

Mallard Pass_ISH3_13 July_PT1

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FULL TRANSCRIPT (with timecode)

00:00:05:12 - 00:00:25:13

Okay. It's 2 p.m. and time for this hearing to. Begin again. I'll have to go through a few of these remarks. I know people have heard them before, just in cases, people listening online who have not attended previous hearings. And can everyone hear me, first of all?

00:00:27:00 - 00:00:30:04

Okay. And I'm presuming the live streaming, the recording has started.

00:00:34:00 - 00:01:01:13

Okay. I'd like to welcome you all to this issue specific hearing. This is part of the examination of the application by Mallard Pastoral Farm Limited for an order granting development consent for the proposed Mallard Solar Farm. And this issue specific hearing is on the content of the draft development consent order. My name is David Cliff and I've been appointed by the Secretary of State with the lead member of the panel to examine this application, and I'll now ask my colleague also to introduce himself.

00:01:03:03 - 00:01:35:00

My name is Mark James and I've also been appointed as a member of the panel. Thank you. Together, we constitute the examining authority for this application. Over to my right, we have the Planning Inspectorate case, Acting case manager Michelle Gregory, along with Ben Chan and Josh Waldron, who are around somewhere, think and they're supporting the case team again for some housekeeping matters, please keep all your devices and phones to silent and think. People in the room are probably already aware where the toilets and other essential amenities are.

00:01:35:06 - 00:02:05:24

No fire alarms are planned and no fire testing is planned. And in case of a fire alarm, there's a fire exit to my left and also back through the main entrance, through the main doors there. This meeting will generally follow the agenda published on the infrastructure planning website on the 4th of July. And that agenda is on the screen. If you just move it down a bit so you can come to the actual items on the agenda, please. The agenda is for guidance only.

00:02:05:26 - 00:02:40:25

We may move around and add some things as we see necessary and we aim to conclude the hearing as soon as all relevant contributions have been made and all questions have been asked and responded to. And I'm hoping we can finish by. I think if we could finish by 5:30 today, that's okay. But aim to finish by 5:00, but with a little bit of safety. Safety half an hour just in case and. And discussions can't be concluded today, then we can prioritize matters and defer some matters for written questions as necessary.

00:02:40:27 - 00:03:10:29

And we also have the option to hold a further draft of a consent order hearing in the week commencing the 25th of September if required. And also, as usual, if you feel you can't answer the question because a particular complexity, you need to find information out, then you can respond in

writing at deadline for. But please make clear you want to you want to do that. Like all the hearings, this hearing will be in a hybrid or blended way. So there are some people attending us on attending, also a Microsoft team.

00:03:11:01 - 00:03:35:24

So welcome to those people as well. Recording of today's hearing will be made available on the National Infrastructure Planning website as soon as possible after it is finished. And with this in mind, please again ensure that everybody speaks clearly into your microphones and the people who are joining us on teams. Please just have your microphones and your cameras on when you are speaking and put your hand up when you want to when you want to speak.

00:03:38:28 - 00:04:09:01

We're assuming that everybody has read the planning Inspectorate's Privacy Notice, which was provided in the notification for this hearing. Please ask a member of the case team who've got any queries about that. Now, the purpose of this hearing and this is important matter, the draft consent order. It's an important document and this hearing is being held on a without prejudice basis. So in essence, even if your position is that, is that you consider development, consent should not be granted, and therefore that the secretary of state should not make the draft development consent order.

00:04:09:03 - 00:04:38:28

You can make representations in this hearing on the drafting of the DCO without conceding your wider permission that the draft should not be made. This is important for us as the examining authority because we are under a duty to provide the Secretary of State with the best drafted, developed consent order that we can, even if we end up recommending that the Secretary of State should not make the DCO. This is because we did not decide these applications. We make the recommendations to the Secretary of State, who is then responsible for making the final decision.

00:04:41:18 - 00:04:50:16

And we have to append a draft copy of the development consent order to our recommendation, whatever that recommendation would be.

00:04:52:10 - 00:05:01:18

Okay, moving on to introductions and I will start on my left with the applicant, please.

00:05:03:24 - 00:05:26:29

Yes. Matthew Fox seemed to see it at Mason's. To my left is Gareth Phillips, partner at Vincent Mason's. Online, we have our colleague Tamara. Um, he's also from Mason's. Um, anticipate that I will be doing most of the speaking. Okay. Just. Well, who's your colleague who's online again tomorrow? Okay. Yes. Thank you.

00:05:33:02 - 00:05:41:06

Okay. And now I'll turn to my right, to the local planning authorities and starting with

00:05:42:26 - 00:05:54:10

Rutland County Council, please. Thank you, sir. Justin Johnson, Rutland County Council. And to my right, I've got Nicholas Thrower, Senior Planning officer. Thank you.

00:05:56:24 - 00:06:05:16

Thank you. And. At Mr. Jordan. Would you like to introduce yourself to this council? Phil Jordan.

00:06:05:18 - 00:06:07:16

Representing South Kesteven District Council.

00:06:09:14 - 00:06:11:02

Okay. Thank you.

00:06:13:02 - 00:06:24:12

And think Lincolnshire County Council. We have representatives on line. And Mr. Willis, are you leading for Lancashire County Council today? Yeah.

00:06:24:14 - 00:06:38:20

Good afternoon, sir. Yeah. Mark Willis from Lincoln County Council. So I'll be principally commenting today. I've got colleagues on who were on the session this morning, John Allen and Matt Adams, but I anticipate it would probably be myself largely inputting today.

00:06:39:24 - 00:06:46:12

Okay. Thank you. And for my action group.

00:06:48:25 - 00:06:53:21

Mrs. Holloway from Action Group and Helen Woolley on my right. Thank you.

00:06:58:26 - 00:07:07:18

Okay. Thank you. And anybody else in the room, firstly, who wishes to speak today?

00:07:10:17 - 00:07:13:05

Yeah. Joe Staines v Essendon Parish Council.

00:07:19:26 - 00:07:22:14

Thank you. Just repeat your name for the microphone. It might not have been picked up.

00:07:22:23 - 00:07:25:01

Joe Stains. Thank you.

00:07:32:11 - 00:07:33:09

Okay. Thank you.

00:07:34:18 - 00:07:35:05

Mr. Hughes.

00:07:35:07 - 00:07:37:05

John Hughes. An interested party.

00:07:41:06 - 00:07:46:28

Okay. And anybody else joining us on teams this afternoon who wishes to participate?

00:07:51:10 - 00:07:56:09

Okay. Think that is everybody who wishes to speak. Thank you.

00:08:02:26 - 00:08:36:20

As usual, we'll be having a mid-afternoon break, which I expect to be around about 330. And as I've said, we hope to complete by 5 to 5:30 p.m., but certainly not later than 5:30 p.m.. And a reminder to that, you can provide a written summary of your all representations made today by deadline for which is Tuesday the 25th of July. Does anybody have any questions about procedure or the agenda?

00:08:40:20 - 00:08:41:16

Right. Okay.

00:08:43:09 - 00:09:14:12

Right. Thank you. We'll now move to the main items on the agenda. Uh, one and two. So item three is Applicant's introduction to the draft Draft development Consent order. Mr. Fox, if you'd like to give a sort of a general overview stroke summary without going into lots of detail to come on to the detail points. And a summary of recent amendments to the draft consent order.

00:09:14:14 - 00:09:28:29

And then just a little word perhaps on how engagement is going on draft order with relevant parties. Yeah. So do all three at once. Good. Thank you. Okay. Um, so, yes. So in this in this overview, we're referring to a version.

00:09:29:29 - 00:10:09:03

Revision three of the draft submitted at deadline three to rep 3004 and rep 3005. Um, it's also worth looking at the explanatory memorandum, which is at zero 18, which although that was submitted with the application version that provides useful detail on the context of the various articles. Um, it was drafted within cognizant of Penn's guidance contained in advice notes 13 oh 15 and practice and precedents from the many that have been made to date, um, particularly solar and energy ones, and where necessary, consideration has been given to the model provisions.

00:10:09:06 - 00:10:42:18

Order 2009 notwithstanding, there was no obligation to do so. Um, in summary, the development consent order is, as you mentioned, the key instrument which would confer the consent for the construction operation maintenance and ultimately decommissioning of term, which is known as the authorized development, which comprises the works described in schedule one. And throughout the order the applicant is referred to as the undertaker. Um, let's see. It's, uh, 45 articles grouped into six parts which could go through.

00:10:42:20 - 00:11:02:01

But imagine you don't need me to. Um, and then the schedules refer back to the article. So each of the street works articles, for example, refer to specific schedules in which then relate to various submitted plans. And the various plans that are referred to in the document are

00:11:04:09 - 00:11:52:11

to be read alongside the DTA, where they are. The ones that are kind of secured were known as certified documents which are listed in the schedule to the DTA. Um, the key reason the amendments that have been made over the past two deadlines, um, we amended requirement 18, which is the decommissioning environmental management plan to add the Environment Agency as a Consultee. We've obviously been in various discussions with statutory undertakers on protective provisions, so they've been updated as we've made progress in schedule 15 deleted what was previously Article 39, which gave specific permission for us to remove identified tpus, which have been put in because we hadn't had confirmation from both councils that there were none.

