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00:08

10 o'clock, just a little after. So apologies for that. And for the hearing to begin before we go any further, and everybody in the back of the room hear me. If during a discussion or anything things tail off or you can't hear, just raise your hand and give me a shot. Now get people to speak into their microphones. Mr. Cook, can I confirm that the live streaming, the recording of this event has commenced? Thank you very much. I'd like to welcome you all to this issue specific hearing to on the draft development consent order in relation to the application made baguette Burton energy Park limited for an order to grant development content for the good Burton energy Park project. My name is Ken stone. I have been appointed by the Secretary of State as the single examining authority examining inspector to examine this application. And you'll also hear me referred to as the examining authority. My role is to examine the application and to report to the Secretary of State for the energy security and net zero with a recommendation as to whether or not the development consent order should be made. Application seeks consent to construct operate, maintain and Decommission ground mounted solar solar photovoltaic panel arrays on site battery storage and associated infrastructure. The associated infrastructure includes but is not limited to access provision, an underground 400 kilovolt electrical connection of approximately 7.5 kilometers to the cotton National Grid substation planning Inspectorate case manager for this application is Robert Cook. And he's supported here today by the case officer Spencer Barrowman. Please don't hesitate to talk to any member of the case team. Should you need any help with any of today's event or technology? general housekeeping matters. I know a number of you were here today, or were here yesterday. But I have to go through all these things anyway. So bear with me on this. Firstly, mobile phones, can you please turn them off turn them silent. toilets and other facilities I back through the double door in the foyer area on the left hand side. fire alarms again today we're not expecting any fire alarms. So if an alarm goes off, it's the real thing. The evacuation route is out the door here. So into the corridor, end of the corridor or through the door down the stairs and into the carpark or the assembly point is I'll deal with a few preliminary matters before we move on. So today is a blended event undertaken in a hybrid manner, meaning that some participants are present with us at the hearing venue and some are joining us virtually using Microsoft Teams. Make sure that however you have decided to attend today you will be given a fair opportunity to participate. If you are participating virtually, and you wish to speak at any point in the proceedings, please use the raised hand function and I will invite you to speak at the appropriate time. Alternatively, please turn on your camera so that I can see that you wish to speak. And again I'll come to at the appropriate time. The hearing is being both live streamed and recorded and the recording will be available on the gate Burton energy Park page of the national infrastructure website shortly after this hearing. For the benefit of the recording please can do is present ensure that you speak clearly into a microphone stating your name and who you are representing each time that you speak. For those people observing or participating remotely, in order to minimize background noise, can you please make sure that you stay muted unless you're speaking? A link to the planning inspector its privacy notice was provided in the notification for this hearing. And I assume that everybody here today has familiarized themselves with this document,

which establishes how the personal data of our customers is handled in accordance with the principles set out in data protection laws. Please speak to the case team. If you have any questions about this. It's very unlikely I will ask you to put any sensitive personal information into the public domain. And I would encourage you not to do so however, if you feel it is necessary to refer to information that you would otherwise wish to be kept private and confidential. That should be done in a written form which can then be redacted. Did before being published. Please talk to the case team about this examination of this application commenced after the close of the preliminary meeting on the Fourth of July 2023. I held an open floor hearing on the afternoon of Fourth of July. And the first issue specific hearings on the draft development consent order on the fifth of July, a number of interested parties put their points to me at that point in time. The recordings of those events not been published, they are on the planning Inspectorate get Burton energy Park website. This is the second issue specific hearing into the draft development consent order and will follow the agenda published on the national infrastructure planning website on the 15th of August, which is examination reference, Evie 007. The applicant could put a display that agenda on screen at the moment, then that will be helpful. I can see see what we're going to run through today. If you just run through from that point to the the actual agenda. Thank you. The agenda is for guidance only. And I may refer to other matters if they arise during the during the discussion this morning. I will plan to take a short mid morning break if appropriate. And depending on how we're getting along. I will conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. But if the discussion can't be concluded, within this hearing, then it may be necessary for me to prioritize matters and fair other matters to written questions. Likewise, if you cannot answer the question being asked or require time to get information requested, then can you please indicate that you need to respond in writing. When we take breaks, those of you who are here to participate in virtually, we need to ensure that your cameras and microphones are turned off during the break. So let me move move to introductions I'm going to know ask those of you who are participating in today's meeting to introduce yourselves. Could you introduce yourself stating your name and who you represent? And let me know on which agenda item or items that you would wish to speak. If you're not representing an organization, please confirm your name. Summarize your interest in the application and confirm the agenda item upon which you wish to speak. I will start with the applicant and its advisors. And if we could hear from whomever will lead the discussions today.

07:52

Good morning, sir. My name is Amy Sterling and my Senior Associate Solicitor at Pinsent Masons. And I'll be leading this discussion for the applicant today. I'm joined on my right by Gareth Phillips, who's a Partner at Pinsent, masons and tomorrow, and by James Hartley blonde, who is the product development director at blue carbon.

08:12

Thank you very much.

08:23

If we now move on to the organizations and individuals who have expressed a wish to speak and could you introduce yourself and tell us in which item you wish to speak, start with the local authorities and then any statutory parties and any parish councils to first West Lindsay District Council.

08:46

Good morning, sir. My name is Samuel Shaikh, I'm of counsel and represent West Lindsay District Council I'm instructed by Martha Reese who sits two seats to my left. To my immediate left is Russell Clarkson whose development Management Development Manager at West Lindsey District Council and to my right is Alex Blake is an associate director at Atkins.

09:13

Thank you. If I could then move to Lincolnshire county council.

09:20

Good morning sir. My name is Stephanie Hall ha Double L happy to be Miss Hall. And counsel instructed again by legal services Lincolnshire and Martha racy system. My right. I'm joined at the table by Mr. Neal McBride, who's head of planning at Lincolnshire county council. We've got things to say about items four, five and six on the agenda

09:51

Thank you very much. Do I have anybody from Nottingham? Sure.

