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FULL TRANSCRIPT (with timecode)

00:00:05:00 - 00:00:10:15

I think everyone. Time is 10:00 and this is now open.

00:00:12:04 - 00:00:18:05

Could a member of the case team please confirm that I. Livestream started.

00:00:21:09 - 00:00:23:01

Just to confirm everyone else can hear me.

00:00:26:05 - 00:00:52:07

So I'd like to welcome you all to this issue. Specific. Hearing related. The application made by Weston Solar Project Limited. Order granting development consent for the proposed West Burton Solar project. My name is Andrea McGeehan and I'm the lead. Member of the Panel of Examining Inspectors appointed by the Secretary of State to examine this application. I'm going to ask the other panel member to introduce themselves.

00:00:54:10 - 00:00:59:11

Good morning everyone. My name is Jonathan Medlin and I am the other member of the Examining Authority.

00:01:00:27 - 00:01:30:27

That you'll hear tours being referred to as the examining authority. Our role is to examine the application and, on the conclusion of the examination, to write a report to the Secretary of State for Energy Security and net zero zero, with a recommendation on whether development, the Development Consent Order should be made and the Secretary State is responsible for the final decision. A case term team even works alongside us throughout the process and then managed by Louise Haraway, who is here today along with Rebecca Evans.

00:01:31:17 - 00:01:56:28

And they're available at the back of the room. So I'll. I'll run through some housekeeping matters for those attending in person. First of all, can everyone please make sure that their devices are set to silent? Uh, in terms of toilets, they are, um, uh, out of the room and and to the left at the end of the corridor, though if you are exiting the room during the hearing, please use a side door to the left rather than the main doors, because they're quite noisy.

00:01:58:16 - 00:02:36:21

Uh, there aren't any planned fire tests today. In the event that an alarm sounds, there is an exit behind me. Um, or through the primrose room on the other side of the corridor. Um, and exiting that way as well. So the purpose of the hearing today is to consider matters relating to the developed consent order. And, um, uh, the hearing will generally follow the agenda published on the National infrastructure website on the 16th of January. In terms of timings, we will have a short, uh, mid-morning break at around 1130 and a longer break for lunch at around 1:00.

00:02:37:03 - 00:03:19:10

We will also have a mid-afternoon break. Um, as well, if we're still sitting at that point, uh, and we intend that the hearing should not go on past 5:00 this afternoon. So, as you're aware, this hearing is a

blended event, which means that some of you are attending in the room and some are taking part via Microsoft teams. We'll make sure that everyone is given a fair opportunity to participate whichever way, um, you are attending today. If you are watching the live stream, then please be aware that it will be stopped during adjournments to the hearing, and you will need to refresh your browser to view the page and once the hearing restarts.

00:03:22:03 - 00:03:47:00

A recording of today's hearing will be made available on the West Burton Solar Project section of the National Infrastructure Planning website as soon as is practicable after the hearing has finished. With this in mind, please make sure that you speak clearly into the microphone stating your name and who you're representing each time you speak. A roving mic is available in the room for those who wish to speak, but don't have a microphone in front of them.

00:03:49:06 - 00:03:57:28

For those of you joining us virtually who wish to speak, please use the raise hand function and we'll make sure that you have an opportunity to contribute.

00:04:00:18 - 00:04:19:24

A link to the Planning Inspectorate Privacy notice was provided in the notification of the hearing. We assume that everyone here has read that. This sets out how the personal data of our customers is handled, in accordance with the principles set out in the data protection legislation. Please do speak to a member of the case team if you've got any questions about that.

00:04:22:28 - 00:04:34:28

We're now moving on to agenda item two. Um, the purpose of the hearing and confirming who's, um, confirmation of those who notified the examining authority of their wish to be heard.

00:04:37:29 - 00:05:25:04

So the purpose of the hearing is to address matters identified by us in our reading of the application documents and also the submissions made to date. More specifically, we will be looking at, um, clarifying matters relating to how the the draft DCO is intended to work. Um, what is to be consented, the extent of powers, um, and what requirements, provisions and agreements are proposed? We'll be looking at any possible issues not covered by the draft DCO as it's currently drafted, and also will be um, we will we'll be seeking to establish or confirm the views of interested parties as to the appropriateness of proportionality and efficacy of the provisions and the requirements as currently drafted.

00:05:27:28 - 00:05:44:08

So during the hearing, the examining authority will invite parties to speak and will also ask questions as we run through the agenda. As a general principle, all comments, questions and answers are to be directed through us as the examining authority and not directly to any other party.

00:05:45:27 - 00:06:15:05

And just a general word about issue specific hearings. Their purpose isn't to open up discussion of all matters under a particular topic. Rather, it's to allow discussion on matters that we feel would benefit from oral representations. And this doesn't mean that written representations aren't equally as important in terms of the consideration that will be given to them in our recommendation, and accordingly, it just because of matter isn't discussed during the hearing, it doesn't mean that it won't give it our full consideration.

00:06:17:21 - 00:06:43:28

So now to introduce some of the other parties in the room, please remember to unmute your unmute your microphone when you speak. Um, and if you're joining by Microsoft Teams, please switch on

your camera when we invite you to speak if you're comfortable in doing so. So and then please switch the microphone and camera off again when we move on to the next speaker. As I've said, there is a roving microphone available. And for those who don't have a static microphone in front of them.

00:06:46:21 - 00:07:14:25

When I state your organization's name. Could you introduce yourself stating your name and to your represent? No need to introduce all members of your team at this stage. Um, if you're not representing an organization, just introduce yourself and state the nature of your interest in the application. And could you please also state how you wish to be addressed, whether it's Mister, miss, um, etc.? So we'll start with the applicant, please. And um, and their advisors. So who is leading for the applicant today?

00:07:16:14 - 00:07:46:14

Good morning. Uh, my name is Claire Broderick. I'm a legal director at Pinsent Masons, solicitors for the applicant, West Burton Solar Limited. Um, I'm joined today by Eve Browning, who is senior project development manager at Island Green Power. For the applicant, also, um, via Microsoft teams, we have Tara and Jane Crichton, who are, um, from Land Pro Environmental Consultants for the applicants, should they be required to address any particular points today? Thank you.

00:07:50:14 - 00:07:55:15

Sorry. It was Tara Sethi and Jane Crichton. I think you.

00:08:03:22 - 00:08:12:09

Now moving on to the organizations and individuals that have given notice of their intention to speak. Starting firstly with the local authorities and Lincolnshire County Council.

00:08:13:18 - 00:08:29:22

Good morning ma'am. Um, my name is Stephanie Hall Hale. Happy to be Miss Hall. I'm instructed by Miss Martha Reeves, who sits to my immediate left from Legal Services, Lincolnshire. And to my immediate right is Mister Neil McBride, who's head of planning at Lincolnshire County Council.

00:08:36:12 - 00:08:40:04

Thank you. And West Lindsey district Council. Good morning.

00:08:40:25 - 00:08:59:20

My name is Samuel Sheikh. I'm a counsel instructed also by Miss Martha Reece, who sits on my right of legal Services, Lincolnshire Act, on behalf of West Lindsey District Council. To my immediate left is Mr. Russell Clarkson, who's the development management team manager. And to his right to his left is Mr. Alex Blake, who's an associate director. Atkins.

00:09:09:13 - 00:09:16:11

Thank you. And do we have any other local authorities present? Um, Nottinghamshire County Council.

00:09:18:27 - 00:09:20:09

Don't think so.

00:09:22:06 - 00:09:30:16

Okay, so moving on to, um, interested parties who requested to speak. Um, first of all, 7000 acres.

00:09:31:27 - 00:09:35:17

Good morning, ma'am. Uh, Mark Pryor from 7000 acres.

00:09:39:24 - 00:09:42:29

Thank you, Mr. Pryor and Simon Skelton.

00:09:44:21 - 00:09:48:05

Good morning. Yeah. Simon Skelton, local resident.

00:09:48:28 - 00:09:49:19

Thank you.

00:09:53:15 - 00:09:56:13

So anybody else in the room who wishes to speak today?

00:10:00:27 - 00:10:05:29

No. And can I ask if there are any other virtual attendees who wish to speak today?