00:11:52:21 - 00:12:23:19

We now have that. So that's been removed from the order limits, um, amended schedule one Authorized development. Following your questions to more neatly characterize the list of ancillary associated development at the end of the schedule. Um, we've made various amendments to the requirements in light of your questions, but also to provide greater clarity in terms of measures being retained for each of the relevant stages of development and each phase to which the detailed plans relate.

00:12:24:07 - 00:13:02:26

Um, we amended Article 34 benefit of the order, provide Njit with the power to undertake work number three. Number three being essentially the connection to their substation. So we felt it made sense that they may want to do that. Um, amended schedule four, which is the street subject street works to make sure that the descriptions of what we were proposing to change match with was actually shown on the access and rights of way plans. And we amended schedule 16 register procedure for discharge of requirements to reflect your questions and also to reflect the comments raised by interested parties and contents on the agenda.

00:13:02:28 - 00:13:19:15

But particularly we raised the time periods for various um, for the authorities to be discharging the requirements at each deadline. And we've been submitting schedules of changes to the DTM and will continue to do that.

00:13:22:20 - 00:13:37:22

I'm just on the schedules of changes. Apologies for interrupting. It would be helpful if the schedules have changes or document can be produced, which doesn't just show the schedule, the current changes, but also perhaps a history of changes.

00:13:38:27 - 00:13:51:02

Um. Thank you, sir. Yes, we'll take that away. Think we can find a way to amalgamate? A bit like we've done with the list of documents, perhaps, and gray out the ones that have come before and then show the relevant change.

00:13:51:04 - 00:14:23:10

Yeah, there's another point there. Actually, I was going to mention this the other day, but I'll mention it now because it's linked to this, that in the document tracker, uh, document, uh, if it could be sort of a bit clearer as to what version is the current version. And the reference for that and the sort of so people can see the chronology of how documents they can only not only they can see the current document, which obviously is very important, but they can see the various changes that have been made throughout that.

00:14:24:03 - 00:14:32:17

I think it's sort of three quarters of the way there, but it could just be enhanced a little bit to make it absolutely clear what the current document is when it was submitted, what the references and.

00:14:34:04 - 00:14:44:05

What that sort of chronology is, what previously revised versions of that have been. Yes. Okay. Thank you. I'll just throw that in because it reminded me that need to mention that, Of course.

00:14:45:10 - 00:15:17:25

And just to finish, in terms of the discussions with stakeholders that have informed the changes, so mentioned, the article which came following the discussions with the councils, we amend a requirement ten deadline to to add them as a consultant in relation to the PSI requirement 18 Environment Agency as mentioned, and the protected provisions and schedule 16 in response to the comments of third parties. Appreciate it on the agenda, but will mention now that we're aware that the

00:15:19:23 - 00:15:42:22

the IDB and the Section 23, this application is something that's still outstanding and we will be talking to them to kind of bottom that out. Um, it's a fairly complicated arrangement between the and the for and who does what. But we think we've got to the bottom of that now and so we'll be doing what we need to do to get the relevant consent for this application. Okay.

00:15:51:20 - 00:15:52:05

Okay.

00:15:55:05 - 00:16:01:14

And as said on Tuesday, if statements of common ground could include

00:16:03:04 - 00:16:18:24

items in the draft development consent order, including but not limited to the local authorities, things such as requirements, we have an understanding where there is agreement or disagreement on those matters. Okay. Um, so if we move on then to.

00:16:20:10 - 00:16:50:15

The proposed. Articles in part one or starting in part one of the order, as it says in the agenda will be considering. Part five, which is the powers of acquisition, part of the draft DCO. This is obviously in relation to compulsory acquisition matters tomorrow morning. Just thought it's better put in there. And also given today we've got half a day so I'll put those in tomorrow's.

00:16:50:17 - 00:17:10:20

I think they're just better related to the subject matter of what we're discussing tomorrow. So we don't need to consider those today. And I've got a list of articles that we want to ask questions about. And at the end there's an opportunity for any other party to make any comments about any of the proposed articles that haven't been raised

00:17:12:23 - 00:17:31:18

today as well. And obviously, as usual, if you have a particular point about a particular article that we discussing or anything else and put your put your hand up. So Article two is interpretation. And the two that I wanted to ask about specifically today at this hearing are.

00:17:33:05 - 00:18:07:28

Authorized development and maintain. We'll just do authorized development first. And it's mainly about authorized development means the development describes in schedule one in brackets, authorized development and any other development within the meaning of Section 32. And it's that is that any other meaning, any other development within the meaning of Section 32 of the 2008 Act? As So wanted to ask further about picking up again the applicant's response to the written question and appreciate that this has been is precedented. But what why is it particularly required for the proposed.

00:18:08:24 - 00:18:33:20

Development and what particular works might require this, because obviously this opens up development which hasn't been thought or already mentioned or included in the authorised development. And why is it particularly why is it particularly a precedent for why is it particularly required for this for this order? And and what works? Might it actually be necessary for in particular things like that?

00:18:33:24 - 00:19:19:25

I think it's there to essentially avoid any doubt that the aspects that involved development in the actual articles of the order itself are covered off compared to what's listed in Schedule one. So for example, the street works, the removal of trees, the extent that we might need to do protective work to they appreciate. There was not question and answer on that. Um, it's also related to the fact that the um in various parts of the and including the requirements there is reference to sorry I should say the articles only references to for the purposes of the authorised development or in connection with the authorised development.

00:19:19:27 - 00:19:52:16

So you ask questions on the street works article and the general power is not limited to the order limits, but it is in order to do them. Obviously that has to be in connection with the authorised development and we had to get the relevant approved by local authority to do it. Um, so that's what it is really, is to avoid any doubt that everything that's in this order is able to be undertaken and that it makes sense as a whole.

00:19:53:13 - 00:20:09:28

Is it a risk? It opens the door to other forms of development because it does use the word development that have not been already set out in the in the order or consulted on in terms of people looking at it. Is there a risk that. No, there's the the usual environmental effects clause, but.

00:20:11:13 - 00:20:16:16

Why is it necessary to have such a broad but broad requirement for this sector? It says.

00:20:18:01 - 00:20:21:12

Any other developments within the meaning of Section 32. It seems very wide.

00:20:23:09 - 00:20:30:24

Yeah, but it's also there has to be authorized by this order. So it's under the controls of the order, including the various requirements.

00:20:31:27 - 00:20:48:13

Right. But but it means we've got the authorized development list, which is obviously very clear and very, very helpful. But then anything else could be effectively added to that. Well, there is subject obviously what's in your development, but there's bits of development. Why can't those other bits development be included in the authorised development?

00:20:48:17 - 00:21:07:27

Because it is, by the dint of that definition would also add the the caveat at the end of schedule one of the DTA, which has the list and then goes on to say any other further associated development which may be necessary, expedient for the purposes of the authorised development, but which can't be materially worse than those assessing environmental statement.

00:21:08:29 - 00:21:28:14

Okay. And notice a slightly different wording was used in longfield in the actual development consent order. Granted, recently, I think that one said and associated development in schedule one which is development within the meaning of Section 32 of the 2008 Act. If that works for that, why, why is the separate wording needed for this?

00:21:30:12 - 00:21:33:12

I think we'll take that away. I'll check that.

00:21:35:14 - 00:21:38:13

Okay. If we move on to.

00:21:40:17 - 00:21:56:24

Maintain. Can we take article? Can we take the definition of maintain together with Article five, which is the power to maintain the authorized development? Because obviously they're very, very linked. And we we discussed a little bit of this on

00:21:59:04 - 00:22:02:28

Tuesday morning about what maintain might.

00:22:05:10 - 00:22:41:12

Allow for the definition or the interpretation, whichever way you want to call it. Karen, It says include respect, inspect, repair, adjust all to remove, refurbish, reconstruct, replace and improve any part of but not remove, reconstruct or replace the the whole of the authorized development in. But say sorry, I'll say it again. It includes inspect, repair, just alter, remove, refurbish, reconstruct, replace and improve any part of but not remove, reconstruct or replace the whole of the authorized development. And this comes back to the discussion we had on Tuesday about what this might mean for the replacement of solar panels.

00:22:42:04 - 00:22:55:18

Can you just clarify what that position again is in relation to the replacement of solar panels? Is that would this because. By saying it would not include. The replacement of the whole of.

00:22:57:11 - 00:23:09:04

That's so general that I'm not quite sure what it actually is meant to mean. But does that what that allow in this case? The replacement. After 15 years of all the soap, all the solar panels.