09:58

Hello, sir man Me, Stephen pointer, Team Manager Planning and Policy, Nottinghamshire County Council. We are happy to come in on any point on this agenda today. But I think we'll be primarily involved in tomorrow's items.

10:19

Thank you very much if there's any point that you wish to come in, and then as I say, just put your right hand or put your camera on. And then I'll come to you at the appropriate point in time. If not, might not be immediately but it might be a little bit beyond but thank you very much.

10:40

Thank you. Do we have any statue parties, I believe there was some representation from canal and river trust.

10:53

Morning, my name is Sophie summers. And I'm here with my colleague, Ian Dickinson, who's the trust spatial planner. And he's been coordinating the response from the trust on this application together with his colleague, Hazel but she's on leave today. And I'm also here with all Gordon, who works in the trust infrastructure services team. That's the team that engages with all third party works. All third parties needing to do works on all around the network. Were interested in item five and happy to answer any questions you may have to.

11:34

Okay, thank you again, if a matter arises during that age and that you wish to speak on and I haven't called you to put your camera on or raise your hand. Thank you very much.

11:50

I believe we have somebody from stourton in store parish council.

11:57

Good morning, sir. My name is Carol Gilbert. I'm representing Stoughton, Barstow parish council. I do not believe I will be wanting to speak this morning. But I will be this afternoon.

12:11

Thank you this afternoon is a different issue specific matter. And we'll go through that process at that point in time. This is what this morning's issue specific hearing is specifically about the development consent order will be able to fill in matters later. Thank you. I can then turn to individual interested parties. I believe we have got representatives from 7000 acres. You just introduce yourselves and who? And if you will be speaking in this unknown which matters you may wish to speak which items?

12:49

Yeah, good morning, Simon Skelton and Tony Kaur from 7000 acres. And we are on teams. Mark Pryor will be engaging. If and when, during this. To my surprise, virtual Yes. Yeah. So he'll be mitigating. If and when. Thank you.

13:09

Thank you very much.

13:20

Okay, I see that there's a number of other parties virtually think we've gone run most of the people in the room. So is there anybody else who may wish to speak either in the virtual room or here that I should take a note of their name. On I'm not seeing any hands up. And I'm not seeing anybody here. So in that case, I shall move on. If at any point you do wish to speak or there's something that you wish to raise matter then as I say, if you're virtually raise your hand or in the room, then draw my attention to it. And I will bring you into the discussion at an appropriate point. So to all our participants, thank you very much for coming up. And for the purposes of recording again, I will make it clear it would be beneficial to me if each time that you speak throughout this hearing, you could state your name. And if you're representing someone who that is for I move on, I would just mention that all the hosts authorities were invited to attend today's hearing. And I think we have got representatives from most of those. The only one is BDC who have not we don't appear to have a representative from past law. Okay, no. They may well be viewing online and they can obviously raise any matters which arise at deadline three, which is when any further comments come back. As I say anybody watching on live stream or at a later date has the opportunity to make any comments about anything that we cover today, little should be provided by deadline three, which is Friday the first of September. Maybe that further time is needed on the DCO in one or more further issue specific hearings or through further written questions. And all parties will be given an opportunity to participate at that time if if necessary. So moving on to item two, which is the purpose of this hearing, the draft development consent orders important document it is a draft piece of legislation, which if the secretary of state decides to grant consent forms the legal basis for the delivery of the proposed development, it sets and secures the

standards to which the development must be constructed and secures the environmental performance of the development. hearings in the draft DCO are held on a without prejudice basis. So in essence, even if your position is developing content should not be granted. And therefore Secretary of State should not make the draft department consent order. You can make representations in these hearings on the drafting of the DCO. without conceding your wider position that the draft tissue should not be made. It is important for the examining authority because I'm under a duty to provide the Secretary of State with the best drafted DCO that I can, even if I end up recommending that the Secretary of State should not make the DCO. This is because I do not decide these applications, I make a recommendation to the Secretary of State and they make the decision. So even if I may report to the Secretary of State, which are recommended development, consent should not be granted. I must still append a draft development consent order, ensuring that the Secretary of State can decide to make the order if they wish. This is the second hearing on the draft development consent order. And I'm holding this hearing to consider whether any further amendments or alterations are required to the DCO. Consider whether the proposed changes have addressed the previously raised concerns and to understand the timetable and milestones for any further likely changes to the DCO. And to consider the impact of that on the examination timetable. This hearing will not examine the detailed content of provisions relating to compulsory acquisition of land or rights or temporary possession of land. We held a compulsory acquisition hearing yesterday on that topic. And indeed, there are questions in my first written questions on those. There is some overlap in some areas, where we covered matters yesterday, which there is overlap, I'll move through those relatively quickly, except where there's specific issues.

17:54

So moving on to Item three, which is a general update on the DCO that assists the parties and following along and I think we're at version three of the draft voting consent order that we will be discussing today that has an examination Library Reference Number rep 2027. In addition, we're likely to refer to the latest copy of the exam, explanatory memorandum, which again is examination Library Reference rep two zero 29. In addition to the draft department content order matters that will be dealt with in today's hearing. Further matters pertaining to the DCO articles and sheduled may be the subject of further written questions from me in my second round of written questions, if that proves necessary. I think the timetable has suggested to be published on the 12th of September. For the benefit of any parties who are involved in developing consent order examination for the first time, I would just note that we have requested updates on the draft DCO at regular points during the examination to ensure that matters raised in connection with the drafting can be taken on board. In terms of the way that we envisage the applicant dealing with the matters that are covered today, it is likely that a number of points will need to be picked up through objects or revisions to the draft DCO and also to the explanatory memorandum. I would note that we have a standing request in the timetable for an updated DCO at each deadline. Obviously, if no updates are provided, this would be noted in that deadline to admission. There is also a request for an updated em at those points so that the changes are fully explained. In the intervening periods. I would ask the applicant to post hearing submissions indicate where points are likely to be picked up through updates to the DCO that are not actually included in that and are provided for so that we are aware of what they're actually thing. As a general introduction to our discussions today, I thought it would be helpful if the applicant could briefly set out an overview of the changes that they have made so far to the original DCO as submitted, highlighting some of the key changes in the articles and sheduled of the order and explaining their intent and purpose and rationale. This can be done a

reasonably high level of expect as I expected, the parties here today and at this meeting, have had the opportunity to review the amended DCO in advance of this hearing. Thank you very much. I'll pass it over to the applicant.