00:10:11:04 - 00:10:42:06

Okay. Thank you. So that's all of the introductions for now. If anyone decides that they wish to speak during the course of this morning's proceedings, um, for example, to make comments on representations made by other parties, then you may do so. Um, please let us know by raising your hand, either physically if you're in the room or using the raise hand function on teams. And as I've said, um, each time you speak, please give your name and any organization you're representing so that that's picked up for the formal record.

00:10:44:24 - 00:10:59:02

We'd also like to request that those speaking today provide a written summary of their comments by deadline. For that is the 28th of February. So are there any questions about the agenda or the arrangements for the hearing today?

00:11:01:10 - 00:11:18:27

Okay. Thank you. So we've got the agenda on screen. Thank you. And we're now moving on to agenda item three which relates to, um, the applicant's um, application for a change request.

00:11:21:11 - 00:11:59:15

Um. So we received the applicant notification of their intention to submit a change request. Um, it's the 3rd of January and the change request itself was submitted late afternoon. Um, on Friday the 19th of January. So last Friday, though, that due to some issues with the, um, the file transfer, the Exa and case team were unable to access the documents fully until yesterday when when we were traveling. So whilst we have a good sense of the contents of the change request from the change notification, we haven't fully reviewed, um, all of the information submitted.

00:12:00:06 - 00:12:18:22

So what we thought would be helpful, um, at this point would be if the applicant could present an overview of the rationale for and the nature of the, the, um, the changes, um, to the application that are proposed. Um, so would you like to start with that, please, Miss Broderick?

00:12:20:22 - 00:12:57:14

Clare, the applicant? Um, yes. As you mentioned, the change application itself, um, has now been submitted. Um, that includes, um, the change application report, um, uh, which, um, details, um, each of the changes and the additional documentation that has been submitted with the change application itself. Um, the change changes identified, um, have been, um, put forward based on discussions with key statutory undertaker and stakeholders.

00:12:57:26 - 00:13:32:24

Um, and they comprise five changes in total change. One is an extension to the order limits along the highway from Westborough and one site to the A1 500 till Bridge Lane. Um, and that's to facilitate access to the site during the construction phase. Um, that change has come about as a result of discussions between the applicant and Lincolnshire County Council. Highway department identifying that, um, there may be a need to create some temporary passing places along that section of public highway.

00:13:33:08 - 00:14:12:16

Um, and therefore, the order limits have been extended to accommodate, um, those temporary works, uh, change to um comprises an extension of the order limits to the east of the Lincoln Gainsborough Railway line within Stowe Park. Um, this is to allow for flexibility in relation to the location or the micro siting of the cable route corridor. Um, connecting West Burton two and West Burton three sites. Um, as a result of um, a proposal by Luminous Energy to, um, develop a smaller solar farm on Stowe Park farm.

00:14:12:29 - 00:14:38:21

Um escaping opinion for Stowe Park farm was submitted or request for scoping. Opinion was submitted on the 6th of December, 2023 for that um town and Country Planning Act development. Um, and the applicant has been working with Luminous Energy to make sure that the two projects can co-exist. Should planning permission be granted for the um, State Park Farm solar project?

00:14:40:16 - 00:15:06:16

A change in three relates to the crossing of the railway, um, at uh West Burton three site um, that has arisen following discussions about the design of the crossing with Network Rail and site surveys that have been undertaken, and therefore the order limits have been extended to enable, um, the design of the horizontal directional drill, um, to be developed further.

00:15:09:05 - 00:15:44:09

Uh, change number four relates to a visibility splay at the um corridor access AC 110. And that's an extension of the visibility splay along the A1 five six High Street in Marton. In order to ensure, um, construction access and can be undertaken and to provide, um, consistency with the um accesses designed for the gate Burton Energy Park project and the Cottam Solar project. So the, um, alignment of the visibility splay is the same for all three projects.

00:15:45:24 - 00:16:19:09

Change. Number five, um, relates to the access into Westborough and power station from Gainsborough Road. Um, following discussions with EDF as owners of the um West Burton Power Station. Um change five comprises an extension of the order limits to include the existing main vehicular access road into West Burton Power Station, in order to allow for the installation of the grid connection works. Um, that's just the use of the existing, um, access road.

00:16:19:11 - 00:16:48:29

No physical works are proposed along that along that road. It's just an ability to use the existing road in that location. Um, because the change application includes a request seeking powers of compulsory acquisition, um, over additional land. Um, the Infrastructure Planning Compulsory Acquisition Regulations 2010, um apply and therefore the application will be made and notified in accordance with those regulations should it be accepted.

00:16:52:28 - 00:17:23:04

Um, the report itself, um, is accompanied by a supporting environmental information report. Um, and that consistently considers the conclusions of the environmental statement that's already been submitted into the examination. So app 038 to app Dash 061 plus some additional addendums such as rep 1012 and rep 3010.

00:17:23:13 - 00:17:46:15

And it considers the proposed changes and whether there are any changes to the potential significant effects compared to those reported in the environmental statement submitted with the DCO application. The Supporting Environmental Information report concludes that there will be no new or different likely significant environmental effects as a result of the five proposed changes.

00:17:49:00 - 00:17:49:17

Thank you.

00:17:56:24 - 00:18:23:14

Thank you, Miss Broderick. I just have one specific question at this point. Um, we've had a look through the consultation report. And it makes reference to the support gained from various interested parties and such bodies. Um, but it isn't clear in the report that all of the, um, the consultation responses have been included. Um, can you assist with that particular point? Please?

00:18:27:00 - 00:18:57:17

A Clare project for the applicant. Um, so table 4.2 in the change application obviously details where we've had discussions with various, uh, landowners and other parties. Um, we've also, um, mentioned the addition and engagement that's been had with with EDF and Network Rail. Um. We haven't provided. That's been an ongoing engagement with those parties rather than a specific, um.

00:18:58:28 - 00:19:23:26

Written request for a response in relation to the particular change itself. Obviously, if the application were to be accepted, then they would be notified in accordance with the um regulations and then would have an opportunity if they wish to submit a formal representation. But the changes we've put forward, um, have been part of ongoing negotiations with those main parties.

00:19:29:24 - 00:19:44:07

But for the applicant, um, there was also in respect of EDF um and agreed statement that was submitted. But in respect of Network Rail that's been ongoing engagement as part of their, um, clearance process. Okay.

00:19:45:17 - 00:20:19:10

All right. Thank you. Does anybody have any points or questions about the, um, the change request at this stage, noting that? So we haven't accepted it as an examining authority we're looking at at the present time. Does anybody have any particular points to make this stage? Okay. Thank you. So, so in terms of sort of the next steps, and the next stage will be for the change request to be reviewed in terms of the information required, as is set out in um, advice note 16 as well as the CA regs.

00:20:19:12 - 00:20:54:28

Um, we aim to come to a view, um, on whether or not these information requirements have been met. Um, as soon as possible and ideally, uh, by the end of this week. Um, and we say that, um, on the basis that, um, ideally the consultation requirements, um, would be progressed as expediently as possible. So, um, noting that comment, um, in the event that the change request is accepted, we would ask that the applicant be prepared to act quickly in that regard in terms of the in terms of the consultation.

00:20:58:18 - 00:21:33:27

A purple shirt for the applicant. Yes. That's noted. Thank you. We obviously included a sort of an indicative timetable. Being mindful of the fact that the examining authority was here in Lincoln, um, this week and also, um, the week after next. So we had allowed for a longer period in case it was needed. Um, however, we can obviously bring forward, um, the newspaper notices if required. Um, I

think we've mentioned to the case team before, and we, we, we noted in the application that the is a Thursday publication date for the local newspapers.

00:21:34:02 - 00:21:39:28

Um, so we would need to work with with that in mind. But definitely we can bring that forward. Okay. Thank you.

00:21:40:00 - 00:21:45:04

That's helpful. Thank you. I knew the questions or points before we move on.

00:21:46:22 - 00:21:52:14

Okay. Thank you. So moving on to agenda item four. Um.