00:23:15:03 - 00:23:28:04

Well. So think, think, don't. Um, and I feel like that definition is, is clear. We can't replace all of the solar panels pursuant to that definition all at once. Um, and.

00:23:28:28 - 00:24:04:10

So it says the whole of the authorized development. So as I see it, that could mean you replace all the panels, but you don't replace the substation and that would qualify with that definition. That's why I don't quite understand about it, is that what does the whole of it mean? Because the whole lot could be or it could even be 90, 99% of 99% of the panels could be replaced. It's not the whole of even. It was just the panels. It just seems to be such an ambiguous sort of term to put in. Well, appreciate it. Appreciate. It's also a long field. So yes, in that one but don't know the question was raised in that don't know and don't know that's again that's a time limited consent so I'm not sure that's a relevant precedent anyway.

00:24:04:28 - 00:24:07:17

So it just seems to leave this question open that

00:24:09:07 - 00:24:14:06

what would prevent the whole of the replacement panels, the whole of the panels being replaced?

00:24:14:29 - 00:25:01:16

And Mr. Foxman, I think we we'll take that away because I take the point about the new authorized development in the solar panels so we can consider whether the words authorize development may need to be narrowed. What would say there's two points in terms of this is all within the context of the caveat and five, we can't do anything with the rest of it. So not materially worse than the environmental statement would also say that having heard the discussion on Tuesday, we've been discussing with them a team and think one of the things that we suggesting that we're going to do is to update the to say that we will not for approval.

00:25:01:18 - 00:25:31:20

And I'm hearing this, but we will provide notification to planned maintenance activities for the coming year to local authorities. Each year obviously doesn't help for unplanned, but we would hope that that is minor, but providing that schedule. And then one of your questions was about, well, who decides what's not around worth and or otherwise? But that gives the site of what we're planning to do. And therefore, they would be able to question whether indeed it is not available to us and their own statement. But it's important that that's not a.

00:25:31:22 - 00:25:40:20

Yes, as you've identified. That is a separate question, albeit that that new one, materially different effects is pretty widely precedented now.

00:25:41:07 - 00:25:58:22

So I think that if we were to tweak the definition, maintain to make clear that we're referring particularly to work, number one being the solar panels and provide that we must. Provide a maintenance schedule for information purposes each each year.

00:25:58:24 - 00:26:30:28

And it's not the intention to replace all the solar panels. And I'm talking bluntly about the fact after 20 years there's better solar panels available, which are perhaps a more efficient and does this allow a complete overall overhaul of the whole or the solar panels with new solar panels or replacement solar panels across the board in 20, 30 years time? And I don't know whether or not that would be actually amount to new or materially different effects. People might have different views on that, but if it is, then it seems to be sort of I'm not quite sure what is expected for this application.

00:26:31:00 - 00:26:51:27

I might be wrong. I don't know. But it's not it's not clear if that would be absolutely clear. If that is something the applicant wants to leave open as an option or not. But I think it is if it is an option, I think it does need to be clearly stated as being, you know, somewhere in the documents and it needs to be sort of managed in terms of how it's referred to in how they tested it, because I'm not sure it's clear in the yes that the yes has tested it.

00:26:54:06 - 00:26:55:27

And think we'll take that away.

00:26:56:05 - 00:27:02:16

So does anybody else want to say anything on on the main time point and the power to maintain the authorized development point?

00:27:05:28 - 00:27:40:18

Phil Jordan for us this year think it does come back to that point we were making on Tuesday. I mean, as I read that definition, it would allow, you know, if not every solar panel to be replaced and, you know, certainly large numbers of and think. With that undefined time period. The surely is a point in time when the solar panels will degrade such an extent that they they will need replacing. And I think you could end up with a development that does largely look and operate in the same way.

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But it would then be how you pick up and control the

00:27:45:23 - 00:27:51:02

potential construction impacts that at that point in time should it occur.

00:27:52:24 - 00:27:53:09

Okay.

00:27:53:11 - 00:27:54:02

Yeah. Thank you.

00:27:57:25 - 00:28:00:10

Okay. Shall we

00:28:02:04 - 00:28:03:03
think that covers.

00:28:04:26 - 00:28:16:09
Everything in the interpretation, as well as Article five, the power to maintain the authorized development I wanted to raise. So we move to Article six, which is application and modification of statutory

00:28:18:14 - 00:28:19:10
revisions.

00:28:21:05 - 00:28:29:11
Sorry, sir, I'm not sure whether. Sorry, Mr. Hand up. Sorry. Mister Willis, you had a point about Maintain. Thank you for.

00:28:29:22 - 00:29:13:02
Yeah. Thank you, sir. It's Mark Willis, Lancashire County Council. Um. Yeah. Mean pick this up in in perhaps submission as a slight revision but did note and whilst I appreciate it, Article five includes the caveat that they can't do anything where it's materially new or materially different environmental effects have seen um that word and included within the definition of maintain within the recent Boston Alternative energy facility. And so it just, you know, you could argue it's probably belt and braces, but think it would perhaps be useful to consider inclusion of that within the definition as well because it then gives confirmation that those maintenance works, whatever they be, can't also give rise to that.

00:29:13:04 - 00:29:19:21
And so whilst I appreciate that cited in Article five already it having it in the definition just reinforces that point.

00:29:21:15 - 00:29:22:17
Okay. Thank you.

00:29:26:01 - 00:29:28:03
We don't think it's necessary because of Article five.

00:29:28:05 - 00:29:41:00
Because Article five follows on from from the. Okay. And understand. I understand that. But thank you for that point. Mr.. Mr.. Willis So Article six is the application of modification of statutory provisions. Uh.

00:29:46:13 - 00:30:00:06
Is this the point you were referring to before in your introduction about Section 23 of the Land Drainage Act? Yes. Okay. Can you just explain that an elaborate on that a bit now so we can all hear what the position is? Yes.

00:30:00:08 - 00:30:34:12
So pursuant to Section 150 of the Planning Act, we need to get the consent to disapprove the application of Section 23, which is essentially how you have to get consent for activities within a certain distance of an watercourse. So we are in a process of seeking that consent on the basis and this is a very standard provision on the basis that they would be protected pursuant to the surface water drainage strategy and other aspects of the DCA.

00:30:37:05 - 00:30:43:09

And think it's written. County Council, Lancashire County Council have made representations on this. Would you like to?

00:30:46:15 - 00:30:47:18

Is that you, Mr. Willis?

00:30:50:12 - 00:30:51:09

It wasn't.

00:30:52:01 - 00:30:54:10

Sorry. Sorry. Not from.

00:30:54:12 - 00:31:22:25

The. Yeah. Mean. Just on that point, I was going to say anyway, I mean, we don't have a representative from the flood aspect or water team at the moment, but we did provide a response in your written questions, I believe, to that which explain the situation with regard to think effectively it's delegated to on behalf of the County Council to the IDPs. And so I'm sorry if he was after something more specific, we can perhaps deal with that as a submission, if that's clear.

00:31:25:17 - 00:31:37:03

That is fine. What's almost sounds like there needs to be a sort of an offline discussion between yourself and Rutland and the applicant on this, just to sort of set out and clarify what the situation is. And then we.

00:31:37:05 - 00:31:47:00

Have had that offline discussion. So it's on the basis with his colleagues. So that's off the back of that is why we're now doing the action that we need to do.

00:31:47:09 - 00:31:52:17

Okay. And do you propose an update is going to be provided on where you are with that at which deadline?

00:31:53:11 - 00:31:59:27

Um, well, we'll see what we can do by deadline for, but we'll keep updating you because we're conscious you need to specifically report on this. So.

00:32:00:06 - 00:32:04:25

Okay. And Rutland County Council. Got any comments on that? Appreciate that.

00:32:06:25 - 00:32:08:16

So yeah, don't have.

00:32:08:18 - 00:32:25:12

A drainage expert so Justin Johnson don't have our drainage expert with us. So no comment at that point. Okay. Well we can be updated on progress with with that then. That would be good. Thank you. One little point for a minute. It might be a really silly point that has a really obvious answer, but at the bottom of

00:32:27:03 - 00:32:57:21

Article six, there's the not in the bottom Article six in relation to the provisions of the Neighbourhood Planning Act 2017. It goes on to mention Articles 29 and 30 of the Act, whereas noted from the Longfield it refers to articles 27 and 28 for the what look as though they're the same articles. So I'm

not quite sure if one's right and one's wrong or I'm missing something completely, but perhaps that could be checked out.

00:32:57:23 - 00:32:59:00

Yeah, it's the articles of this.

00:32:59:04 - 00:33:00:27

Maybe yours is right and wrong Feels wrong. Don't know.

00:33:00:29 - 00:33:10:22

But think it's just because there's different articles of the order. Is it the provisions of the article? So it's because the the order of their articles will be slightly different from us.