20:37

Thank you. So Amy Stirling on behalf of the applicant. So run through the deadlines in chronological order. So starting fresh with the updates which were made at deadline one, the DCO was updated that deadline one to add definitions of archaeological mitigation strategy and vegetation removal plan, a certified document to give certainty as to the scope of those documents as they are referred to and the requirements. The DCR was also updated to add advanced planting and within a definition of permitted preliminary works to ensure that the undertaker could carry out advanced planting and accordance with the commitment it's made in the outline landscape and ecological management plan. Requirements of in which deals with all them was also amended to ensure that they will then must be discharged in respect of say vegetation clearance, and also advanced planting to ensure the necessary controls are in place at the appropriate time. Article Six was updated to limit the scope of legislation being dissipated with it Environment Agency is relevant consenting body for in discussions with environment agency requirements sorry sheduled two requirements was updated to specify who was a relevant local planning authority for the purposes of each of the requirements following engagement and request unless point from Lincolnshire county council. Requirements six and seven were updated to add or remove specify consultees following engagement with those kinds of teas. A little we are aware of later submissions from the Environment Agency on this point. Requirement 19, which deals with decommissioning was updated to secure that decommissioning must commence no later than 60 years following the date of final commissioning. To give certainty of the time limited nature of the consent. Schedule 15 protective provisions was updated to reflect progress in negotiations with Anglian Water and the Environment Agency and to add placeholders for protective provisions for the canal and river trust and excellent pipelines, and also the provisions for network we are updated to reflect ongoing discussions between the parties. Finally, it is a one and you should all 17 named hedgerows to be removed was inserted, which provides details of the hedgerows to be removed by reference to that and updated vegetation removal plan. And there were various other Rata and minor drafting update. Moving on then, deadline to update article 11, which does a temporary stopping up of public rights of way was amended, so it was clear that it applied to streets and public rights of way. Article 39 was updated to make it clear which trees are considered to be subjected to preservation orders. And this was accompanied by a new shedule eating schedule name was updated, which is the Dean green license to clarify the extent of the work to be carried out within the area of the Dean million licenses. Mining license. It's singular apologies being the filling of the cable rather than construction combines and that was following discussions with the MMR. Schedule 15 was updated to reflect the agreement on the form of protective provisions with national grid electricity distribution East Midlands PLC. And again, there are some minor data and drafting updates. Thank you

24:05

Okay, thank you. That's helpful just to draw those. We're now on version three of the draft developing consent order submitted a deadline to smoke weed. Under the cover letter of it of August 2023, Appendix B the applicant included shedule of changes to the draft DCO. helpful document however, the title of that document at the top of the page is shedule of changes of the draftees, your from submission

to Deadline one, you haven't looked here to doubt it's in fact the shedule of changes from deadline one to deadline to

24:50

any styling from the applicant noted thanks. I will ensure that is corrected

24:54

going forward. I think it would be helpful if the applicant could submit a copy percent shedule of changes to the draft DCO. With those for the next round of change, then added to that too, it's just a rolling document rather than just as an extra minute. This is the shedule of changes for between deadline two and three, but just one document so that it's a shedule. And then you're just adding on at each point, because then one has a composite document that that point is more helpful to me, rather than having to go back to each of the individual documents.

25:30

No problem. So we'll make sure that's done for the next headline,

25:32

thank you very much.

25:46

We will go into the detail of the DCO. But are there any general queries or comments on the nature extent of the changes to the DCO that have been made so far? Anything that anybody would wish to raise with me? Sorry, Charlie, I can run the run right. Okay. Sorry, only caught.

26:06

Just a quick point. You said that the commissioner decommissioning will start 60 years from Final commissioning. That is not a finite date. Can I suggest that you change it to initial operation which will be a finite date?

26:43

Do you wish to call

26:45

me selling on behalf of the African? Yes, I think that change is unnecessary because the term date of final commissioning is defined in Article Two of the order as the date on which each part of the authorized development commences operation by generating electricity on a commercial basis. So I think that that referenced operation is already included within the relevant definition.

27:09

Okay, thank you. I've got those points. Thank you very much.

27:19

Okay, let's move to item for the actual draft development consent order, I've got a couple of matters there. that have arisen from representations and from the council's local impact reports in respect of specific matters. And I wanted to focus on understand the issues and how these may be resolved. I will then ask the council's whether there are any other specific articles in the draft DC where they would wish to draw my attention to or have any specific issues with two articles I've identified on the agenda that I wish to discuss this morning are Article Nine, which is in part three streets and relates to the power to alter layout, tetra of streets, and then set. The second one is article 44, which is in the part miscellaneous in general matters and relates to the deemed marine license. So just getting confirmation about where we aren't without. So that's, that's where I want to go to, I will take each of those matters separately. In the order set out in the agenda, I shall introduce the matter with some initial questions. And then I would like to hear from the applicant as to the purpose and intent of the provision. And responding to the matters I raised once the applicant has responded to those matters. I shall see if there are any follow up questions or clarification. And I will then open up the discussion to the other participants and provide an opportunity for them to make their contributions. I will request those contributions at the appropriate time seeking those from those in the room firstly, and then going to those who are attending virtually hope that's clear. So firstly, Article Nine power to alter the layout of streets. Maybe what matters had been raised by local highway authorities relate to the relationship with section 278 agreements and the consent of the local highway authority will be required matters they would need clarity and certainty on to be in a position to give that consent. In response to my first written question, one 616 concerns are raised at the level of information that the DCO should require submission of a section 278 agreement including fee recovery. If not through the section 278 Then such provisions would need to be included in the DCO to give them confidence that they would have that information. There is also uncertainty as to Whether these provisions are covered by sheduled 16. And the procedure for the discharge of requirements, it would be helpful if the applicant could explain the purpose and extent of this provision. Why so wide ranging? Does it in fact replace section 278 I was act and is that necessary and towed to the local highway authorities ensure that they get the nature and information they need and have the resources that they need to discharge any required consent. I would like to focus your comments on Article Nine.

