. I'd also refer to the Mallard Pass decision letter.

00:07:06:12 - 00:07:21:12

The Mallard passed decision letter 9.4, paragraph 9.4. In article 35, the ability of the Undertaker to transfer the benefits of the order to a subsidiary company without the consent of the Secretary of State has been removed and.

00:07:22:23 - 00:07:24:01

Transferred to a subsidiary.

00:07:28:27 - 00:07:35:07

So we sort of trying to read as you're doing it and thinking the wording looks similar to what we've got. So we're trying to.

00:07:35:09 - 00:07:54:11

We need to be precise, don't we. So I think could I just ask the applicant to go away and review those two decisions? In particular, it seems unsurprising to me that the Secretary of State would expect The Undertaker to, um.

00:07:58:02 - 00:08:06:12

To be a holder of the licence under section six of the Electricity Act, that it feels surprising to me that the Secretary of State would allow that.

00:08:08:20 - 00:08:19:21

Yes or no, particularly on Monday. This is focusing on provisions about the transfer to a subsidiary or holding company, as opposed to a completely new party, so that that does make it rather narrower focus.

00:08:19:23 - 00:08:26:02

It does. And those previous decisions do deal with subsidiary or holding company explicitly. So yeah.

00:08:35:11 - 00:08:36:03

I would.

00:08:36:09 - 00:08:37:05

We can if.

00:08:37:07 - 00:08:37:27

You could review that.

00:08:37:29 - 00:08:40:18

I think we can see where where it's going on that.

00:08:40:28 - 00:08:41:15

Thank you.

00:08:44:03 - 00:08:53:15

I think given the previous comments I would be minded to make those alterations myself, but I'll leave it to the applicant to review. First of all. Yeah, yeah.

00:09:03:06 - 00:09:35:19

Item D um, there has been a number of exchanges about, um, how schedule 12 should be, um, set out the amount of detail whether a separate schedule might be appropriate. Um, uh, I'm content with whichever mechanism, um, uh, you know, and, and the mechanisms appropriate provided that and I'm mindful that there have been some updates to the ES during the examination.

00:09:35:26 - 00:10:14:01

There are additional comments that have been submitted that are updates to the environmental statement. Um, there are a number of references to the environmental statement within the DCO. So it's important that the most up to date version of the environmental statement is certified. And it's important that the correct revision of every document is identified. Um, so I think I just asked the applicant to review that, and I'm perfectly relaxed about schedule 12 being extended to identify every, um, revision.

00:10:14:03 - 00:10:32:17

But if the applicant felt it tidier to have a separate document that itself was certified by the DCO, that's a mechanism that's been used elsewhere to avoid the DCO becoming too cumbersome. Um, but the important principle is that every revision.

00:10:34:20 - 00:10:40:07

Of every document in the s is referenced. Does that appear reasonable?

00:10:40:15 - 00:10:52:00

It does. So interested, I understand it that it's it's the final revision. So anybody coming to it needs to know what is the document read then have to see the evolution. They just need to see the final the final resting point.

00:10:52:02 - 00:11:03:15

Yes. Because you know the applicant has been, um, very helpful in updating quite a number of the documents. So, you know, we need to reflect that in what is certified.

00:11:18:09 - 00:11:18:24

Um,

00:11:20:22 - 00:11:30:06

item E again is a consistency issue with um, other DCO as much as anything else. Um.

00:11:33:13 - 00:11:56:21

And again, a slightly different approach is taken on, on different recent consents. I think, um, I just encourage the applicant just to review that wording and see whether there can be more consistency with other recent consents. It's not something that exercises me particularly, but in the interest of tidiness as much as anything else.

00:11:57:24 - 00:12:03:29

Due to Patrick Roberts, I think we can see where the amendment would be needed to bring it in. We are happy to do that.

00:12:04:01 - 00:12:04:16

Thank you.

00:12:11:06 - 00:12:44:21

Um. Item nine f um, a little bit of chewing and throwing on this one. Um, previously. Um, I think I'd made a suggestion as to whether, um, the lamp should be submitted to and approved by the local planning authority in consultation with the EEA and Natural England. Um, the applicant updated the lamp that they made the appropriate update to the DCO. Since when the E have suggested they don't need to be consulted?