00:33:12:07 - 00:33:14:19

So we refer to 2930 because.

00:33:14:21 - 00:33:18:02

They see what you mean. See, I've see it is a it is a silly question that goes,

00:33:19:18 - 00:33:29:11

okay, no, I've got it. Thank you. I was rather similarly thinking those articles from actually the neighbourhood planning app, not from the order. So was right. It was a silly question. Okay. Uh.

00:33:37:08 - 00:33:45:16

And then moving on to Article nine, which is how it's all to lay out et-cetera of streets.

00:33:47:16 - 00:34:15:10

And think again. This is a point that's been raised by Lancashire County Council and Rutland County Council in that they consider consent is necessary. That would follow the Standard Street works and procedures and permitted procedure so that works can be planned and taken in the highway and. Is there any progress on this or do the councils want to update what the current situation is from from your perspective before Mr. Fox responds?

00:34:19:06 - 00:34:25:07

Don't have the highways. Unfortunately, with apologies. Mr. Willis, are you the same situation?

00:34:25:13 - 00:34:27:05

Yeah, unfortunately so, yeah.

00:34:29:22 - 00:34:43:04

I mean, what I was going to ask was that yeah, what is the particular concern of the councils in this regard? And is actually is there is there a concern that there's not sufficient detail provided already in order to determine what needs to be determined?

00:34:48:20 - 00:34:50:26

Don't know what that, but that'll echo noises

00:34:53:27 - 00:35:04:10

if everyone's got the microphone turned off please online because there seems to be an echoing sound. Not quite sure where it is coming from. I think it is via the teams.

00:35:09:15 - 00:35:24:18

I think maybe this is something where if you sort of obviously you are presumably talking to the relevant highway authorities and the relevant sort of experts and you can update us on what is the situation with with that, but set out what your position is.

00:35:25:08 - 00:35:46:18

Our position is that the combined Article eight two and nine means that we have the the ability to undertake the specific works that we've identified without the need for licences under newswire or equivalent sorry, new words and street bikes at 21. Um,

00:35:48:04 - 00:36:03:25

to be honest, I think we think it's in the kind of the council's here that if they want more protections than ask them and we will consider them. But at the moment we have a kind of generalised statement to say this is what usually happens. This is for an entity and these provisions are very well presented.

00:36:04:10 - 00:36:34:07

Okay, well I've got written underneath. My question is further discussion needed between the parties? So perhaps it's something that the relevant highway authorities can pick up themselves? Absolutely. The applicant to set out what the concerns are and that the thing can be talked through and that we you know, we then get to an answer as examining authority what the actual position is from the parties. So I understand what you've said in your response to the written questions. So at any point at asking the further questions about it here, so perhaps some further discussion with the relevant authorities would be helpful.

00:36:39:03 - 00:36:45:23

Do you think that the relevant authorities, the people involved, could provide an update on that at deadline for Mr. Wilson?

00:36:49:07 - 00:36:58:11

So said Justin Johnson, Rutland County Council. And yes, think we should be able to get an updated position by that deadline. Okay. Thank you.

00:37:00:24 - 00:37:02:18

Yeah. Similarly. Yes.

00:37:03:03 - 00:37:04:11

Okay. Thank you.

00:37:06:22 - 00:37:10:18

So just going to emphasize, I think, as I said, we we

00:37:12:03 - 00:37:15:04

want something we need to kind of specific of what that is.

00:37:15:06 - 00:37:31:01

Yeah. And would say generally that for the local authorities, now is the time to engage on these things so that they can be resolved as necessary in the examination period because it is important that these things are resolved as far as they possibly can do during the examination period and

00:37:33:00 - 00:37:35:10

article. 12.

00:37:44:24 - 00:37:58:25

I did have Article 11 in the agenda, but I've not actually got a question to raise for that. Does anybody in the room or online have an issue to raise with Article 11?

00:38:06:06 - 00:38:12:06

No. Okay. We'll move on to Article 12, which is the claimed public right of way.

00:38:13:23 - 00:38:14:19

Article.

00:38:16:09 - 00:38:43:18

Which is a is this a a novel article as far as draftees goes? Completely novel article as far as draft are concerned? Yes, sir. And think again, Mr. Willis. This is a think a obviously a Lincolnshire County council point that's been raised or is Lincolnshire County Council involved in this? Are you able to. Talk to this or is there anybody who can talk to this? At this time. At this meeting.

00:38:44:21 - 00:39:23:20

I don't. Sorry. Mark Willis Lincoln County Council. Don't believe Mr. Savage is on the call still. But I think we've again, we've made representation to this is in response to your written question. I think I think the answer is, um, it's regarding the claim rights and the ability to effectively, um, create them and revoke them as part of the, I think from my understanding of it is that it's not something that the rights of way team are familiar exist as a route or an opportunity to do that traditionally um it's whether or not that's a it's feasible under the DCA.

00:39:23:22 - 00:39:36:14

So I think we've just basically said, well, we get the principle, but we're not sure of the legal mechanism route that that exists. But I mean that's again an issue that the examining authority would need to consider, I guess.

00:39:37:14 - 00:40:02:01

And it is, as we've said, it is a novel article and other bits dealing with a particular issue that's come up with this proposed development. Are you able to say or perhaps could you provide details because it would provide details for us in terms of and by all means, Mr. Fox, the applicant, provide a response on this as to what assurances, details, etcetera, would the County Council normally require and what would the relevant considerations be in considering such a matter

00:40:03:18 - 00:40:11:16

in order for the Secretary of State? Well, for us and for the Secretary of State to be satisfied that the necessary criteria can be met if it's Mr. Fox. Sorry.

00:40:11:18 - 00:40:47:20

I think in a sense we've deliberately included this in the order in the application order, because it's the point of this process. And if you were going to do a definitive map modification order process outside of the Under the Wildlife and Countryside Act, the county authority would consider it invite representations and if it got objections, it would go to an inquiry. So this is deliberately why we've included in the order to allow for anybody to make make their views known to the examiner, authority and Secretary of State to consider them appropriately.

00:40:48:20 - 00:41:06:20

I think it's important to emphasize that the the the order is envisaging a two stage process here. It's not everything happening all at once. Um, and it was carefully drafted with and consent of the Wildlife and Countryside Act, which is what deals with these situations. So think.

00:41:08:10 - 00:41:21:22

I can see why you're asking like that. But I suppose our position is this is kind of why we put it in here to allow for a replacement for the what would be the ordinary process. And that's the purpose of these years as a statutory instrument to allow you to do that and have the.

00:41:21:24 - 00:41:27:26

Steps that have been gone through the same as the steps that would have been gone through with a DMO. No.

00:41:28:10 - 00:41:30:23

Sir. But the point here is that.

00:41:30:25 - 00:41:42:15

The consultant guiding consultations and giving people the opportunity to to comment. I don't know how it would normally work. Would there be local notice, etcetera, or notification of local people? I'm not quite sure how that would work.

00:41:42:17 - 00:42:01:12

So the issue here is that the the people who are interested have already submitted the modification order of application. So they've submitted it because they want it to happen. Um, and we're now dealing with the fact that that has happened and it's leaving this ambiguity and we need to deal with that ambiguity.

00:42:05:22 - 00:42:16:03

So after that has been some after that it's been submitted, as you say. So what would then the normal process be that the County Council would carry out in terms of things like consultation, etcetera.

00:42:17:08 - 00:42:21:05

And have that immediately to hand? Did it once a few years ago in a previous life? That's what I'd.

00:42:21:07 - 00:42:43:02

Be interesting just to sort of know is is the process that we understand what you say about. Yes. Obviously for as part of this application draft and consent order. But actually the opportunity is the same as they would be if it was being done in the normal way. Is there any is there any sort of potential unfairness or perhaps lack of opportunity for anybody to have those comments on it?

00:42:43:24 - 00:42:54:24

We will take away and do a note on this, but mean obviously would say that the proposals themselves, in terms of our proposals and their impact on the public right of way, because I understand.

00:42:54:26 - 00:43:20:13

That whole side of it think it's more than just the process is there in terms of sort of fairness and reasonableness and opportunity of the consultation. Is it going to be obvious for people because it might not be the case, but somebody could see the advertisement, the publication of the site notice for the draft for the development consent order, but not realise that this is part of it because this is only one very small part of it. So is there a risk that it's got lost in the all the, all the the detail that we that is involved with it?

00:43:20:17 - 00:43:54:06

I think we were doing that. But what I would say is that we're slightly different position because if we were an applicant seeing seeking to circumvent the definitive modification process by removing something that already exists, then can say that you did have concerns about the procedural differences. But what we have here is people who want to bring forward a modification of the

definitive map so the rights of way doesn't currently exist. So when we were consulting on the scheme. With a solar farm in the.

00:43:54:09 - 00:44:06:20

Right on top of where they are suggesting a public right of way might be. Then think we can we can do that note but think it's just important to note that we're not in the it's not as if we are seeking to.