30:40

Me standing on behalf of the applicant is or Article Nine to is required, as it's to provide a mechanism for the STS authority to approve any unforeseen streetworks which are identified during detail design and enable them to be carried out with no unnecessary delay to the scheme. I think the principle between the parties is agreed that these streetworks can only be carried out with the consent of the street authority and that's provided for Article Nine for which says the powers conferred by paragraph two may not be exercised without the consent of the street authority and discuss this with Lincolnshire county council before the hearing and discuss perhaps an amended form avoid doing and Article Nine four, which provides more clarity as to the form of approval, which may be given by the streets authority to ensure that they feel that they have sufficient control in that approving of those street works. And we're confident that given the principle of approval as agreed between us there's a form of wording that can be approved and updated and agreed between us.

31:51

Okay, that's helpful. You're having discussions outside. You mentioned Lincolnshire County Council, as that also included Nottingham Sure.

32:00

Any standing on behalf of the applicant and no surveys just before the hearing, but we will pick up with Nottinghamshire County dental as well.

32:07

I'll come to them in a minute in case to hear hear those comments. Thank you very much in that case, kind of turned to Lincolnshire county council and have you any comments on what has just been said?

32:20

Good morning. First, it's definitely Horford Lincolnshire county council. And it's a very fair reflection of our discussions before the commencement of this morning's hearing. So you'll note from answer to your first written question Q. One 616 that our concern was that the drafting of Article Nine, sort of sort of skirted the requirements for an agreement under Section 278 Or was an attempt to create a parallel system of consents and controls which would have removed our powers under the Highways Act. We're satisfied now that that wasn't the appellants intention, and it was just that we are talking about cross purposes. So it's really a drafting issue rather than issue of substance. We understand there's no intent on the part of the applicant to avoid the scrutiny of a 278 procedure. It's really that the term consent was used rather than reference expressly to Section 278 in the Highways Act. So this is exactly as the applicant has suggested it's a drafting issue rather than a substance issue.

33:29

That's very helpful. Could I turn to Nottingham? Sure. And hear what with you have mirrored that. I know that you obviously weren't a party to the discussion this morning. But if you can glean what that may be, from what was said there, what your view is.

33:52

Thank you, Sir Stephen pointer, not going to share. We did take some our own legal advice on the potential circumventing, but we felt that those powers do remain, despite the DCO. So we are we're content with the that we will retain appropriate powers to safeguard streets. And principally, our concern is with any temporary works needed for the cabling corridor within the county. So we've mentioned potential compounds or any agreements. We're happy to work with the applicant to ensure that the DCO is amended or whatever to cover that but we're satisfied that we will retain appropriate towers.

34:47

Thank you very much. It's very helpful.

35:00

I've heard from the highway authorities. Does anybody else have any comments that they would wish to make on those matters? And Article Nine? Probably,

35:09

let's definitely call Lincolnshire county council before we leave this matter. In your introduction to Article Nine, you refer to the proper resourcing of discharge. That's a wider topic that applies beyond Article Nine to other matters, such as contents and other licenses, we discharge. So that's part of a broader topic that we'll probably address you on later. But in terms of 278, provided that regime survives intact, that should provide for proper resourcing because there's a mechanism under the Highways Act for cost recovery, for anything associated with the works. It's gonna probably leave that intact, but there is a broader point there about resourcing. So which we'll come back to.

35:52

Yes. Not the point about cost recovery. But if the consent under Article Nine is not included in the sheduled 16 matters, then the cost recovery aspect that we would deal with in chapter 16 would only relate to those matters and wouldn't relate to Article Nine. So as long as you're satisfied that the cost recovery is in the context of the redrafting and through the 270 or not through any changes that are made to sheduled 16.

36:25

So yes, I think if the 278 regime survives intact, which I think is the intention for both parties, then that should include cost recovery mechanisms, exactly right. As you say, so that that is then dealt with under the Highways Act rather than under the shedule to the DCO, which only as you say, so deals with fees for discharging requirement. Yeah.

36:51

Point noted. Thank you very much.

37:04

You have anything further that you would wish to add to that?

37:08

Me standing on behalf of the applicant? No, sorry, I had on my list just to clarify that it is correct that sheduled 16 only applies to requirements, not to the Main articles of the DC X.

37:52

Okay, if nothing else on Article Nine, she'll move off that was relatively quickly. Thank you very much. For your turn to article 44 also refers to shedule. Nine, and the deemed marine license, there seems to be a bit of a moving feast here in terms of what the actual position is. From the mm. Still whether or not it actually requires a license or doesn't. Not quite sure. I actually know where they've got to yet. To be honest, I'm not sure they do. But that's where I want to understand. In its deadline to submission, they have adverse vapourised. In response to my question, one 620 nanometer, a marine license is not required. So that was the point. But they said it that was based on the consideration the insufficient information has been submitted to support the application to include a marine license. It was seen the detail in their letter. So I don't intend to read that out here. But what I want to understand is your intended approach, do propose to take article 44 Out of the draft DCO and sheduled. Nine, and continue your discussion with the marine management authority about whether a marine license is necessary, in which case, I would wish to understand that there are no significant impediment to due to

earning such a license, and that that should be addressed in your consent and relations document. Or will you seek to clarify and provide additional information to the MMO to conclude that a license is not required? In which case I'll need a categorical statement from the MMO to the extent or do you propose to provide the environmental information that will enable the MMO to confirm that they are Happy with the deemed marine license that's currently in, be sheduled or amended, and any changes that would be necessary. So there's there's a number of different approaches that you could adopt, I just want to understand what approach is likely to be successful? What were your approaching that and what impact that has on my timetable.