00:21:54:09 - 00:22:28:08

Under this item, we will be asking the applicant to provide a brief update on any changes that have been made to the original draft DCO and and the shared schedules. Um, so so we we're aware that, um, many of the concerns and points raised by interested parties, particularly the local authorities. Um, I've been coming to a number of the examinations that are running or have recently been concluded. Um, and there have been a series of amendments to the draft development consent order.

00:22:29:10 - 00:23:00:15

Um, and we also recognise the importance of general consistency across these documents. And but obviously, given that there will be variations in local circumstances, they won't all be the same. Um, but in terms of the the changes that have been made to address various local representations, um, it's obviously important for us as the examining authority for this examination to understand how and why this this key document has changed as it has evolved.

00:23:00:17 - 00:23:29:19

And we're now on obviously, revision C, um, and a range of changes have been made and revisions A and B, um, so I therefore like to start by asking the applicant to outline and explain the rationale for the main changes, noting obviously that there are a large number of smaller typographical and drafting type changes, and we don't need to dwell on those. But in terms of the, um, the main changes, if we if we could have an overview of the rationale for those, please, that would be helpful in setting the scene.

00:23:32:21 - 00:24:05:00

Um, clear portrait of the applicant. Um. As you've mentioned, there have been a number of changes, um, since the, um, original version of the draft DCO was submitted with the DCO application. Um, the reason for each change and the nature of the change, um, is set out in the schedule of changes documents. Um, in particular in table 3.1. Um, so the latest version of that document was rep 3-039.

00:24:05:15 - 00:24:41:27

Um, and that lists for those who are wishing to see the various different amendments that have been made, each change in a sort of tracked version for versions A, B, onwards. Um, the reason or the rationale that the table itself also sets out whether the request, um, for a change came about, um, by uh, as a change instigated by the applicant themselves, or came about via a request from, um, the examining authority or from, um, various stakeholders, including the local authorities.

00:24:41:29 - 00:25:16:06

Um, and it also sets out the rationale for the change. Um, and where changes have been made in order to ensure, um, consistency with either the Cottam Solar project draft development consent order that's being developed, um, by Island Green Power as well, or to ensure consistency with some of the other

draft development consent orders being put forward in Lincolnshire. Um, that that's sort of stated. So that's where you can go to find details of all of the changes that have been made.

00:25:16:29 - 00:25:57:24

Um, in terms of the nature of the changes. Um, these have been in response, um, in particular to comments that have been made, for example, by the Environment Agency and the Canal and River trust in relation to the dis application of legislation in article six. Um, a number of changes have also been made to terminology to reflect, um, the Secretary of State's preferred drafting, such as references to temporary prohibition or restriction of use, rather than the use of the word stopping up, which is just a general sort of drafting change across all different types of DCO.

00:25:58:02 - 00:26:03:25

So that's the main changes to the, um, highways, uh, powers.

00:26:04:24 - 00:26:05:11

Um.

00:26:07:15 - 00:26:39:08

There have also been some changes to article 38, which relates to hedgerows and trees, and particularly in response to comments that have been raised by interested parties. So a number of amendments were made to clarify that the powers can only be exercised in accordance with the approved Landscape and Ecological Management Plan. So that was an example of an amendment in response to specific comments that had been raised, um, by interested parties.

00:26:40:12 - 00:27:16:23

Um. In terms of the requirements themselves. Um, the sort of the two main changes are one to um, specify which um, relevant planning authority will be, um, the approving authority. So for example, which will be Lincolnshire County Council as the discharging authority and which will be, um, West Lindsey District Council or Bassetlaw District Council. And that's approach that's been taken across, um, the Cottam Gate, Burton and West Burton, in response to um, requests from the local authorities.

00:27:18:03 - 00:27:49:00

Um. We have also, uh, made some amendments, um, to the um, decommissioning requirement, which is the other main change, um, in the requirements, um, to specify that decommissioning must be no later than 60 years following the date of final commissioning, whereas the original version did not include a time limit on the operation of the um scheme.

00:27:49:21 - 00:28:02:09

Um, those are the main changes to the, um, requirements. Um, the schedules have been updated as and when plans have changed. Um, so for example, the um.

00:28:03:26 - 00:28:50:24

Uh, highways schedules, uh, where an access has been removed, that's been taken out. And then in respect of schedule 16, which is the protective provisions with statutory undertakers, as negotiations have continued with those um parties, we have been amending um schedule 16 to reflect the the latest version of the agreed, uh, protected provisions. And then in respect of schedule 17, there have been a number of amendments, um, as a result of ongoing discussions with the local authorities in respect of the process for the discharge of requirements, including, um, amendments to the timeframes within which, um, an application needs to be considered.

00:28:51:06 - 00:29:18:05

Um, and also, um, discussions have been ongoing in terms of the, um, uh, the fee that's payable for that discharge. Um, so those are that's sort of a brief summary of the types of changes that have been

made to the, um, draft DCO since the original version. But as I say, that the the detail of all of those changes for each version and the reasoning is set out in the Schedule of Changes document. Thank you.

00:29:20:10 - 00:29:51:06

Thank you, Miss Broderick. That's that's helpful. Just in in terms of the oh gosh, booming in and out here in terms of the, um, schedule of changes, documents, um, and and table, um, 3.1 uh, specifically it does helpfully set out, um, as you say, the, the, the, um, the nature of the amendments and their origins. Um, it's not always complete in, in places, for example, in relation to the changes to schedule, um, two requirements.

00:29:51:19 - 00:30:00:14

Um, and so it'd be helpful if that could be reviewed just to make sure it is it is um, complete. Um, in, in, in that sense, um.

00:30:02:14 - 00:30:16:09

I'd also just just another point about the, um, explanatory memorandum, obviously that was updated, um, at deadline one and two, and it will be helpful if that could also be updated for for deadline for.

00:30:19:15 - 00:30:21:20

A clear picture of the applicant and.

00:30:23:13 - 00:30:35:04

Just to clarify, in terms of you would like more detail as to the reason for the change. Obviously, the detail of the change is fully set out for the requirements, but is it was it the sorry, it's.

00:30:35:06 - 00:30:36:00

A gosh.

00:30:36:02 - 00:30:55:04

This is very variable, shall we say. Um, sorry. It's the rationale. So there's the third column is rationale and it's not always complete. Um in my reading um for, for each of the um the changes. So it will be helpful if that could be, um, reviewed so that it is as complete as possible, please.

00:30:57:20 - 00:31:20:29

Claire Hopkin. Yes. We can have a look at the rationale to see if any more detail can be provided. Um, in some cases it's. Yeah, it's just a, a drafting preference or that the, um, I understand the position has moved on in terms of the drafting the Secretary of state, um, is willing to accept, but we'll try and make that clear where that that's the case.

00:31:22:18 - 00:31:33:15

Um, in terms of the explanatory memorandum. Um, obviously happy to update it. A version was provided with the change application. Um.

00:31:35:18 - 00:32:20:03

The detail of a lot of the changes are made, a sort of at the moment are, um, sort of tweaks to the drafting rather than the purpose of the article. So, um, there wouldn't necessarily, as I'm sure you're aware, being need to update the explanatory memorandum just because we've tweaked some of the wording. Um, but we will ensure we can obviously provide one for deadline for, but I'm not sure there'll be much in the way of update to it. We will definitely provide one with the final version of the DCO that will cover then all of the changes that have been provided, um, as well as if there is any other um, development consent orders granted by the Secretary of State during the examination.

00:32:20:07 - 00:32:44:28

Um, for example, the Sonica project is due to be decided in in March, and so we will be doing a review of the drafting that has been, um, approved by the Secretary of State. Should that be granted development consent, and then make sure the DCO contains the most up to date, um, preferences for drafting, if that's necessary. And then a further explanatory memorandum would be provided to support that.

00:32:45:01 - 00:33:02:27

That's helpful. Thank you. And say process and examining authority is just helpful to make sure that those things are tracking through together. Appreciate the changes will be at minimal in some cases, but um, it's just helpful to keep that, um, running together any. Comments, questions from anybody else in the room or online.