00:44:08:03 - 00:44:12:01

Understand that entirely. Okay. The note would be helpful for deadline for. Thank you.

00:44:21:01 - 00:44:30:22

Right. Article 13. I think there was a very small amendment to this. Actually, it was in the explanatory memorandum.

00:44:38:00 - 00:44:42:07

So Article 13. A relates to the.

00:44:46:24 - 00:44:49:05

Laying out of access is permanent means of access is.

00:44:51:03 - 00:45:10:01

The locations which are listed in Schedule seven access to works. And then article be subject to the approval of the relevant planning authority laying out of any other means of access. And why is the extra one actually necessary of all the permanent means of access included in. Schedule seven.

00:45:13:21 - 00:45:24:02

Presumably all the scheduled all the permanent means of access are pretty well known at this stage. I would have imagined why is there this sort of extra provision that allows for any others to be.

00:45:25:02 - 00:45:49:24

And because think, yes, we've done the work and the access reviews and everything that's in our application material. Obviously, we're not yet at a detailed design stage and there needs to be the flexibility for possibility for the access to change. There's no lack of control here because the the authority has to approve it. And if they don't like it, then then they won't. But think just object with the approval.

00:45:49:26 - 00:45:50:11

Yes.

00:45:50:13 - 00:46:23:03

Yeah. Think that without it you are left with a situation where you've got an insert who's had a there might have been engineering reason once you do the geotechnical investigations for example, that means that actually the access and also the point that the access might need to move don't know ten metres to the left or right. Um, as a result of obstructions that we don't currently know about. And because of the way that the rights, the access and rights of way plans are drawn, you know, it's a very specific location.

00:46:23:25 - 00:46:31:09

Um, it seems silly for a whole landscape to not be able to change the access in order to actually build it out if consent has been granted.

00:46:32:13 - 00:46:52:10

And would there be? Where the local planning authority then has to approve a effectively an application under Article 13 B. Would there be opportunity for public consultation in that? That's up to the local planning authority, is it? That's what I'd say. Is there sufficient time for that?

00:46:54:24 - 00:47:04:13

Because they could there could be effectively there might be a movement of access by a few meters, but effectively there could be an entirely new access, completely in a different place to one that's proposed at the moment, which

00:47:07:05 - 00:47:09:20

might be something that Gareth said. It's the.

00:47:09:22 - 00:47:15:07

Applicant think this is this is akin to a non-material amendment under planning permission where.

00:47:15:09 - 00:47:16:06

Effectively.

00:47:16:08 - 00:47:46:26

Under that procedure, local planning authority is granted planning permission. There may be a small element of detail that needs to change, but it's not something that the local authority deems necessary to consult on and take wider view because it might be moving an access marginally along the road. There's nobody else taking access from the road. And so in the local authority's discretion, they can they can proceed to approve that amendment in a short period of time without carrying out consultation.

00:47:46:28 - 00:47:50:05

Or conversely, if they do take the view.

00:47:50:07 - 00:47:50:27

That they ought.

00:47:50:29 - 00:48:23:07

To consult, then they can do that. So essentially, the second limb of this is my colleague says this This is about at the time of construction. If there is a difficulty with a particular aspect of highway access. So, for example, the construction company say, well, we've liaised with the transport company and they need to take an access for a delivering a single piece of item, but not one we're already permitted. This provides us for the opportunity to go to the local authority and say, here are the circumstances, this is why it's needed.

00:48:23:09 - 00:48:38:17

And the local authority then has the discretion to approve or refuse. And because they have that opportunity, they can come back to the developer and say, well, actually we see difficulty with this access or they don't. It's entirely within their gift as it would be under a non-material amendment.

00:48:39:00 - 00:48:51:28

Does that relate to be related presumably to permanent and construction accesses? And you're referred there to the construction access construction works going on, but could it actually involve a new because a permanent access?

00:48:54:05 - 00:49:02:29

Could could be involved their permanent means of access. A clinic would. Yeah. What's written would it just be restricted to non material and how would it be done? So.

00:49:05:21 - 00:49:20:26

Well, in the sense that through the other articles we have in here, it's, you know, you'll be aware that the amendments through the order have to be consistent with the yes or not materially different circumstances. So that's the that's the check and balance, if you like.

00:49:20:28 - 00:49:39:14

I was thinking, actually, why is this required if there's that as well? We'll discuss that later on. But that what you just referred to, whichever sort of the requirements, I think isn't it? But anyway that if that's their why which would allow changes to the approved documents, why is this necessary as an additional part of an article here?

00:49:39:16 - 00:50:09:05

Well, think the broader the broader the article that just referred to is really just the check and balance across all amendments that are sought after the grant of the or any approvals that are granted by the local planning authority through the requirement. So if you like, it sweeps all that together here. This is, I think, something taken from the model order where you actually give some detail around what sort of power you might be looking for or sort of amendment you might want to do.

00:50:18:01 - 00:50:21:01

I should also add it is extremely precedented and was going to start with.

00:50:21:12 - 00:50:23:19

Your explanation memorandum where you mentioned the

00:50:25:15 - 00:50:29:00

you mentioned the Riverside order, which maybe not the Riverside order actually. That's the next one.

00:50:30:19 - 00:50:42:04

Yes, that's what they say. Think it is? Actually, it is. But again, want to sort of make sure that it's acceptable for this particular development. Any comments from anybody on on Article 13?

00:50:44:15 - 00:51:02:23

Again, if any, particularly the local planning authorities. If you're anything, you need to check with your relevant sort of highways person and want to come back on it with any comments and do so by deadline, by deadline for. But that's a general point rather than an action point. Think that you're able to do so you if you wish. Okay. So just to.

00:51:02:25 - 00:51:04:27

Confirm whatever was in the model provisions order as well.

00:51:05:24 - 00:51:07:16

Right? It's a model provision, Yeah.

00:51:13:21 - 00:51:33:00

Right at 15 is traffic regulation measures. And I think this is one that's been slightly reworded to make it slightly clearer. I think just in response to one of our written questions. Just briefly, just summarize what those clarity's are. Just just very briefly. Don't intend to take much time on this.

00:51:36:24 - 00:51:37:27

On this particular article.

00:51:37:29 - 00:51:39:08

Yes, I'm just bring it up. Right.

00:51:54:11 - 00:52:03:09

If it's an issue and doing it now, it's not really a massive a massive problem because no, you have actually spelt it out separately. So don't worry. It's something which is going to take time doing that. Yeah, sorry.

00:52:03:11 - 00:52:06:07

So I'm not immediately seeing the track changed in the DS.

00:52:06:09 - 00:52:10:03

Yeah. Yeah. Sorry. My copy here is not a track change copy.

00:52:13:05 - 00:52:16:06

If you give me one moment, I should be able to find it.

00:52:32:07 - 00:52:34:10

It's not showing in either of our schedule of changes.

00:52:37:18 - 00:52:39:03

Vote. Deadline two or deadline. Okay.

00:52:42:09 - 00:52:55:08

It's more just updating people just for clarity. So it's not yeah, it's not essential. It's discussed. And that's anybody who wants to discuss anything in relation to Article 50, I don't think it's been raised in any representations. I think it was just a point that we raised in a written question.

00:52:57:25 - 00:52:58:13

Okay.

00:53:00:25 - 00:53:05:15

17 is removal of human remains.

00:53:07:01 - 00:53:11:25

So this falls on a little bit to some of the discussion this morning And.

00:53:16:13 - 00:53:22:24

Is it the case that if human remains are. Found. No, you haven't got your.

00:53:24:20 - 00:53:59:27

I'll kill your cultural heritage person here. But is it the case that if human remains are found within the order limits, then that area will be actually not developed? Is this actually going to be applicable now? As I understand it, there is a there is as I read from the representations I've read, I've understand well, we've heard this morning that there's most likely to be human remains. And once again, I think on the Longfield decision, I think the secretary of state actually took this out because he was satisfied there weren't any human remains in the order land.

00:53:59:29 - 00:54:33:22

So just just took it out. I think it was recommended to be in and he took it out. But in this case, I'm presuming that there is a likelihood that there may be human remains within the order limit. So it is needed in that respect. But think read elsewhere in the application that actually if human remains are found, then those that area will be will be, what's the word, ringfenced, so to speak. And if that's the

case, why do we need an article which goes through these the various provisions that it includes about how to deal with the human remains?

00:54:33:24 - 00:54:36:26

And so. Mr. Watson part of the applicant.

00:54:38:12 - 00:54:53:24

Without the archaeologist here? I'm not sure I can answer that question. I do know that when we prepared this, the application which this was in, we did ask the question of him and he said, yes, it would still be still be relevant, but we can definitely take that away. Isn't that.

00:54:54:22 - 00:54:58:12

Appreciate? It's a fairly sort of familiar article.