40:26

Thank you, sir, any standing on behalf of the applicant? Yes, it is our firm position that it works and beneath the river trend our marine licensable activities within the definition of the marine and coastal access act 2009. We are aware that an exemption order is in place, which in some circumstances provides an exemption for both tunnels. And the MMOs normal position is that it's for the applicant to satisfy itself that that exemption applies at the appropriate time, the appropriate time being when the works are to be carried out for this game, which will be several years in the future. For that reason, and also because the feedback from them and will can at times be changeable. And that the views of case officers also do change. We've had a couple of case officers already allocated to this project, we feel that it's prudent and in good administration to include the deemed marine license within the draft DCO to ensure that the scheme can proceed without delay giving it as a nationally significant infrastructure project at the appropriate time. The way that the the marine license has been drafted and included is that it applies only to the exam, the exemption does not apply. So if at the appropriate time when the Undertaker's come in to carry out the works, the MMO at that point agrees that the exemption applies, then they didn't realize this will no longer be required to be relied upon. However, if at that time, the MMO has come to a different view of the applicability of the exemption, the deemed marine license would be in place and provide appropriate controls and subject to conditions which would allow the undertaker to construct the DD works under the river Trent. We have engaged with the MMO to provide them with the information which is available within the application, including KML files of coordinates references to sections of different construction management plans and, and that sort of thing. But still, we still seem to be at a little bit of an impasse in all honesty as to the necessity of including the deemed marine license. And like you said, we're relatively unclear as to the MMOs position, which further strengthens our case as to why they didn't realize is as in fact necessary. So for moving forward, our position is that we will continue to seek the deemed marine license being included within the draft DCO, we have provided them mo with all of the information that they have requested, which is already contained within the application. And we have asked them again for the views on the interior license and the condition, even without prejudice to the review that it may not be required.

43:18

I think that latter point is important. Obviously, if we get to a position where I need to make a judgment as to whether or not to keep that article and sheduled there I need some degree of certainty or clarity that the actual license in the shedule whether or not needed or not, is fit for purpose. So I need something from the licensing authority to say that they are happy with the matters that are covered in the license.

43:50

Me selling on behalf of the applicant and yeah, so we have altered the licenses of say OMA sort of introductory submissions to reflect the concerns of the scope of the work. I think you could take comfort so that the form of the license has been adapted from the form of the marine license that was included within the cleave household and far more to 2020 including the conditions to which it was subject and of course it is again open to you to write to them and more on your second reading questions and asked indirectly for comments on the Dean three license conditions and we would welcome that.

44:44

Mr Stone if I find my ad, Gareth, which the applicant, I think it is common ground between us and the MMO that the activities are licensable. So then it's a question of whether they are exempt or not. But the availability of the exemption does not prevent the granted the license or the inclusion of it in the DCO. So it's coming back to what the Sterling said about good administration. Why leave? Why leave Jeopardy in the future in the future to a project of this scale, to a point where someone may or may not decide that the exemption applies, we have the opportunity here under the 2008 Act to include the consents we need for this project. So that it may proceed without doubt, it wouldn't be a good approach to proceed with the project of this scale of investment in the hope that somebody in the future agrees that the exemption that applies now applies, then when we can put all the terms we need in the order that can be considered without prejudice, if need be by the MMO. And then the license we can be can be included in the DCO, if that's what you recommend, and that's what the Secretary of State decides is the appropriate way forward. But but the the availability of the exemption does not prevent the inclusion of a de marine license in this order. Thank you.

46:33

You're continuing discussions with the MMO in terms of that license. And, as you say, even if we can get to a position where without prejudice basis, they can confirm the nature and form of the order or the license, the draft license in the shedule is acceptable. And that would be a very helpful step forward.

47:00

That characterizes the applicant, I've certainly managed to achieve that in an offshore wind DTOs, where there's been a point where there's a difference of opinion on principle, they've been willing to work that way. So we'll continue our efforts to push for that. The MMO normally are willing to agree on we have work in this sort of way. So get hopefully get there. Thank you. Okay, thank you.

47:28

I just checked, but I don't believe that we've got anybody from there. Momo. Actually, virtually? I don't believe so. Thank you. Does anybody else have any comments on the matters related to the MMR? The Marine license? Nope. Okay, thank you very much.

48:08

Think that concludes the matters that I had in terms of the specific articles that I wanted to get some clarity on, given that we've already had a previous as each and my written questions. But in terms of the overall articles before I move on to the sheduled, does anybody wish to raise any other matters with me on specific articles? I see nothing in the room. I see no hands raised. So I shall move along. And

let's move to the scheduled. So Item five, and my agenda. James was certain shout scheduled in the draft development consent order. In particular, I've identified scheduled two, which relates to requirements scheduled 15, which relates to protective provisions, and scheduled 16. In respect of the procedure in relation to certain approvals. So we'll run through those matters. I am aware that we touched on protected provisions yesterday and had that, but I am aware that canal and river trust are here today as well. So it would be helpful to particularly deal with that matter whenever we get to protective provisions. So there might be a bit of repetition there, but we'll quickly skip over the other protective provisions because we dealt with it was yesterday but so let's deal with scheduled two and particularly requirements. So requirement five, detail design approval. Environment agent DNA deadline to written representation submission rep. 261 have identified that it would wish to be a specific named console T and respective parts A, C and H. And they've also suggested some additional wording for inclusion. Don't know if we've got the EEA. Today? Again, I don't think that we have sometimes, no, I don't think that we have. But just to the applicant, are you content to make those amendments that they have suggested?