00:12:55:02 - 00:13:13:21

So it deadline for response to question 117. The E appeared to be content not to be consulted on the lamp. So it feels that, uh, the requirement could be amended again.

00:13:16:00 - 00:13:17:21

Is that applicant content with that?

00:13:17:28 - 00:13:27:24

We are. So I was just checking with our understanding of what Natural England's position is. Certainly. They haven't said they want to be consulted. And our understanding is that they.

00:13:27:27 - 00:13:40:26

So I think natural Natural England haven't responded to their requirement for consultation with them. Should remain. Sorry if I confused. It's the Environment Agency who said they don't need to be consulted, so I may have confused things there.

00:13:41:07 - 00:13:45:08

That's it. So, um. Uh, so e out any in?

00:13:47:05 - 00:13:48:22

Correct? Yeah. Thank you.

00:13:50:09 - 00:13:51:29

We've gone backwards and forwards on that one.

00:14:00:03 - 00:14:00:21

Um.

00:14:02:26 - 00:14:06:04

Let me take a number of these together. So g,

00:14:07:23 - 00:14:08:20

I.

00:14:11:06 - 00:14:16:04

J and K are all very similar. Um.

00:14:18:17 - 00:14:43:25

Those comments purely come out of reference to the cotton solar project. Made order and consistency with those. Um, I think it could be potentially argued that there are already sufficient provisions for maintenance elsewhere in the DCO. Um, and if the applicant to prove, you know, could demonstrate that and, um.

00:14:46:11 - 00:15:12:01

Preferred could see that those additions are not necessary. Um, I'm happy to make that argument in the report because of the the recent DCO includes that additional wording, but previous DCO, a number of recent previous DCO do not. And it feels to me that actually maintenance may be adequately covered elsewhere. So.

00:15:14:13 - 00:15:32:13

So our discussions are we we can make those amendments. Um, they don't look to be unnecessarily onerous drafting. If they do duplicate, they're not duplicating to the point of making the um, the wording unwieldy. So on all of those we're happy to make okay.

00:15:32:15 - 00:15:35:09

The amendments. That's fine. I'm happy with that. Thank you.

00:15:37:19 - 00:15:39:07

So that was g.

00:15:45:07 - 00:15:47:14

G I j and k.

00:16:17:19 - 00:16:20:04

Um H9H.

00:16:34:12 - 00:16:35:21

So just bear with me.

00:16:54:24 - 00:17:11:15

So the there have been, um, discussions around, um, the potential replacement of solar panels during operation. Um, the environmental statement, um.

00:17:13:15 - 00:17:31:29

Typically assumes minimal replacement, minimal additional traffic during that phase. Um, so it's ensuring that that is reflected in the DCO and in the mitigation that's provided. Um.

00:17:34:14 - 00:18:19:12

The outline and um, I think the, the, the outline ENP is probably satisfactory for this rather than the DCO. I probably need to just reflect on that a little bit because it is a key issue. Um, but for the moment. concentrating on the outline ENP and the wording in 3.1.4 of the outline. ENP currently states solar panels are not expected to be replaced during the operational life of the proposed development, save for individual instances of damage or unexpected failure of specific panels, and to account for this, an annual replacement rate of 0.2% per year has been assumed.

00:18:19:27 - 00:18:50:11

That doesn't feel to me particularly firm. Um, I'm not expected to be. Um, an annual replacement rate has been assumed of that amount, so it doesn't it doesn't firmly secure, um, a replacement rate. Some of the DCS have actually gone a little bit further and limited the number of HGV movements during the operational stages as a kind of a proxy for this matter.

00:18:51:14 - 00:19:18:16

Um, so I'm seeking firmness and precision in terms of, um, the HGV traffic, in terms of other impacts that may come from replacement of the solar panels. Um, I am somewhat surprised at the general trend of not, um,

00:19:20:14 - 00:19:54:03

allowing for substantial updates to solar panels given changes in technology, um, panels becoming more efficient over time. But there that seems to be a consistency across different projects. It frankly surprises me slightly, um, that there is a commercial benefit from doing that within a number of years, but that's the position we're in. The applicant has not deferred from that position at all. Um, so I think to ensure that.