00:33:04:21 - 00:33:38:28

Okay. Moving on then. Um, also under item four, um, I'd just like to ask the applicant, um, whether there are likely to be any further proposed changes to the DCO. Um, um, noting the the ongoing work to align, um, the draft DCO that we're looking at with, with those considered by other solar examinations at the present time. So do we. Do you anticipate any further significant changes?

00:33:41:01 - 00:33:43:27

A clear project for the applicant. Um.

00:33:45:13 - 00:34:21:12

Not in terms of, um, alignment with other CEOs that we're aware of at the moment. Um, if the change application is accepted, then the deadline, um, for version of the DCO will obviously encompass, um, the changes, um, that were set out. But that's, that's sort of references to the schedules mainly. Um, the applicant is also just reviewing, um, the schedules that relate to, um, uh, highways and street work's power. So schedules 4 to 8 to make sure that they accurately reflect the most recent versions of the street's plans.

00:34:21:14 - 00:34:55:19

We noticed that there were possibly a few omissions where the street plans had been updated, but that wasn't hadn't been reflected in the schedules. So that review is ongoing and will be completed. The deadline for, um, we anticipate that there will be, um, some further amendments to the protected provisions in schedule 16. Um, as negotiations are ongoing with various statutory undertakers, um and the um local authorities had requested in the Cottam um.

00:34:57:21 - 00:35:22:10

Uh, examination materials. Some amendments to the drafting of schedule 17. In relation, as I mentioned, to fees payable for the discharge of requirements. So there'll be an update to schedule 17 to reflect Lincolnshire County Council's um, preferred approach, um, to the payment of fees, which I understand they would like to apply for West Burton as well.

00:35:24:13 - 00:35:27:08

Thank you. We'll come on to that a little bit later on in the agenda.

00:35:30:03 - 00:35:31:01

Right.

00:35:32:17 - 00:35:36:03

So moving on then to item four.

00:35:38:29 - 00:36:13:20

So we've got a number of specific points writing relating to the articles. Um, the first of those is, um, article five. Um, how to maintain the authorised development. Um, and under this, I've noted that we'd like to look at the, um, the extent of maintenance provisions. And obviously this links to the, um, the definition of the term um, maintain as well. Um. So starting firstly with the definition of maintain.

00:36:13:22 - 00:36:19:06

Could could the applicant please start by perhaps clarifying how that's been derived please.

00:36:22:24 - 00:36:57:28

Club project for the applicant? Um, yes. As set out in the applicant's response to first written question 1.5.3, which is rep 3-038. Um, the applicants position is the definition of maintain um is proportionate and consistent with the assessment undertaken in the environmental statement. It's also consistent with the definition used in the Long Field Solar Farm Order 2023, which is the most recent, um, solar DCO that's been granted by the Secretary of State.

00:36:58:10 - 00:37:11:18

Um, the applicant's position is it's not necessary to repeat in the definition. Um, it's necessary to repeat the wording in article five in the definition of maintain. Um, because the um.

00:37:14:01 - 00:37:48:25

The two are naturally red together in terms of statutory drafting. So in article five, um, subparagraph three, it makes it clear that the power to maintain the authorized development does not authorize the carrying out of any works which are likely to give rise to any materially new, or materially different effects that have not been assessed in the environmental statement. Um maintenance activities are described in section 4.7 of chapter four. Um scheme description of the ES, which is app Dash 042.

00:37:49:25 - 00:38:30:15

Um and as set out in the applicant's response to first written question 1.5.6 um, any maintenance activities that are undertaken will be managed via the Outline Landscape and Ecological Management Plan, which is secured by requirement seven. And that's rep 3-029 and also the Outline Operational Environmental Management plan secured by requirement 14 um which is Rep 3-023. Um the Outline Operational Environmental Management Plan sets out a number of topics where um mitigation measures will be put in place, um, during operation.

00:38:30:22 - 00:39:05:02

And those include matters relating to waste, for example. Um, so the recycling of materials, um, and also to monitoring of things relating to climate change and emissions. Um, when the applicant, um, submits the final versions of those plans for approval, uh, the applicant will need to demonstrate that those the measures set out in those plans, um, will not result in any materially new or different environmental effects from those assessed in the ES, which, um, is consistent with the, um, power.

00:39:05:04 - 00:39:49:21

Um, the limitation on the power in article five. Um, and when submitting the application to discharge these requirements, paragraph two, subparagraph four of schedule 17, um, requires the applicant to include a statement with the application, making it clear whether, um, the the matter that is the subject of the application will likely give rise to any materially new or different environmental effects. Um, so the applicant's position is that the power is, uh, to mean what constitutes maintenance activities is constrained both by, um, the wording in article five and also by the discharge of the requirements so that, um.

00:39:50:22 - 00:40:03:24

The Secretary of State and the local authorities can have confidence that the maintenance activities will accord with the maintenance activities that were assessed as part of the environmental statement.

00:40:04:20 - 00:40:53:26

Okay. Thank you. Very broad, broad answer. But on the specific question, um, about, um. The definition of maintain. Um, and how that's been derived, I think just the definition itself is, is is fairly broad ranging, and I know this has been picked up elsewhere, but I think you said that's, that's Precedented, particularly in Longfield. Um, so that's, that's the response to that particular point. Um, but just just taking, taking that point a little bit further then, um, I suppose a basic question is with, with that, with that definition, would it be possible to replace the whole of any elements of the scheme, for example, um, work number one, the um, the solar PV panels, would it be possible to replace all of them within, within that, um, that the definition of that, that wide, broad scope.

00:40:57:21 - 00:41:32:19

A clever project for the applicant. So the definition of maintain. Obviously states that it doesn't um. Include, uh, the removal, reconstruction or replacement of the whole of the authorized development. So it made it clear that you couldn't rebuild the entirety of it in terms of the individual, um, uh, work numbers. Um, there would be the ability to, um, replace elements of that provided that, um, it wouldn't result in any materially new or materially different, um, environmental effects.

00:41:32:21 - 00:42:05:24

So, for example, um, in the environmental statement, a um, a percentage of replacement of panels per year was assessed as part of the climate change, this 0.4%, um, per year replacement and that had been assessed. So if the applicant wished to uh, in the future replace a greater number of panels, then they would have to demonstrate that there wouldn't be any materially new or materially different environmental effects at that time.

00:42:05:26 - 00:42:33:00

And if there were, then it would need to make an application, um, to change its development consent or to so it whilst the power is. Drafted quite widely. It is constrained by that, um, restriction or not, um, creating any new or materially different environmental effects. And obviously a only a percentage of replacement panels, for example, has been assessed within the environmental statement.

00:42:42:00 - 00:42:58:06

I'll come back to to that particular point in a moment before I do that. Um, in terms of the, um, the activities that would be controlled by the local authorities in approving the um, landscape and ecological management plan and the operational environmental Management plan. Um.

00:43:00:22 - 00:43:05:09

A question is that in. Undertaking those approvals.

00:43:07:01 - 00:43:31:25

How could how can the local authorities be certain that the activities proposed for within the definition of of maintain no noting particularly the the the very long life of the project 60 years? Um, so these plans are therefore making provision for a very, very long time, 60 years ahead. How does that work in terms of whether or not those provisions fall within that definition?

00:43:36:13 - 00:44:08:25

The Clare project for the applicant. Um. In in practical terms. Um, as I said, when the application for discharge is submitted, obviously we've got that requirement to confirm whether it's likely to give rise to any materially new or different environmental effects. So there's a positive obligation on the applicant to demonstrate that what it's putting forward, um, is within the parameters that were assessed in the environmental statement. Um, should the, uh, local authority.

00:44:09:27 - 00:44:50:06

Consider that there is not sufficient information within the final plan that's being submitted, to give it comfort that the activities proposed fall within, um, the confines of the, um, the definition of maintain. Then they have the ability to request further information from the applicant. So, um, if it's not clear to them at that point in time, then they can ask for further clarification. Um, however, the main point I would say is obviously the Planning Act 2008 makes it clear that it's automatically a criminal offense to, um, not comply with the terms of the DCO.

00:44:50:08 - 00:45:14:04

So doing an activity that fell outside of the, um. The definition of maintain would result in in the undertaker um committing an offence and therefore we we consider that compliance with the terms of a DCO, um provides sufficient protection because of the consequence of consequences of non-compliance. Thank you.