50:36

Me standing on behalf of the applicant? No, sir, we don't feel an amendments proposed by the Environment Agency are necessary. However, we did discuss this with the Environment Agency yesterday and have an early indication that they may be reconsidering their submission. And we discussed with them the protection which has already afforded to them via their protective provisions, whereby they have a right to approve plans for any specified works within their jurisdiction, rather than for example, being a console T on the whole layout of the scheme. And we understand that they may be coming to the view that they already have sufficient protections in place. I wouldn't like to speak for them. But I'm hopeful that the parties can agree that those amendments to requirement five aren't necessary, we will seek to clarify that with the Environment Agency after this hearing and make any necessary changes or not as the case may be for deadline three.

51:46

Okay, thank you very much.

51:56

I think just are the local authorities happy with the deadline or with the structure of Article Five and itself? Yes. Thank you very much. Okay, and that's good. Does anybody else have any comments on that particular article? Not seeing any hands raised. Not seeing anything here. Okay, that's fine. requirements six, which is in relation to the battery safety management. And she requires the submission and approval of a battery safety management plan substantially in accordance with the outline battery safety management plan. PV discussed this requirement and did the appropriate consultation. And you've amended that since the original submission. The yeas seem to have changed their position a little bit and they're now saying that that they would welcome their inclusion as a named console to that requirement and ask that they are reinstated. Noting that they will be able to provide advice during the discharge of the requirement stage in terms of battery safety management for Masters within their remit. Again, are you content to to include them within that

53:29

AMI selling on behalf of the applicant? Yes, sir, we will add them back in as a continuity to this requirement for the next headline three next week.

53:54

Okay, thank you.

54:05

In terms of requirements, six on the battery safety management plan, again, LPs, you have a duty to discharge the requirement. Are you satisfied with the terms of that requirement?

54:25

So Seminole State West Lindsey District Council, and just two points on this. The first is that our original stance was that we rather than the county should be the relevant planning authority. We have had discussions and we're content that rather than being the relevant planning authority, we are a console t. So we do make the requests that were added as a console T for requirements six. The only other point is that there have been some amendments to other requirements and the inclusion of retention clauses. It was something we previously raised in relation to requirements six and that remains to be the case so we do still feel all the requirements six needs a retention clause where it currently just has an implementation clause.

55:12

Okay, and Lincoln two, did you want to add anything to that? Or is that covered it?

55:17

And Stephanie Hall, Lincolnshire county council, sir. And yes, we we don't take a port, obviously, we're happy to be discharging authority that was our request to begin with. So we're grateful for that. In terms of an inclusion and retention clause, it's not a point we pursue, because we assume that the management plan would act as that it would include terms within it, which spoke to its ongoing requirements, we would be happy with that as drafted. An additional point that we would make regarding the operational phase and the monitoring of that management plan, again, goes to resourcing for that monitoring, and maybe best raising in another part of the session, but just to wave that the money flag again, if I met.

56:25

Well, let's, let's actually take the the resourcing issue in relation to No, I suppose it's probably better under the age of 16, isn't it? And just, yeah, now we'll deal with our under sheduled 16? I think because it's all about the requirements in this and the resourcing of the where that's included. So yeah, we'll deal with that. Under that. I'm just trying to think when the best to deal with that. Right. Okay, that's fine. Thank you very much for that. Can I turn to anybody else? Does anybody else have any comments on the condition in relation to Part six or shorten the sorry, requirements? Six? No. And in terms of virtual room, I see no hands raised. Thank you very much.

57:24

So requirements can deal to surface and fall water drainage requiring details to be submitted and approved. And then the approved scheme to be implemented and maintained. Requirement include consultation with Anglian Water Services or its successor, Lincolnshire county council. I confirm that you're not content with your identification as a relevant planning authority for condition 10 and that therefore you do not need to be named as a specific console t for the purposes of the condition.

57:59

Stephanie Hall, Lincolnshire county council yes

58:10

and West Lindsey Are you contend to you're not identified as the relevant planning authority for that requirement?

58:16

Yes, we're content

58:36

so that would mean that the responsibility to discharge the details would therefore be submitted to Lincolnshire and would they be required to consult this district on that?

58:57

It doesn't say that at the moment.

59:01

Me Sterling I understood that the applicant yeah, there's no requirement for Lincolnshire county council to consult with West Lindsay District Council anything Mr. Shakes confirm they don't need to be named as a as a console T is of course open to linkage again to cancel out the relevant point to consult with her murdered per video feel appropriate at that time. And if that includes Wessel and geogenic Cancel, then

59:24

the point I was making is that it would be faulty to discharge it. Would you wish to consult them or would you wish to have a requirement to consult them in and would with Lindy wished to have such a requirement placed on them?

59:43

It's definitely holding into account accounts. I'm guessing a lot of shakes of heads NZT theta one.

59:51

Okay, no, that's fine. And just checking the the actual form of it and the approval of this understood by all parties. Right? That's fine. Check around if anybody else has any other issues. No, I'm seeing no hands raised or nothing else. Okay. Requirements 11 archaeology. Last time that we talked about this and in terms of I had a written question on it. It's very short, succinct, to the point condition. LCC has requested additional wording, however, at the end of the requirement to include words as agreed with

LCC and Historic England. And I also knew that nothing I'm sure, in response to the same question comment that as a relevant authority for heritage and archaeology in Nottingham, they would normally expect to be consulted alongside the archeological advisors for the district councilors and Lincolnshire county council. If that issue is granted, would we wish to work alongside colleagues from district councils and Lincolnshire county council on on all matters regarding implementation of the proposed archaeological mitigation strategy? Was their comment. Should they also be included as named consultees in this requirement?