00:55:00:15 - 00:55:14:17

I've still got a few queries about why the 100 years provision and how that judgment is made following on from the risk allowance that was provided to the written to the written question in terms of further justification for that. So I'm still not absolutely clear why 100 years has been the chosen.

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

The chosen period further down in part 12 of this. Uh, but actually, is it actually required given what is proposed? So I'm happy to be taken away in a response provided. Okay.

00:55:31:06 - 00:55:32:13

Okay. Uh.

00:55:36:09 - 00:55:37:09

Mr. Willis.

00:55:40:00 - 00:56:07:00

Yeah. Thank you, sir. I don't want to, you know, dwell on the things we've talked about this morning, but think the point we probably make there is that in the absence of that valuation up front, it's how you recognize that there would be an impact on human remains. Because if you've not able to have identified it, how would we know whether that actually impacted through the works on them? So think that goes back to what we were talking about this morning. So won't belabor that point, but think that that's a concern.

00:56:07:21 - 00:56:13:00

So understand that. So the Saxon skeleton gets the pile and there's nothing anybody can do about it because

00:56:14:28 - 00:56:16:25

at that point it's exactly that point.

00:56:16:27 - 00:56:20:23

If we've not been able to identify it, how would you know through piling that you have.

00:56:22:10 - 00:56:24:18

I'm sure that can be incorporated in. Well.

00:56:24:27 - 00:56:30:21

Yeah. Yes. I mean think let's not dwell on this morning, although I don't think the change in number percentage would.

00:56:31:00 - 00:56:34:26

No, no I appreciate that. It was more the point that was was just. Yes.

00:56:35:04 - 00:56:35:29

And I would.

00:56:36:01 - 00:56:36:22

Say it's been said.

00:56:36:26 - 00:57:13:05

In the context of this article is not making any kind of value judgment itself. It's it's dealing with just enough benefit The in order to not have to go get other contents that you would otherwise have to deal with with human remains. So it's just giving statutory authority for going through the process you would otherwise have to go through if you didn't have and modifying it to fit with the drafting. So it would only kind of come into question once you've gone through the mitigation strategy that's agreed.

00:57:14:12 - 00:57:14:28

Okay.

00:57:17:26 - 00:57:22:25

Article 18 Protective work to buildings.

00:57:27:06 - 00:57:30:12

In terms of the which buildings are actually within.

00:57:33:16 - 00:57:46:12

The order limits. This applies to buildings within the order limits, doesn't it? Not on adjacent land, within the order limits. But then must be the. I'm thinking it must be the farm where we're potentially parking for the site inspection.

00:57:47:17 - 00:57:49:24

So there are several structures. But

00:57:52:12 - 00:57:55:16

yes, there are there are some other very small farm structures within there.

00:57:55:24 - 00:58:06:10

Think my question here is in terms of again, it comes down to sort of the necessity for it really in terms of for this particular development and knowing where all the existing buildings are.

00:58:08:08 - 00:58:12:27

As. Sure you do. Why is it actually necessary in the particular circumstances?

00:58:14:08 - 00:58:18:05

So think. Think. As we said in the answer to the question here is that whilst

00:58:19:20 - 00:58:46:12

we don't consider that effects of vibration, for example, are likely to cause an impact. Um, suppose in a way think this is probably helpful to everybody to have a situation where something might change. That means that, um, there could be an impact. And because it's within the ordered land and

sometimes you see this article, it refers to land adjacent to the order limits, which is often a subject of discussion in hearings, but we've kept it within the order limits.

00:58:46:27 - 00:58:50:29

Um, suppose a building could be built in the next three just potentially.

00:58:51:01 - 00:59:11:25

Well, and that's well, so given given, we will discuss tomorrow. We've made very good progress with the landowners. Um, they also wouldn't want us to, um, impact their buildings. Um, so think this I appreciate the, you know, the concerns about it, it being a power in inverted commas, but it is essentially a good thing in case something does happen.

00:59:13:12 - 00:59:15:26

Okay. Any further comments for anybody on.

00:59:17:15 - 00:59:27:24

But yes, James, it's nine parish council. It may not be relevant, but does this taking into consideration the wider aspects and in relation.

00:59:27:26 - 00:59:41:23

Particularly to flooding. How does one deal with, if you like, the church in Essendon, which may be affected unduly by the installation of the panels and the runoff water and therefore it floods already?

00:59:41:25 - 00:59:54:03

I think this relates to the particular article about buildings within the order limits. Understand your point. I think that's a sort of a wider point probably outside of this particular discussion about articles. But I

00:59:55:18 - 01:00:20:22

understand the point you're making. It's probably not one for discussing at this particular point. I'm sure the applicant has noted respond to it. And 19 is the authority to surveying investigate land. This does actually include both land within the order land and also all land which may be affected by the authorised development or upon which entry is required in order to carry out

01:00:23:02 - 01:00:27:07

monitoring or surveys for the purposes of the authorised development.

01:00:29:12 - 01:00:35:05

So it is actually it could include land outside of the order land. Yes. Yeah.

01:00:43:13 - 01:00:55:19

And is there any information available or clarification, rather, on. Which land outside of the your limits might be. This might apply to. And for what? What reasons? What's this generally?

01:00:57:06 - 01:01:22:17

In place for what's the what circumstances, because it does allow for effectively the undertaker or the to go on to the land to carry out surveys and do whatever it is needed which might or will not be intrusive to people's plans at their properties that day, for example. So can you give a bit more an example of. No, that's a notice period, etcetera, but a bit more explanation of why it's like to be required in this case.

01:01:23:20 - 01:01:27:10

Thank you, sir. So I'll give an example of

01:01:29:16 - 01:01:37:09

if we need to move undertaker's apparatus and it might not be possible to, you know, in order to do it in a proper way, you may need to

01:01:39:18 - 01:02:11:19

go on to the land next door to it in order to do that. Um, sorry, miss that, that if you, if you were going to be doing trial, this is a better example because it doesn't what just said isn't covered by this article. If you were doing trials in order to undertake geotech investigations, in order to get a best characterisation of the ground, you may need to go outside of the order limits in order to get an understanding of the kind of profile of the.

01:02:13:03 - 01:02:43:03

Under the ground, essentially. Um, and similarly for, for soil samples in that you need to be able to get a full picture of the all of the soil in the surrounding area. Um, what would note do you think some noted there was a typo in 19 one that was missing and which we'll put in. Um, also just wanted to reference that. Um, obviously you may be aware of the section 172 of the Housing Planning Act 2016.

01:02:43:21 - 01:02:55:21

Um, which if you didn't have this and in fact, in fact, it's even more general than this article because this is limited to where land that might be affected by the authorized development was needed for monitoring or surveys.

01:02:57:18 - 01:03:12:08

In the 14 day notice period for works that don't know somebody could be planning something on their property which might potentially be affected by this 14 days notice. Is that sufficient?

01:03:15:19 - 01:03:25:12

Yes. Yes. And that is also in the model provisions. And it's been presented in every order that I've worked on will be.

01:03:25:24 - 01:03:39:16

It's actually I'm not sure the questions being asked, but, you know, for someone who's like organizing something in their property and all of a sudden they get they're saying, have you got 40 days notice? We're going to come on to your property to do whatever. Don't know. It could be situations where that might not go down too well.

01:03:39:29 - 01:03:47:18

And that may be the case, sir. But think we would say that's the standard practice and so we'll stick to it. Okay.

01:03:47:20 - 01:03:49:22

Any comments from anybody? Mrs. Holloway.

01:03:50:11 - 01:04:20:28

This is Holloway on behalf of Action Group. I have to say that I'm quite uncomfortable for that. For residents that may be affected. I'm not sure how far afield they're allowed to take that if it's just to land adjacent to the order limits or if it's further than that. But it feels a huge infringement upon a resident's rights to just be able to go onto their land and do whatever, even if it's just a survey, that it might not just be a survey by the sounds of the wording.

01:04:21:15 - 01:04:25:12

So it is a concern for residential receptions.

01:04:26:24 - 01:04:30:10

Yeah. This is all you had your hand up too. Was it a similar point or.

01:04:30:12 - 01:05:04:04

It was a similar point? But as somebody who lives right on the order limits, then it is a very real and very genuine concern because this is very vague. It's not clear whether you mean open agricultural land, which may be adjacent to the site or a private dwelling. You've already given me assurances if talk now is an infected person rather than as a member of the action group. And I'm sure my comments would resonate with anybody else that lives in a similar position. And there are four properties that would be affected similarly to me on the area that we're located.

01:05:04:06 - 01:05:38:26

But it's very vague. It implies, and my interpretation of this would be that it was open agricultural land. But given the way in which one of the questions that the land use questionnaires was investigated was actually circulated at stage one consultation. And it took me a lot of time to get any clarity on what was actually being intended and what the purpose was for the survey. Then I think I would have a very real concern that this is to to easier access without necessarily having to demonstrate the absolute need.