00:45:15:14 - 00:45:20:07

Thank you, Miss Broderick. Just so just just. Okay. Looking at the, um.

00:45:22:09 - 00:45:34:07

The point about, um, the statement, um, on whether or not the application would give rise to any new or materially different environmental effects compared to those in the environmental statement.

00:45:39:02 - 00:45:42:10

Just just in terms of the environmental statement and.

00:45:44:03 - 00:46:16:29

In relation to some topics. The environmental risk we have before us says that there will be no residual effects or that there wouldn't be significant. And for example, in terms of hydrology, flood risk and drainage. And no residual effects on construction, operation or decommissioning phases. So how does that mean that that any effects in those regards have been sort of scoped out of any future assessment? Um, I because, um, the statement itself will be looking at whether or not there's any sort of materially new or different effects.

00:46:17:01 - 00:46:25:15

Will they be considered fully in the the this the statement that would have to be produced at that point under section 17, not section 17. Sorry. Schedule 17.

00:46:28:03 - 00:47:00:22

And project for the applicant? Uh, yes. So obviously, if we have stated if the environmental statement states no residual effects, and then, um, when we're submitting the, um, application, we would need to say that the, uh, that statement would obviously, if there was a change so that there would then be residual effects as a result of the activities proposed in that plan, then that would need to be highlighted in the statement, because it would be, um, a new or different effect from that reported.

00:47:01:00 - 00:47:05:17

The the report would say no effects, and then we would be saying there is an effect now.

00:47:08:12 - 00:47:15:08

All right. Does anybody else have any questions or comments on this aspect of the the DCO?

00:47:17:23 - 00:47:18:09

Mr. Pryor.

00:47:19:05 - 00:48:01:27

Um, thank you, ma'am. Um, Mark, 7000 acres. Um, I think I share your concern about, um, the, um, um, definition of maintain. It is very wide. It is very vague. It basically gives the applicant, um, a blank check. Now, if we look at the case of replacing the solar panels based on the applicant's, um, assumed, um, failure rate, which, um, we, um, dispute, it implies that 76% of the panels will last 60 years.

00:48:02:18 - 00:48:38:15

Now, there is no evidence that they will last 60 years, so they will need to be replaced before that. So the in the environmental statement where they make claims about greenhouse gas savings will in fact be wrong because the panels will need to be replaced on a more frequent basis. So I, I believe the um, um, the definition of maintain should be tightened to stipulate exactly what can be replaced.

00:48:39:00 - 00:48:56:24

And of course, the applicant is obliged to to take a reasonable worst case assessment. So their greenhouse gas emission claims should be based on the panels being changed before the, um, 60 years.

00:48:58:27 - 00:49:06:05

So, um, that is my my, uh, comment at this point, but we will back this up in writing as well.

00:49:06:29 - 00:49:07:24

Thank you, Mr. Pryor.

00:49:09:28 - 00:49:27:16

So in terms of the the measures that you've described, Mr. Roderick, in terms of the definition and then in article five and the the requirements of article five. Is there anything further you would want to add in terms of Mr. Mr. Prior's points, particularly about replacement of the provision for replacement of panels?

00:49:29:07 - 00:50:06:08

Uh, collaborate with the applicant. Um, only just to reiterate that, as I've said in other hearings, the DCO needs to be read as a whole. Um, and you do need to read the definitions, um, in the context of the particular power that they used. And then, um. Taking into account that the exercise of those powers is subject to compliance with all of the management plans listed in the requirements. So it is incorrect to say that the definition of maintained gives the applicant some sort of blank check to do as it pleases.

00:50:06:10 - 00:50:43:00

The DCO is a highly um. The authorised development is highly regulated by each of the aspects in the DCO, so you need to read it as a whole document. Um, in terms of just the other point that was raised, um, obviously this particular hearing isn't, um, dealing with the actual assessment that has been carried out. However, I would just say that we've responded to those particular points before and will provide the cross reference in the written summary as to where we've set out how the greenhouse gas emissions has taken into account the replacement of a percentage of panels over the lifetime of the authorised development.

00:50:43:02 - 00:50:43:18

Thank you.

00:50:44:29 - 00:51:02:00

Thank you. We'll be coming back to that particular point about, um, greenhouse gas emissions, etc., um, in or issue specific hearings in a couple of weeks time. Thank you. Any, any um, other points on, um, this particular, um, item item for a.

00:51:04:00 - 00:51:05:15

No. Yes. Mr. Pryor?

00:51:06:01 - 00:51:33:10

Mark Pryor for 7000 acres. Um, just a question. Does maintain include, um, um, men obtaining, um, drains in ditches. Because because it's not clear to us where that that, um, duty will fall and whether it will be on the owner of the land or the operator of the scheme. Thank you.

00:51:35:19 - 00:51:37:17

Are you able to help with that, Miss Broderick?

00:51:39:24 - 00:52:04:02

Uh, Claire was the applicant in terms of the definition of maintain, then yes, it is wide enough to include, uh, activities that are required to maintain ditches and drains. Um, the, uh, maintenance of any ditches and drains that are affected by the scheme, um, would be set out in the outline environmental management plan. Um, and we also have um.

00:52:06:18 - 00:52:07:10

I'm just trying to find.

00:52:07:12 - 00:52:08:06

The relevant.

00:52:08:08 - 00:52:09:03

Requirement.

00:52:21:26 - 00:52:51:18

At Cambridge if the applicant was just finding it. So a requirement 11 is a requirement specifically related to surface and foul water drainage. Um, and that will set out in detail a plan um will need to be approved. Setting out in detail, um, the drainage um system for the um authorized development. And that must be substantially in accordance with the outline drainage strategy. So the further details on drainage set out in those documents. Thank you.

00:52:53:00 - 00:53:01:02

And obviously that all relate to order land. I'm wondering whether Mr. Price point rights relates to land more broadly, but, um.

00:53:04:11 - 00:53:37:25

The clear approach of the applicant. Um. Yeah. So the the, um. Plans relate to the land within the order limits and in respect of the solar array sites themselves. The applicant has voluntary agreements with those landowners, um, which relate to the ongoing use and maintenance of the land. And then in terms of the cable route corridor, um, there are provisions in the outline construction management plan relating to um, uh.

00:53:39:15 - 00:53:56:18

Maintenance of our interactions with drainage ditches that may be crossed by the cable corridor. So the protective measures that will be put in place to ensure there isn't any damage or reinstatement that might be required during construction activities. Thank you.

00:53:58:10 - 00:54:02:01

Thank you. Any further points before we move on?

00:54:04:01 - 00:54:34:02

Okay. So, um, moving on to item four B, in which I preferred specifically to article 11 and 14. Um, and with the intention of discussing matters to um, address the points raised by the local highway authority. Um, so with obviously with reference to the amendments already made to accommodate the observations of the local highway authority, I'd like to give further consideration to the, um, the nature of the powers relating to streets.

00:54:34:18 - 00:55:11:14

Um, I'd also like the, um, local highways authority confirmed their position. Um, I understand, um, that the the points raised have been in relation mainly to the controls, um, that are preferred. Uh. Looking specifically at those available under the Tcpa regime. So I'd like to understand where where things have got to on that. So, um, as a starting point, though, I'd like to ask the applicant, Mr. Roderick, um, to set out the amendments that have already been made in relation to, um, street works to reflect the concerns of local authorities.

00:55:11:16 - 00:55:18:21

I know we touched on this earlier on, but if you could just reiterate, um, the changes that have been made to respond specifically to the concerns raised, please.

00:55:21:18 - 00:55:30:18

Uh, Claire project for the applicant. Uh, yes. So the power in, um, article 11, um, relating to, um.