1:01:25

Me standing on behalf of the applicant, the intention of the drafting of requirements. 11 is admittedly fairly unusual, but it reflects the fact that is the Africans understanding that the archaeological mitigation strategy, as defined within the DCO is agreed between the parties between the applicant and the relevant planning authorities. And therefore, it's not necessary to have a further suspensive condition and our further requirement to agree. We had understood that to be agreed between the parties, but we do not there isn't design to submissions, we managed to briefly discuss this with Lincolnshire county council before the hearing. So I think if we could take that away, so there might be something that we can add to the archaeological mitigation strategy, which makes clear how the applicant will engage with the relevant local authorities through the carrying out of the mitigation strategy, which would mean that the requirements itself doesn't have to be amended.

1:02:27

Okay. Then get your any comment.

1:02:33

So Stephanie Hall, Lincolnshire county council, we agree that's a fair if I can, that's a fair reflection of our pre hearing discussions. So I'm certainly not going to push on you that that requirement be amended with any force. That's not. Again, I agree that it comes down to potentially the drafting of the document to be approved rather than the requirement referring to that document.

1:02:56

Thank you. And TC Have you any comment on those matters at all?

1:03:03

Thank you. Seven point to Nottinghamshire County Council. Now, we're kind of happy with that arrangement. We simply would like archaeologists to be involved with Lincolnshire in those discussions. So I'm quite happy to follow the suggestions that Lincolnshire have made.

1:03:25

Okay, thank you very much.

1:03:34

And then move on to requirement nankeen. This is related to decommissioning and rescue. Sorry,

1:03:41

can I just jump back in now, on the archaeological side, as anybody considered that the Lincoln University archaeological department should be added as a consulte before any procedures are carried out?

1:04:04

Not normal to have a university or academic institution as a console tea as such. But I'm not sure what the applicants position is as to whether or not they've been, indeed in terms of the production of their archaeological assessment or anything of that nature.

1:04:29

Me standing on behalf of the applicant, I would have to check Sorry, I am not sure if they were engaged in the production of the document. Again, perhaps this is one we can take away and consider if there's anything further we need to do by way of amendment to the strategy itself.

1:04:50

Yeah, so it wouldn't necessarily need to change the requirements per se, but the actual document that results from that there could be something I put in place in up

1:05:03

exactly sale ticket we consider in light of the terms of the document.

1:05:07

Okay, thank you very much

1:05:22

okay, in that case, let's do return to start into requirement 19, which is related to decommissioning and restoration that's already been amended to include it, the decommissioning must commence no later than 60 years of final commissioning. issue here is something that was discussed last time that I still have a little bit of an issue with doesn't seem to have been resolved now as in respect of clause two, which states that within 12 months of the date that the undertaker decides to decommission. But there's no mechanism or indication of how other parties are keeping made aware that the undertaker has taken that decision. And therefore, the 12 month time period has commenced, should there be some form of notification of the decision decision to decommission provided for within the requirement?

1:06:25

Me standing on behalf of the applicant and the way that requirement 19. Two would operate with the the submission of the decommissioning plan would in itself be the notification that the 12 month period has started. Because within 12 months of the date, the undertaker decides to decommission the undertaker must submit to the relevant planning authority a decommissioning environmental management plan. So the submission of the plan itself is noticed that the 12 months then Undertaker intends to decommission the scheme and 12 months hence

1:07:00

what it says within 12 months of that decision. So they could make a decision that they're going to decommission with 12 months and intimate the plan.

1:07:11

Okay, I think the drafting is intended to be 12 months prior of the data decommissioning the undertaker will submit a decommissioning environmental management plan. Yeah. So I understand your points. I will look at the draft in there.

1:07:23

I mean, that's fixed by saying, Here's your decision to decommission by so you've got 12 months to submit that plan? Do I understand the intention of the actual wording of it?

1:07:34

I think the intention is the plan itself will be submitted 12 months prior to decommissioning

1:07:40

as it needs to Yes,

1:07:42

I will. I will review the Jacqueline thing out loud I understand your concern.

1:08:08

Does anybody else have any comments on that particular requirement? Or that matter of that requirement?

1:08:14

Pass? Definitely hold Lincolnshire county council. Yes. So this was a point raised by Yoson proceeds at the last issue specific hearing on the draft DCO. And I'm grateful that it appears to now be resolved that for us just for clarity that we consider the purpose of requirement 19 to should be to provide the recipient of the decommissioning plan a significant period of time prior to the 60 year deadline to consider review and potentially have amendments to that plan before it then has to be implemented. So the 12 month period is only meaningful if it's referable to the 60 year deadline, being referable to it 12 months post a decision being taken entirely by the applicant doesn't provide that that's not what the notice period should be referable to it should be giving it should be ensuring that the document is received in good time prior to the 60 year deadline. And that's where it's meaningful. So grateful for that term, the applicants taking that on board. And thank you,

1:09:15

Shane West Lindsey District Council. Yes, sir two points just on this. The first is that we note that because the amendments have a major requirement 19. There's also amendments to the definitions and the date of final commissioning. There is a slight concern that the date of final commissioning, which refers to each part of the development is perhaps not as clear as it could be given the requirement. 19 refers to the authorized development in its hole. So that's point perhaps the point we can leave with the applicant. And I'll just ask Mr. Blake to deal with one other point.

1:09:47

Yeah, okay. Is a question or clarification to the African site I'll explain Western District Council. As a subsequent approval for the decommissioning plan we stumbled across usual issues around what the environmental baseline will be at that point. And as things stand here 60 years before it, you know, what potentially could be the requirements based on the current regs to provide further environmental information to inform the approval of that requirement? And again, as things done on the Planning Act, what are the implications for that, in terms of triggering amendments to DCA as a whole? So in simple terms, you know, based on changes, further environmental information comes forward, does that then potentially trigger a whole amendment process to the DCO? So a question is, can that be addressed within either the requirement or management plan to require an update of that baseline? without stumbling over potential amendment requirements? If that makes sense? I'm trying to find a future proof an issue for both parties. So I just wanted if that's something we considered, it's always comes up on projects like this, we're trying to guess the future. And based on the regs as they are today, which will change but it's just meant to be a constructive comment about can we think around that? Thank you.