01:05:40:20 - 01:05:42:23

Okay. What would happen? Thank you. What would happen if

01:05:44:18 - 01:06:07:21

there was notice, given that someone on the applicant needs to go on to the land to carry out a particular survey, whatever it might be, on a certain date, and the person say it was a residential property and it could be residential property as I see it, it could be. And that person says, Sorry, no, because we're doing something that week and whatever. We don't really want that

01:06:09:17 - 01:06:29:15

people coming onto our property doing that. What would actually happen in practice? Because it's not so much the effect of it, it's more the fact, as I said, it's more than the fact there's no notice and the fact that it can just be done. There's no I don't think the person involved will be able to say, no, don't do it. Come back in a month's time. As I see it, I think the article actually says, well, that's

01:06:31:14 - 01:06:33:05

there's no negotiation in that regard.

01:06:33:17 - 01:07:23:02

So. Well, first of all, I'm just gonna make the point that it is only surveys investigations. That's clear. But think, think the, the point is, is that obviously the applicant would be wanting to engage with the landowner on that mean we obviously wouldn't want to go there but there is a reason that subparagraph six exists within this article which is to deal with the refusal and applies to section 13 of the compulsory Purchase Act, which essentially allows you to go to court to get a warrant. Obviously we want not want to do that, but there is a reason that it's there because, you know, essentially, as we've committed to in the camp in terms of ecological surveys and in order to build out the scheme, we are going to need to do do surveys in order to build it out safely and in accordance with the controls that we have in the US.

01:07:23:25 - 01:07:24:10

Um.

01:07:24:24 - 01:07:35:08

And that's what I'm not really challenging that part. I'm more challenging, just the fairness of the approach in order to achieve that, notwithstanding the precedent, etcetera. But the specific question that I want to ask for.

01:07:35:19 - 01:08:09:15

Gareth, relates to the applicant. I think what we need to do is take a step back from this and appreciate that these powers are available to the applicant now and with or without a DCO because they are potentially in acquiring authority and the Electricity Act, they can use the Housing and Planning Act that we've been talking about to go on and do these surveys now. So for example, if we needed to supplement survey evidence that your request for one of example during this examination, we could go away and we would have in the first instance, negotiate access as we have done to date.

01:08:09:18 - 01:08:52:04

But in the event that that was denied and we need to deliver the evidence, these powers are already available to us as an acquired potential acquiring authority under the Electricity Act. So these have been put in here on the face of the order so that it's clear what it's about would also emphasise that this is a bit like the previous article we talked about this. This is in some ways a protection. It's the ability that during the course of the works, if, if, if for whatever reason something has been found in the ground within the order limits and one has to stop and think, does this have an effect outside the order limits, then this gives the power to the undertake to go and check that and make sure that it isn't going to.

01:08:52:07 - 01:09:26:01

So it's actually an opportunity to, if you like, control the effects of the development rather than seek to do something in addition to. But sometimes, for example, if you're digging trenches, one side of the order limit that may have an impact on the land, you know, subsidence or otherwise on the other. So it's meant to be a protection and an ability to check what's going on either side of the order limits as the development is being progressed. But ultimately it repeats what you know is already provided in statute under the Electricity Act and under the Housing and Planning Act, as we've been discussing.

01:09:26:03 - 01:09:29:13

And the provisions are the same as those in terms of notice, period. Yes.

01:09:29:19 - 01:09:32:05

Housing Planning Act, Section one seven for 14 days.

01:09:36:00 - 01:09:54:07

I think in many ways it's one of those articles where in practice I'm sure that wouldn't be a problem because, you know, I'd think that actually there was prior engagement and discussion about what the most appropriate days are. It's just sort of the worst case scenario of how it might, might be might be operated. But I'd take everyone's points. Mrs. Holloway, on finally on this.

01:09:54:09 - 01:09:54:27

Yeah, sorry.

01:09:54:29 - 01:10:22:08

Just to clarify, I'm still not clear what they would be allowed to do on your land. So, for example, I have agricultural land next door to Field 37, so I'm not talking about across the road. I'm talking next door to me. Um, and you know what? What actual work could they undertake? The Cayman to your land? If it's just survey work, that's one thing. But if it's digging holes and you know.

01:10:24:14 - 01:10:29:13

I'm going to set out in paragraph sorry, article 19 one.

01:10:32:26 - 01:10:37:15

So that's surveys, trials, ecological and archaeological investigations.

01:10:44:00 - 01:10:50:09

Okay. Okay. Think I've heard all I need to hear from the various parties. But thank you

01:10:52:11 - 01:11:00:12

for those explanations. ET cetera. Part five is powers of acquisition, which we'll move on to tomorrow. Our.

01:11:08:01 - 01:11:14:15

Which takes us in terms of ones that we wanted to ask about to.

01:11:29:13 - 01:11:33:05

Article 44. Before I do that.

01:11:37:02 - 01:11:45:12

Guest. Article 39 has now been removed, hasn't it? Because it's been confirmed that there's no trees within the order limits that are TPO trees. So that has gone.

01:11:49:01 - 01:11:51:10

So Article 44.

01:11:53:04 - 01:12:00:09

Which is actually now Article 43. That's where I was getting confused because 39 has now gone. So Article

01:12:03:06 - 01:12:07:05

44 is proceeding in relation to certain approvals.

01:12:09:21 - 01:12:24:00

And could you just clarify? It took me a while to get my head around this in terms of which actual what this is intended to cover. I think I'm right in saying that it's intended to cover all those approvals within the articles, etcetera, which aren't covered by schedule 16.

01:12:24:02 - 01:12:30:20

Yes, that's right. So, um, the. Yes. No, you're right. You summarized it and.

01:12:31:02 - 01:12:34:22

Are the given the changes that think have been made to schedule 16,

01:12:37:03 - 01:12:40:03

is there is the consistency within two.

01:12:40:05 - 01:12:44:26

We will amend that. We will amend that. Okay. So that's paragraph four change. 6 to 8.

01:12:52:27 - 01:12:58:03

Okay. That's my only question really on that. Any questions on Article 39?

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

Jeffrey sorry, Article 43, which was Article 44 in the previous order. If anyone is looking in, looking at a copy of that.

01:13:13:16 - 01:13:15:04

So sorry. Justin Johnson.

01:13:15:06 - 01:13:20:09

Rutland County Council. Don't know if it's now or later on.

01:13:20:20 - 01:13:21:17

It's just I'm.

01:13:21:19 - 01:13:28:07

Just trying to work out, obviously with under this article, but also under.

01:13:28:24 - 01:13:54:03

Schedule 16 as well. There's potentially lots of things for the council to be discharging at some point. And this is the first step that the authority's been involved in. So I'm just wondering in terms of securing fees for discharges and things like that, I'm just wondering how is that secured? Is that secured through the deed or is there some other provisions for that?

01:13:54:05 - 01:14:02:09

I think that's going to be covered or I'd intended that that would be covered under schedule 16. So can we. No.

01:14:02:18 - 01:14:05:25

We can't. It mean I'm just going to deal with it in quite short order when you came to it, which was.

01:14:05:27 - 01:14:39:06

Okay, well, I've got a question. Okay. Let me ask my question first in schedule 16 and see see that it may be something that can be done shortly. But anyway, let's deal with that on the schedule 16 Otherwise me having to jump about the agenda, which I don't really want to do for my questions. So let's move on to but we'll come back to that. Let's move on then to schedule one, which is the authorized development which we sort of touched upon right at the start of this discussion. And I think you probably did this by and large during your introduction.

01:14:39:08 - 01:14:46:23

But some changes have been made to schedule one in the deadline two submission. Can you just just run through what those are so everyone is aware?

01:14:47:20 - 01:15:22:29

Yes. Mr. Watson the applicant. So the amendments were made to the kind of what we call the capsule list at the end of schedule one, which are aspects of development which do not need to be vocationally specific by being only within the boundaries of the certain works numbers. And those amendments were done following one of the things questions and essentially just a tidy up exercise to move things around to make a bit more sense in terms of things being put together rather than separated out.

01:15:25:03 - 01:15:25:21

Okay.

01:15:31:09 - 01:15:35:01

Any comments from anybody on schedule one.

01:15:39:10 - 01:15:39:28

Okay.

01:15:46:00 - 01:15:51:13

Right. We could now go on to schedule two requirements, which.

01:15:53:15 - 01:16:02:23

Think it's Mr. Phillips said yesterday. Essentially are very similar to conditions in the town and country planning regime.

01:16:09:18 - 01:16:18:10

The first one I wanted to actually actually go back, actually. Sorry. In terms of the articles, is there anybody else who wants to raise any issue on any of the other articles?