00:19:56:16 - 00:20:07:01

The DCO is consistent, has consistency with what is assessed. I think we need more precision in terms of the replacement of panels or some proxy for that.

00:20:12:09 - 00:20:53:13

Yes, sir. And I suspect that, um, the initial response that, um, uh, this would also be, um, uh, regulated by article two of the DCO about the definition of maintain, which ties you to no more, um, materially new or materially more adverse environmental impacts. Um, I suspect to tell you. Well, that's a pretty moveable feast as well. So if you're looking for firmness at a as a number now on replacement rate, um, then yes, I think we have to come back to you and say, yeah, how how would we actually quantify that at this point, and you're looking for that woven into the OMB rather than drafting a verb.

00:20:53:25 - 00:21:20:19

Let's stick with the ENP at the moment. Can I suggest that the applicant also reviews of the recent made orders? Because there are different approaches taken and sometimes the proxy of HGV vehicle movements is used. I'm not I'm not particularly wedded to any approach, just provided that it is something that is precise, enforceable, etc.. Yes. Um, yeah. Okay. Yeah.

00:21:51:27 - 00:21:52:23

May I speak, sir?

00:21:53:09 - 00:21:54:06

Please? Yes.

00:21:54:25 - 00:22:34:26

Thank you. I just wish to go back with the point you've just raised to yesterday, which seems a long time ago now. Um, item three b the three culverts. Because under that discussion, we were told originally that the track would be in place to bring in unusual and large loads, because it's not only the

panels, it's the Bess and the lithium batteries. Then we're now looking at the culverts being potentially lifted or not, but there has not been the discussion on how those very large things that might need replacing also, such as the Bess, there was just a confusion that we never have yet got to the bottom.

00:22:34:28 - 00:22:37:17

And I just wish to raise that. Thank you, thank you.

00:22:37:19 - 00:22:53:10

That's that's a fair comment. So we have talked about replacement of the solar panels, but we haven't talked about replacement of the other equipment. Um, Perhaps the applicant could reflect on that for deadline five.

00:22:55:10 - 00:23:25:27

Hi, I'm Ashley MacInnis, on behalf of the applicant. Um, battery replacement is generally the cells within the battery unit, so we're provided for that with operational type vehicles. That's a manual kind of job that doesn't require heavy goods vehicles. Um, regarding the, um, culverts and the the whole track, we are we will come back with more detailed following the discussion we've had in the hearings. But, um,

00:23:27:24 - 00:24:00:18

the idea was the culverts would remain in place, um, to facilitate the delivery of those elements, the batteries, the HGV, the panels. And once construction was complete, the track would be removed and the culverts would either stay in place or be removed, as we're discussing. So, um, The provision of those culverts was there in the event that through the operation of the the project, that there would be another means of access for large loads if needed to.

00:24:00:24 - 00:24:15:19

Reinstating and reinstalling the the whole road across there. But we do have a number of operational access points described in our transport plan. So the typical um elements of the site will be serviced by those smaller vehicles.

00:24:16:00 - 00:24:46:04

Okay. So that's all within the study we talked about yesterday of the pros and cons of leaving the culverts in place, recognizing that the access requirements for operation rather different to construction, recognising there may be, um, impacts to be considered for the removal of the culverts, the later in state reinstatement of culverts, whether the balance where the balance of impact sits overall. Yeah okay.

00:24:46:06 - 00:24:47:08

That's fine why.. Thank you.

00:24:54:19 - 00:24:57:11

So we've dealt with I and J.

00:25:00:07 - 00:25:02:06

And K.

00:25:06:07 - 00:25:08:18

Which leaves item L. Um,

00:25:10:13 - 00:25:12:06

bear with me a moment, please.

00:25:22:10 - 00:25:38:10

So in in the, um, additional submission from the Environment Agency that was published yesterday, um, the Environment Agency stated that um requirement 22 four should include for approval in consultation with the Environment Agency.