1:11:23

That opens the applicant and

1:11:26

me selling on behalf of the applicant is just taking those points. In turn, we've referenced the 12 months from the date the undertaker decides to decommission the authorized development rather than the 60 years in case the undertaker sticks to decommission the scheme prior to the 60 year period. And it would be inappropriate to refer to 60 years as a an absolute time limit, because I don't think there's any suggestion The Undertaker should be made to generate for 60 years. So I think that's a point of drafting that my soul and I can can take away and see if there's something that we can get comfortable with in relation to the date of final commissioning, not the reference to the part which it doesn't appear in 91. We'll take that way. And then we can clarify that. And yes, in relation to massively expand our submission. I think that's something that's we're just talking about valid mental based things etc. I think that's something best dealt with in the framework decommissioning, environmental management plan by putting a process in place as to how the parties would deal with it and 60 years or two years in the future. So again, we'll take that away and discuss with their technical teams and propose some updates.

1:12:41

Thank you very much. Anybody else have any comments on that requirements?

1:12:57

No, okay. Don't do any hands up. Nothing. One final matter on requirements was Reyes baby EDF in written representation, which suggests that there should be an additional requirement in respect of the final detailed routing of the cable route

1:13:24

to be approved by the relevant planning authority, and on which they would wish to be consulted. I suppose the question to the applicant is whether they think such a condition is necessary and appropriate.

1:13:42

Me standing on behalf of the applicant? No, sir. We don't think that's appropriate. Requirement five already deals with detailed design approval. And we've discussed this earlier on in the hearing that includes the layout scale, and also includes reference specifically to power cables and will be approved by the relevant planning authority who they understand or content with the drafting of the condition with regards to Eds concerns as discussed yesterday. So, we are awaiting EDS proposed protective provisions which will undoubtedly provide them with control over a layout etc of the scheme in any way that may affect their interests rather than just generally which would be

1:14:23

under condition five deals with the cable corridor and connection. The specific detail layout of the connection adjacent to cut on Power Station which is where EDF are are concerned and I suppose it's bass at low and maybe even NCC whether whether they've got a comment as to the actual specific detail of that location. Your position is that that would be addressed under under requirement or under requirement five

1:14:54

a misspelling on behalf of the applicant. Yes sir. They go on to kv cable forms part If the authorized development and the normal way and so detailed design would have to be provided under requirement five for all aspects.

1:15:09

Thank you very much. NTC. Do you have any comment on that? Or is it?

1:15:16

Steve ones are not going to shirt. No specific comments. No, but I have endorsed what's just been said, I think we consider the relevant planning authority here to be passed that law. Yeah, for details matters such as this.

1:15:31

Okay, thank you very much.

1:15:45

It's just deal with conscious of time, we'll take a short break in a little bit. I think before we move on to sheduled shedule, the next show? Well, before we get to shedule, 16, because that's going to be a longer one, but sheduled 15, I think we can deal with fairly quickly. I just wanted to take the opportunity to understand the current position in terms of protective provisions, and how those were advancing, and in particular updates on specific parties. But we dealt with that a lot yesterday in terms of compulsory acquisition. So whether or not you can add anything to that, but I'm aware that canal and river trust are available today. And one of those matters was the protective provisions in relation to canal and river

trust. So maybe if we could just deal with that. They feel that they can contribute as well. And we can get an understanding of what their position is as well. But maybe you could just start applicant by laying out what the latest position for the protective provisions with CRT.

1:16:53

Amy Sterling on behalf of the applicant, the position is as it was yesterday, Mr. Mirza and I have in contact on a very regular basis, we consider the i consider to protect provisions and understand misnomers does too, but she can obviously speak for herself that the protective provisions are almost an agreed form, and that they can be included within the draft DCO if not being deadline three then soon after perhaps even before deadline for just to provide that comfort.

1:17:30

Thank you very much. I'm from CRT D just want to let me know your view of the position where you think you're at where you think we may well be and whether or not we can get an agreed position by deadline three, or whether it may take a little bit longer and what your timescales are.

1:17:49

Yes, Sophie summers canal and river trust. Agree with Amy. The protective provisions I think are almost there. And I had an email this morning saying she thinks most points are agreed. So I'm optimistic for submitting a final version that deadline three. There's one other point just to raise with you which has come up relatively recently, the applicant kindly provided us with copies of the legislation to be disappplied. It's listed in schedule three. And one of them which is listed at E one E is the Trent open brackets Burton upon Trent and Humber navigation act 1887. And there's one section in there section 34, which provides powers to dredge the trend at that section. And that would be a power that the trust relies on for maintaining the river at that point. The principles agreed with the applicant, I believe that there's no intention for and the project doesn't need to prevent the trust dredging there. So it's just finding a form of wording to ensure that that is not accidentally excluded that Pam.

1:19:24

And as a matter that would be picked up in the protective provisions maintaining the sheduled three restriction or removal or doesn't mean removing that out of the shedule.

1:19:40

Me standing on behalf of the African MSM as that has proposed some drafting. As she said the principles agreed it's not intention to override any pose of the trust to dredge the trend. The exact wording remains to be agreed only simply timing nothing controversial and it may be that the relevant article which gives effect to shedule, three as amended to make that clear audit is a matter that can be included within the protected provisions that will be agreed between us but the principle is is a great

1:20:27

Okay, thank you very much. And Miss summers, are you content with that position?

1:20:35

Yes. So, Sophie Simon's canal river trust? Yes. I've left it with the applicant to figure out the best drafting position. Okay,

1:20:45

thank you very much. Thank you. Thank you. And in terms of the other protective provisions that I had sought, a further update on network real national grid, EDF and EA you provided that yesterday so I'm not going to waste further time this morning. Seeking to duplicate matters.

1:21:13

So, I think at that point in time, we shall take a short adjournment and see where 1122 So if we say if we come back at 2012, so 1140 And then we shall proceed to shedule 16. At that point in time, but the hearing is adjourned and we shall resume at 20 to 12. Thank you very much.