01:16:21:09 - 01:16:57:05

Obviously, if you do so with your various associated experts, etcetera, and various matters and have points, then please do raise those as early as possible in the in the examination so they can be dealt with and examined properly. Uh, so scheduled two requirements. Um. Mr. Fox, can you just give a brief update on where the applicant is on progress being made, particularly with discussions with the relevant, interested parties on these matters? If there's anything further to add to what you said in your opening introduction.

01:16:57:24 - 01:17:09:07

Thank you, sir. My understanding is that the statutory environmental bodies are all now happy. We've had no further comment from Natural England Environment Agency or historic England

01:17:10:23 - 01:17:24:27

with the local authorities, had fairly limited comments on the requirements. I think the main one will be requirement seven, which will come to any agenda and have some further thoughts after yesterday's discussions. But.

01:17:26:18 - 01:17:34:08

Otherwise in terms of the requirement wording. Think there wasn't there was nothing else in the discussion apart from deadline seven sorry.

01:17:34:21 - 01:17:40:29

Seven and could ask the local authorities. Local planning approaches. Have you grappled yet with the actual detail of the requirements?

01:17:42:01 - 01:18:08:19

It's Rutland County Council and we have had a look over them. But think in in terms of going through them in detail. We are in the process of doing that at the moment. Okay. And as part of that, wanted to have these hearing sessions as well, because that's flushed out things that we may or may not need to make reference to. Okay. Thank you.

01:18:11:25 - 01:18:36:00

Build your self-esteem, Mr. Castle. Yeah, I think the same. It's a process. I mean, we've. We've responded to certain questions. You raised that deadline to in relation to some other requirements. But yeah, I think to a large extent it was waiting for these hearing sessions and, and then must be making further comments after that.

01:18:36:15 - 01:19:07:06

Okay. And it is something, as I said before, that it's very useful to be included in the statements of common ground at the can be an agreed list of requirements as far as possible where there isn't agreement, alternative drafting would request so where you want. You don't agree with the wording of a requirement. Think it should be slightly different, then suggest that alternative drafting for us to and for the applicant to consider mean at the same way you would do for a planning conditions on a section 78 planning application. Uh, so Mr..

01:19:08:00 - 01:19:10:26

Because that's Mr.. Willis he's got a comment and I'll come back to you. Mr. Fox.

01:19:13:00 - 01:20:03:00

Yeah. Thank you, sir. Mark Wallace, Lancashire County Council. Yeah. Similar to the other authorities response with regard to the overview. There was a wider point about the reference and inclusion or exclusion of Lincolnshire County Council in regard to a discharge in authority or involvement in that process, which I did reply in answer to the questions that you've raised. So on that particular point, as you would say, again, we've made it in written submission. So without, you know, repeating it is that we do feel that the County Council should be identified as a discharging relevant authority on some of those particular requirements where we hold expertise as part of our statutory function and think one of those in particular we've heard already today was in relation to archaeology in which South Kesteven have effectively said, you know, they defer to ourselves.

01:20:03:02 - 01:20:13:20

So we've made that point and we've not had a conversation. And whilst I've put that into a written response to yourself, I've not seen any revised drafting to suggest that's going to be carried forward.

01:20:14:25 - 01:20:15:10

Okay.

01:20:15:15 - 01:20:42:28

Put that point. But that's going to bring it up at the relevant conditions or requirements rather. But let's let's do that now. Would Lancashire County Council is I don't know this was an application for 100 houses on the site would. Would Lincolnshire and County Council be the determining authority for discharge of relevant conditions in that case? Or would they just go to the local planning authority and the local planning authority would consult with the county council? How would that work?

01:20:43:14 - 01:21:15:24

Well, I think I mean. Mark Willis Lincolnshire County Council mean think Mr. Jordan can correct me if I'm wrong here, but he's alluded to in previous responses that on the Town and Country Planning Act process they would consult Heritage Lincolnshire as part of their archaeological or heritage advisers. That doesn't extend to N set programme and I'm not sure if that level agreement would exist for the discharge requirements on either. So on that basis, um, it comes, it's all, it's effectively, if it was to go to South Kesteven, then they presumably look to come to ourselves.

01:21:15:26 - 01:21:24:05

So that acts as postbox. So you kind of almost question what the purpose of that is, if it could come to the County Council in that regard.

01:21:25:13 - 01:21:26:25

Okay, Mr. Fox?

01:21:27:00 - 01:21:53:11

Yes, sir. So I should have mentioned requirement ten. Think that's a kind of a special case at the moment? We noted that. Think at least one of the authorities there. Definitely two authorities, but

slightly different drafting forward, which we've not responded to in detail yet, because in a sense once we've developed the written scheme of investigation and submit it to this requirement will change with it as discussed this morning. Think the idea is that the

01:21:54:26 - 01:22:26:09

but we were hoping we get into a position where this requirement will essentially say that we've got to carry out the authorised development in accordance with the full stop. And then the document itself will set out all of the various mechanisms of consultation and approval of the detail of the various aspects of mitigation measures that will be brought forward with. The idea of the outline itself is a framework document which leads you down to those direct actions. In terms of the role of Lincolnshire County Council more generally.

01:22:26:11 - 01:22:42:11

And you would think you would have seen this in our response to these comments from LCC, is that where they're the relevant part of LTC needs to be identified? It has been. So the surface water drainage requirement refers to the lead local flood authority and.

01:22:44:24 - 01:22:59:17

To approve that. Um, for the construction traffic management plan that goes to the relevant planning authority for approval. But that's following consultation with the relevant highway authority, which would be in the relevant section. Um.

01:23:01:14 - 01:23:20:28

So we have within the requirements put in where LCS functions are relevant for them to be consulted or approval as appropriate to their function. Um, so the, the archaeological we recognize is slightly work in progress as it develops. But think otherwise, obviously we are covered.

01:23:21:19 - 01:23:23:11

Okay. Is that helpful, Mr. Willis?

01:23:26:28 - 01:23:58:04

Sorry, sir. I'm trying to review the revised and don't whether it's. You've made this point earlier. I didn't notice the track changes that obviously in that document, so I'm just picking that up now. Um yeah. Mean think the issue there is it's just looking at for example requirement nine it references to the approval of the local flood authority and the relevant planning authority. So that's probably a procedural issue we need to come on in terms of processes schedule 16, but I can see what Mr. Fox is saying about inclusion.

01:23:58:20 - 01:24:29:15

But I think what we would say is that, um, we have seen again, um, we maintain this issue about we would feel that there would be a need to include specifically on matters where they fall to our expertise. And we have seen again at the Boston Energy from Waste facility where the County Council have been identified as a specific relevant authority and in the order and defined which specific requirements that then go to that authority. So there is precedent there for that to be included.

01:24:32:25 - 01:24:33:12

Okay.

01:24:34:21 - 01:24:42:01

Thank you. Perhaps a little bit more discussion is needed perhaps on your positions, your financial position.

01:24:42:04 - 01:25:03:01

But when think think If you want to be identified in other requirements, then we will listen to that mean. Think what we've done and it's been since application is that we've identified them where we understand their functions to be. What we wouldn't want to be in a situation is where else you see a consultee for everything when that might not be relevant and understand that.

01:25:03:03 - 01:25:04:00

Yeah. Okay.

01:25:04:27 - 01:25:19:18

Okay, we're back. Sorry about not listening. So I'm just going to say, you know, and we agree with that. You know, we we don't envisage being necessarily approval or involved in every item where we don't need to be. It's just those where we have specific interests.

01:25:22:05 - 01:25:35:19

Okay. It sounds like this is resolvable to me. So if that's something that can be perhaps updated in the next statement of Common Ground or at some point, then that would be helpful. Thank you. Um, is it Mr. Allen?

01:25:42:00 - 01:25:45:16

Did you have a. A question or a point. Hi.

01:25:45:18 - 01:26:27:07

Sorry. It's Jan Allen at Lincolnshire County Council. I just wondered whether it might be helpful because I. I was a witness for the Triton and CIP. And in the wording for the archaeology, um, it begins with a section that says scheme of investigation in accordance with the has been submitted to and approved by the relevant planning authority. So I just wonder if it might be useful for both sides if that was actually just specified which planning authority in the wording of the relevant archaeological sorry, in the in the wording of the relevant conditions, whether that might make it easier.

01:26:27:09 - 01:26:34:12

But obviously I don't know the procedural thing, I just thought that might be useful in the detail at that level. Thank you. Okay.

01:26:34:18 - 01:26:36:06

Okay. No, thank you, Miss Allen.

01:26:37:29 - 01:26:47:12

And this was my think that dealt with through the way that the term is defined in the DCO. But as I said, requirement ten will be updated alongside the updated WSI.

01:26:48:13 - 01:27:13:18

Okay. Okay. Thank you, everybody. Think. Probably. I've still got my questions about the requirements. We've sort of jumped around a few of them there, which has been helpful because a few of the points I've got have probably been dealt with. But think it's time for a short break before we get on to my questions on the requirements and any other questions that people have or points. So if we adjourn now until 340, please. Thank you.