00:55:32:22 - 00:56:54:00

The power to prohibit the use of, restrict the use of, or alter or divert any street or public right of way has two elements to it. One is the ability to alter those streets that are set out in, um, the, uh, schedule six. Um, and that is with, um, a requirement to consult with the street authority or highway authority before doing those. And then in respect of any other streets or public highways, then, um, consent, um, would need to be obtained, um, in order to address the concerns that were raised in terms of ensuring that there was, um, the correct level of information provided to the highway authority, um, as would normally be the case for any works to public highways, um, the applicant amended the outline construction traffic management plan at deadline three, which is rep 3-013 um, to include a number of obligations to ensure that the final version of the outline of the Construction Traffic Management plan would contain the necessary level of technical detail and other requirements.

00:56:54:02 - 00:57:30:05

So, section 3.5 of the Outline Plan and Deadline three um has included some new text which requires the final plan to um include um, the typical types of information, um, that is set out in a section two, seven, eight agreement, for example. Um, so the technical drawings, health and safety documentation, safety audits, um, and details of the particular contractor that would be undertaking those works, um, to the public highway, um, because the um, that document will need to be approved.

00:57:30:14 - 00:58:07:02

Um, the applicant's position is that, that, um, sort of approval mechanism is, um, is contained within, um, the discharge of the requirement and therefore there isn't a need to have an additional requirement to obtain consent in the actual article itself. Um. If there are any amendments, um, that would be, uh, required or any additional provisions that, um, the Highway Authority would like to see included within the outline construction traffic management plan, then the applicants are happy to consider those.

00:58:07:06 - 00:58:25:10

Um, and understand that, um, some further discussions will be taking place with the um highway team at Lincolnshire County Council to to see whether they whether that approach um will be um acceptable to them. So.

00:58:29:22 - 00:58:42:15

Thank you, Miss Broderick. So, um, in terms of, um, Lincolnshire, um, is there any, any, any further concerns, any other points that they wish to make and specifically or any, any other suggestions as to how to approach this particular point?

00:58:43:12 - 00:59:14:22

Uh, Stephanie Hall, Lancashire County Council. Thank you, ma'am. I think that it's worth just reiterating the principle of how we've got to where we are. Um, we obviously, as highway authority can't have works going on in the highway that we haven't authorised and that aren't up to scratch and safety standards. The same point applies in relation to traffic regulation as well. And signage and and traffic lights and so on. So it's a point that arises in relation to article 11 in terms of physical works and highway.

00:59:14:24 - 00:59:49:03

But it also rises um, in a in a similar fashion in relation to article 15, in relation to traffic regulation controls. It's the same point in that, although in relation to article 11, the consequences are slightly more severe in that if we don't have oversight and unsafe access may be created in relation to article 15. Equally, what we can't have is um, and the Exa will be aware of just quite how many infrastructure projects are potentially going to be constructed in a similar, um, point in time.

00:59:49:05 - 01:00:23:04

But not only infrastructure projects. Obviously there are day to day uh, highway works, water company works, etc., etc. that may be going on in the highway at any one point in time. And the Highway Authority provides an oversight of those works in its area and can control to some degree, um, and prevent overlapping works that might conflict and create undue congestion and delays that haven't been assessed by any one project. We can make sure that that doesn't happen by and the way we do that is by operating a permitting system.

01:00:23:06 - 01:01:20:09

So if you want to put traffic lights up in Lincolnshire, you need a permit to do so and will issue you a permit for a particular window of time to make sure that they don't conflict. So that that's sort of the background to where we're coming from. I don't understand the applicant necessarily pushing back against the principle of the highway authority having control over those two things. They seem to make sense, and I don't think there's really a difference of principle between ourselves and the applicant. Where I think we've reached to now is that the difference between ourselves and the applicant is about how that control is achieved and whether that is in the DCO, whether it is in an approved document under the DCO, in this case a CCnp, or whether that is left to an external existing regime, say, for example, section two, seven, eight of the Highway Act or in relation to um, uh, traffic regulation at section 1184.

01:01:20:11 - 01:01:52:20

So there are existing procedures for those permits and controls and consents. And we need to be very careful that the highway authority isn't losing anything. If there is going to be a duplicate procedure imported into any part of the DCO, we need to be very clear about how that's going to work. Um, and consider very carefully as to whether we're we accept the principle of duplicating those procedures, which actually work very well.

01:01:52:22 - 01:02:27:04

And also as a less important point, come with a fee mechanism, is that there is an existing mechanism there. When I think we've reached the point where we've narrowed the gap between ourselves and the applicant, but we're probably not there yet, and it may just be worth, um, picking this up at a later point after we've had some discussions with the applicant. So we've had a helpful discussion this

morning. Um, as these things go, you talk, um, when you're in the room, um, and I think we're getting there, um, is really the short point.

01:02:27:06 - 01:02:59:09

We need to go away as highway authority. Now, we've read the, um, updates the TMP and consider whether there is degree to which there's any clear water between what is now proposed by the applicant and what we would get under A27 8 or 1 6184 agreement and consider whether that that is a substantive difference or not. My there is a slight, um, fly in that. It's just that, um, I understand the applicant's intention in relation to its updates.

01:02:59:11 - 01:03:31:06

The CNP are to provide the highway authority with control. There are two points in that one. There's now, as I see it, a drafting tension between what the CCnp requires and what the DCO says. And I take I understand the applicant's point on this will be, well, you've got to read the two together. Yes, you do, but it doesn't help anybody. If there's a tension in the drafting to create any degree of uncertainty, it just is not helpful.

01:03:31:12 - 01:04:03:12

And at the moment what you have is article 11 saying in article eight, uh, it's actually article 11 for a refers to works needing to be done with without first consulting the state authority and an attempt to to give the highway authority what it wants. What's happened is we've got, um, paragraph 3.5 of the um outline CCnp, which now refers to consent.

01:04:03:14 - 01:04:37:11

So there is a there is a tension there in the drafting because the CCnp, um, seeks to give paragraph 3.5 of um. Uh, is it rep 3A13. Uh, a paragraph 3.5 and 3.6 are the applicant's updates. Paragraph 3.5 needs to be read with article 11, in relation to what details are going to be submitted into it in relation to any work undertaken following articles nine, ten, 11 and 13.

01:04:38:01 - 01:05:15:15

Um, and they refer to detail submitted for approval. And there's now a little bit of a tension between consulting and approval. And certainly we would like to see that ironed out that the second point in relation to traffic management and regulation. And I indicated that the points in relation to article 11 also rises in relation to article 15. There is um there are two points to make here. The first is that as previously in relation to article 11, the article itself, article 15 um five A and B.

01:05:18:00 - 01:05:50:25

Article five A refers to not requiring notice to be given to the chief officer of police and the traffic authority. So that's even less than consultation with notification on that. Um. There's then we're moving in the right direction in the CMP, but it's created a tension with that drafting because 3.6, um, says that the details will be submitted to um, but doesn't um, excuse me, doesn't refer to them being submitted to for approval.

01:05:50:27 - 01:06:27:24

The drafting is just says submitted to. So I'm not I'm not actually sure that takes us any further towards where the highway Authority wants us to be. I think that may be something that the applicant could look to address, and I get the impression that they, they will um, but if that's addressed in the CMP, it creates another area of conflict with the current drafting of the DCA, which only refers to consultation to notification. So we just need some clarity if it's going to be dealt with in the DCA or and or the CMP, the two need to sing together, um, rather than pull in different directions.

01:06:27:26 - 01:07:01:21

However, we our underlying point is that we would prefer all of this to be dealt with through existing procedures rather than, um, trying to copy and, and, and put import these procedures in a less satisfactory way into the DCO and or the CMP. But, um, we will take this away and I will seek further instructions from the Highway Authority as to whether that gap can be narrowed to a point where there is no material distinction between them being in the DCO. But where we are today, um, we're moving in the right direction, but we're not there yet.

01:07:02:04 - 01:07:02:19

Thank you.

01:07:03:10 - 01:07:36:27

Thank you, miss all. Helpful to know that the gap is is narrowing. So so that's that's a that's that's a positive. But it does sound like and it's helpful that you've also been able to have discussions this morning. Um, and that things are moving in the right direction. Um, so on the basis that discussions are going to continue outside this hearing, I don't I don't know that there's any there's any real benefit in, in taking this too much further here. Um, as a, as a forum. But Miss Broderick, what would you like to come back with in terms of what um, Miss Hall said.