00:25:43:13 - 00:25:51:02

Is the applicant content to add consultation with the Environment Agency and Natural England to 22 four, please.

00:25:52:27 - 00:26:09:27

Uh, so yeah, we are we understand the, um, agency. We've seen that request. Um, our understanding is that, uh, well, perhaps the position is natural. England haven't said anything yet, but I can't see what the difficulty would be of consulting with them, so. Yes.

00:26:10:07 - 00:26:11:04

Okay. Thank you.

00:26:18:20 - 00:26:27:25

Okay. That addresses all of the points on the agenda. Are there any other DCO matters that any party would like to raise at this point? Please let.

00:26:30:06 - 00:26:34:17

The councils know. Thank you sir, please. Yes. Yeah.

00:26:35:06 - 00:26:35:21

Um.

00:26:37:25 - 00:26:41:05

Just a couple of points. Um.

00:26:45:16 - 00:27:00:12

One was in relation to article two of the DCO, um, and uh, the definition of commencement. And it was just really a concern, sir, that um.

00:27:03:04 - 00:27:18:04

That that definition of commencement, um, doesn't allow for activities that kind of go beyond, um, the preliminary works, site preparation works, and whether then there ought to be some tightening up of, um, that definition.

00:27:19:02 - 00:27:29:15

Okay. There has been some toing and froing on this if there are. Could the council set out specific. Sure. Um, suggestions for that. That would be really helpful. Thank you.

00:27:38:29 - 00:27:39:23

Anything else?

00:27:40:21 - 00:27:53:19

Um, the only other points that article 11 um, in regards to temporary stopping up of public rights of way. Um, and again, it was just a concern that, um,

00:27:55:09 - 00:28:13:10

obviously the DCO gives fairly broad powers for stopping up rights of way. Um, it was just to ensure, again, that, um, that shouldn't allow for more disruption than, um, than the guidance suggests which which obviously calls for limiting impacts.

00:28:18:16 - 00:28:23:10

Could I ask the council again to make a suggestion as necessary on that one? Yeah. Thank you.

00:28:55:28 - 00:29:18:16

It would be helpful if their suggestions could be made by deadline five, because I can then incorporate that there will be an opportunity for the applicant to respond before I make my suggestion of changes to the DCO, so deadlines would be particularly helpful if possible for those. Thank you. Any other matters on the draft DCO at this stage please? No

00:29:20:09 - 00:29:28:09

thank you. We have the agenda on already. Um, we've just been through item ten. Um.

00:29:33:26 - 00:30:02:19

So a recording of the hearing will be published on the National Infrastructure Planning website for all to see in the usual way. Um, I believe that I've now covered all of the items on the agenda, Um. Compulsory acquisition hearing one will start at 2 p.m. this afternoon. Seating will be available at 1:30 p.m.. The Arrangements conference for people attending using Microsoft Teams will start at 1:30 p.m. the live stream will start at 2 p.m. as well. Um.

00:30:05:02 - 00:30:43:06

This may be the last hearing at which I see a number of you. In which case, thank you for your contributions over the last couple of days in particular. Um, thank you for your continued assistance during the rest of the examination. Um, I think we've shed light on quite a lot of issues. We've made some progress. There are still in the room to hopefully progress further. So very grateful for ongoing work to seek to do that. Um, it is very helpful to conclude, as much as possible before the end of the examination is an important time for all parties, including the councils, to have their concerns addressed.

00:30:43:08 - 00:31:13:11

Um, so please make the most of that opportunity. Um, before the end of the examination, there is still time to deal with new matters as well, if necessary. So, um, I'm very keen that we, um, particularly move the DTO and the management, management and mitigation plans forward as much as we can to address all the concerns that have been raised. So please feel free to, um, raise anything new.

00:31:13:13 - 00:31:28:17

Please do help with resolving the things that are on the table at the moment. Very much appreciate all the work that's been done in that respect and, um, grateful for the progress the applicant is making as well. So thank you. Um,

00:31:30:13 - 00:31:36:04

thank you for all of your assistance with this hearing both today and yesterday. This hearing is now closed.