01:07:37:20 - 01:08:18:29

Uh, for the applicant? Um, yes, definitely. Happy to work with Lincolnshire County Council to, um, make any amendments and to ensure consistency. However, the point I would just make is the entire purpose of the DCO regime is to provide a unified, consenting process for nationally significant infrastructure projects. And the purpose of including these types of articles is to prevent a situation where, for such a large scheme, um, it is necessary for the applicant to go off and get multiple individual consents which have their own processes and timescales, when it could all be dealt with in in within the DCO itself.

01:08:19:04 - 01:09:20:21

Um, in a clear time scales. Um, the reason the applicants preference is to have the um, the approval mechanism dealt with within the CMP is because schedule 17 sets out a very clear process with timescales, um, for how that document is approved, there would have currently drafted the actual articles themselves. Um, wouldn't necessarily follow that process. So we would in order to take Lincolnshire County Council's um approach, we would need to make sure that any consent that is sought under each of the individual highway articles would also be dealt with in the same time scales, um, that are set out in schedule 17 so that we don't run the risk of delays to the implementation of the project, because we haven't got a particular consent for a particular sign that needs to go on a road, um, somewhere.

01:09:20:23 - 01:09:37:19

So our preference is to contain it all within the CMP for clarity, um, on timescales. But we'll continue working with Lincolnshire to try and get them comfortable with the drafting. We're definitely not seeking to do works without their approval. It's just the mechanism for it.

01:09:37:22 - 01:09:48:28

Thank you. And presumably this is a discussion that's that's that's going on in parallel with the other particularly the other other solar examinations that presumably to similar stage is, is that is that correct?

01:09:51:01 - 01:10:11:07

Uh, Claire, much of the applicant said the in terms of the Cottam solar project, which I'm also working on, and it's the same discussion and the same amendments, um, have been made. I don't believe changes were made to the gate Burton DCO on this particular point, but I would need to double double check. That's fine. Thank you.

01:10:14:24 - 01:10:16:17

Any points before? Yes, Miss. Hall.

01:10:17:16 - 01:10:42:20

Stephanie. Hall. Lincolnshire county. Just. Just to say I if they haven't been raising the other projects, it's not. Um, it's probably through an error on our part rather than because those projects are different in a, in a material way. It's more a point that's arisen through greater degree of understanding and, um, input as we go along the process. So it's not because the gate burden is, for example, materially different or it's okay in that instance.

01:10:42:22 - 01:10:43:24

Yeah. Okay.

01:10:48:06 - 01:10:50:09

Any of the points on this item before we move on.

01:10:53:22 - 01:10:54:19

Okay. Thank you.

01:10:57:27 - 01:10:59:22

So moving on to, um.

01:11:01:18 - 01:11:06:27

Item four. See which it is which relates to um. Article 38.

01:11:08:16 - 01:12:02:06

So article 38 of the Draft Development Consent Order sets out the powers relating to the felling or lopping of trees and removal of hedgerows. This was, as we heard earlier on, um, amended at revision A of the draft DCO to um refer to parts of um hedgerows being removed and the hedgerows to be removed are set out in um schedule 13. Uh. The applicant also produced hedgerow removal plans, providing indicative details of the hedgerows that are currently proposed to be removed, um, temporarily to facilitate the construction of the scheme, and also those that are currently proposed to be removed for the operational life of the scheme and that, um, those plans, hedgerow removal plans, um, are part of the outline Landscape and Ecological Management Plan, appendix C.

01:12:03:10 - 01:12:19:12

So just as a general question to start off with and noting the um provisions of um advice, note 15, in relation to the drafting of this element of the the DCO, does the, um, uh, applicant believe that this advice has been followed?

01:12:21:19 - 01:13:01:27

Uh, collaborate with the applicant? Um, yes. Just for those who are not familiar with advice, note 15, section 22, it sets out, um, two ways of dealing with um, hedgerow removals to remove the requirement to obtain a separate consent under the hedgerow regulations. Um, 1997. Um, so either there's a schedule and a plan to, um, specifically identify the hedgerows that are to be removed, either in whole or in part, um, or a general power, um, to remove hedgerows if they cannot be specifically identified.

01:13:01:29 - 01:13:32:26

But that must be subject to the later consent of the local authority. Um, we sort of have a hybrid, I suppose, approach here where we have identified all of the hedgerows, um, that are subject to the power. Um, those are listed in the schedule. However, because we the detailed design of, as I've

explained it, the previous hearing as the detailed design, for example, has for the cable route corridor and the exact locations of the access points has not yet been finalized.

01:13:32:28 - 01:14:08:12

We have allowed for some flexibility as to where the gaps, as it were, in the hedgerows, are going to be located within the hedgerows that have been specifically identified in the schedule. Um, we've made it clear in the update to the drafting of article 38, um, subparagraph four, that the extent of the hedgerow, um, to be removed if, as per uh, the extent that's set out in the landscape and ecological management plan, and that plan itself must be approved by the local authority pursuant to requirement seven.

01:14:08:19 - 01:14:14:28

Um, so we therefore feel that, um, we've complied with the advice note, which is where you can't.

01:14:15:02 - 01:14:16:14

Specify the.

01:14:17:03 - 01:14:46:15

Very precise detail of the hedgerow that's going to be removed. Then, um, subsequent consent is required and that consent is obtained through the approval of the final landscape management plan, um, which will obviously the outline version includes the indicative locations of the hedgerow removal as we understand them to be at the moment. Um, but the exact details will be provided as part as part of the final, um, version of that plan.

01:14:49:02 - 01:14:59:21

Thank you, Miss Broderick. Just in terms of, um, the. The references to hedgerows to be removed that are set out in schedule. Um.

01:15:01:14 - 01:15:31:27

13. So just just looking at that, that schedule there are um, around, uh, 78, um, hedgerows identified in part one, nine in part two and, um, well over 100 in, in part three relating to important hedgerows. So around 200 identified in total, which is obviously a great deal more than those that are um, set out in, um, appendix C of the old map.

01:15:31:29 - 01:15:48:19

So presumably that's, that's to give that the flexibility that you, you spoke of earlier on. Is there any way that that's, that's a lot of hedgerows basically over 200 or around 200. Um, so, so from what I understand, you're saying that that they're needed for that flexibility. Is that is that right?

01:15:49:17 - 01:16:25:10

Uh, for the applicant. Um, so we added some more detail to, um, section 1.2 of the outline landscape in Ecological Management Plan. And that was submitted a deadline. Three so that's rep 3-028 to try and give a bit more um, clarity as the approach. So the indicative plan set out um, the locations of the um access points that are going to be required. Um. Both for the actual solar arrays themselves and for the um, cable route corridor.

01:16:26:29 - 01:17:00:28

A number of other hedgerows have been included where, um, there are, um, very minor works that might be required, such as the um, pruning of hedgerows to allow for along the sides of um highways to be pruned back, or small elements removed to allow for the size of construction vehicle. Um, that's required for the scheme to, um, proceed. Obviously, at this stage it's very difficult to be able to identify exactly where those, um, sort of pruning works might be required.

01:17:01:00 - 01:17:45:20

So the power enables us to, um, do those works for the purposes of the hedgerow regulations, to all of the hedgerows that we've identified, so that we don't need to go and get an additional consent. However, the detail of those hedgerows that will be affected will be specified in the final, um, landscape and ecological management plan, because at that point will have greater clarity on the type of vehicles when when the works will be taking place. So if it's in the height of summer, when the hedgerows are perhaps at their fullest and might, you know, or maybe they might need to be pruned in advance, then all of that kind of detail will be known pre-construction, and that will be set out in the, um, landscape and ecological management plan.

01:17:45:25 - 01:18:37:12

Um, but we didn't feel it was really possible to produce indicative plans for those sorts of minor highway works at this stage. But we've set out, um, the main accesses, which are the, um, the key kind of removals of sections of hedgerow, um, which is obviously the greater impact, um, the more minor works, um, as I've set out. But the actual complete removal of sections, we've tried to give some indicative plans and we specified, um, in one paragraph, 1.2.3, um, the sort of like the widths, um, 1.2.3 and 1.2.4, um, the width of removal for during construction and permanent removal so that there is greater clarity as to what part of um, which is referred to in the article.

01:18:37:14 - 01:19:01:05

And the schedules when we talk about part of a hedgerow could be removed. The outline lamp gives um, those uh, extents, um, so between 3 and 7.1 metres, the the issue is we don't know exactly where that 7.1m may go along a hedgerow. And that's why the power has to be broad, but it's limited by the approval in the outline lamp.

01:19:01:09 - 01:19:02:17

Thank you. That's helpful.

01:19:08:13 - 01:19:30:03

The the references in schedule. 13 um, relate to those? Um, the references. Sorry. The references to hedgerows given in sketch 13 relate to those in the and the important hedgerows plan. Is this the same as the Hedgerows Plan? That's listed as a document to be certified at schedule 14.

01:19:31:22 - 01:19:33:16

Just a point of consistency there, I guess.

01:19:36:20 - 01:19:43:04

Uh, Claire Bishop, the applicant? Yes, I believe so. But we will double check that the the name of the plan is correct.

01:19:44:02 - 01:19:44:17

Thank you.

01:19:59:29 - 01:20:23:27

And then just a final point for me on this particular, um, article. Um, I know that that part one of article 38 contains the broad power to to sell or top any tree or shrub near any parts of the authorized development. Um, and that's obviously a pretty broad power. And I just I'd just like to ask how that's. Justified, please.

01:20:33:28 - 01:21:07:27

Um. Claire project. Um. The applicant. Um. My understanding is this this is a model provision. Um, but the board power is required, um, given the extent and scale of the project. But as I've said before, the, um. Powers that granted in the articles do need to be read in conjunction with the management

plans, and those include measures for protections to trees during construction works, um, as well as other um mitigation measures.

01:21:07:29 - 01:21:14:25

So that broad power does is limited by the obligations that are set out in the management plans. Okay.

01:21:19:17 - 01:21:23:21

Okay. Does anybody else have any points to raise under this particular article?

01:21:30:27 - 01:21:31:25

Okay. Thank you.

01:21:38:06 - 01:21:40:09

So moving on to, um.

01:21:42:02 - 01:22:13:24

Part D of of item four. This relates to um, well, this relates specifically to article 29 and 30. But I'd like to start off by talking about the, um, I suppose the suite of powers of acquisitions set out in part five of the draft DCO. Um, and it will pay a helpful Miss Broderick, if you're able to to, um, perhaps set out. How those that that that sort of powers interrelate.

01:22:13:27 - 01:22:31:09

Um, particularly how they work together to ensure that the use of compulsory acquisition powers, um, would be minimised, um, by allowing for various options, um, of lesser degrees of interference. Um, are you able to, to to assist with that, please, Miss Roderick.

01:22:32:20 - 01:23:07:27

Uh, the applicant? Um, yes. Um, just for the references, we did, um, set out a more detailed response. Um, in a response to your question, 1.5. 17 of the, um, uh, first written questions, um, which was rep 3038, but, ah, just to briefly summarize the different powers. So article 20, um, allows the undertaker to acquire compulsorily the older land.

01:23:08:12 - 01:23:49:04

Um, but that which is all of all of the order land, however, that is um, how that general power is um constrained via article um 20 um, so paragraph two, um, by article 22, um, which is compulsory acquisition of rights, and article 29, which is temporary use of land and what that, um, standard drafting results in is that if you look at the land plans, um, which were A00 six, um, the undertaker can only compulsory acquire the freehold of the land shown coloured pink.

01:23:49:15 - 01:24:19:23

Um, in respect of the land shown coloured blue. Only the acquisition of rights, um and imposition of restrictions, um can be carried out and in respect of the land coloured yellow, then only temporary uh possession powers can be used so that that's how the general, the general powers compulsorily acquire is then limited. And the reason, um, but the reason for having this sort of wider ability to, um, compulsorily acquire a lesser right.

01:24:19:25 - 01:24:33:18

So, um, a a right rather than the freehold or temporary possession rather than rights or freehold, there is that general power to do so across the order land, so that if, for example, um.

01:24:35:03 - 01:25:12:01

Where you are acquiring the freehold of land, but you have some cabling coming up to the boundary of that freehold land. Um, and you don't need as much of the pink land as you showed on the plan.

You would then be able to acquire rights for that little bit of the freehold that you're not acquiring, rather than being compelled to acquire the full freehold when you only actually need rights over part of it. Similarly, the temporary possession powers, um, uh, whilst only temporary possession can be used over the yellow land, the temporary possession power can be used over all of the order limits.

01:25:12:03 - 01:25:42:13

And that again is to reduce the impact. So typically when you're constructing, um a linear cable route you will have a wider working area, um, and then a much more narrow permanent area. So it is typical to use the temporary possession powers to construct the cables. So you take temporary possession of the, of the working area, but then you only seek, um, rights over the actual area of land where the cable has been laid.

01:25:42:15 - 01:26:05:06

And so then that reduces for the landowner the amount of land that is subject to those rights. Um, if you didn't have the ability to use temporary possession powers, then you would be required to take permanent rights over the full working with, um, so it's a way of ensuring that we're only exercising the power should we need to, over the minimum amount of land necessary.

01:26:06:27 - 01:26:08:23

Okay. Thank you.

01:26:11:25 - 01:26:40:10

So in terms of I understand that article 20 makes the general provision of land. Um, and then that article 22. Um, is, is is related to the sale of rights. But then with article 2930 allowing temporary possession during construction and maintenance, I just wondered why each of those provisions is, is necessary as, as separate, um, articles. Can you help with that?

01:26:42:00 - 01:27:22:24

Um, Claire Patrick, the applicant. From a technical perspective, temporary possession isn't compulsory acquisition, so they have been treated separately. Um, since the model provisions. So the way that the DCO is, is, is drafted as a is well, precedented. Um, and I think it's really just to make it clear, um, that where we are seeking rights only, um, that there is a specific, um, article, um, that deals with that, um, as distinct from compulsory acquisition of, um, the, um.

01:27:23:29 - 01:27:33:08

Of the freehold of land itself. So it's it's more of a qualifier to the power. But it's the way that it's structured is um.

01:27:35:27 - 01:28:06:16

Is precedented in DCS. And so that's that's the typical way of doing it. It also means you can refer to the various, um, schedules more easily. So article 22 um relates to um schedule ten, which sets out um, over the blue land, each of the plots and the rights, the specific rights that are being sought in respect of those plots. So some whilst the majority of the blue land is required for the cable corridor, so is rights for the cable.

01:28:06:18 - 01:28:30:19

There are some plots where only access rights are being sought during operation, and so the schedule clearly shows the plots where only access rights are being sought. Um, so that the applicant doesn't have the power to put a cabling in whites in areas that it doesn't need to, um, so that that schedule further limits, then, um, the powers that can be sought.

01:28:30:21 - 01:28:31:09

All right.

01:28:32:27 - 01:29:01:00

So just in relation to, um, question, written question 1.5. 19 that we referred to early on, um. The applicant was asked to provide further justification of the powers sought which which which was presented, and specifically further clarification on the steps that have been taken to alert landowners or occupiers of the land within the order limits of the possibility of these new rights being taken. Are you able to address that particular point, please?

01:29:02:00 - 01:29:54:05

Uh, clear the applicant. Um, so as we set out in the statement of reasons and has been provided via the various updates at each deadline, the applicant is seeking to acquire voluntary uh rights, um, and with each of the landowners, it has voluntary agreements with each of the solar, uh, the land for the solar array. So that's the pink land shown on the plans. There are voluntary agreements already in place. Um, and we've set out in the statement of reason why it's necessary to maintain, um, compulsory acquisition powers in relation to that land, notwithstanding the agreements, um, in respect of the cable route corridor, we provide it, you know, negotiations are ongoing and the applicant remains confident that it will reach a voluntary agreement with, um, the vast majority of landowners affected by the cable route.

01:29:54:10 - 01:30:56:28

Um, those voluntary agreements include, um, obviously the terms for the permanent easement, but then also the working areas required during construction. And for those, um landowners where temporary construction compounds are identified, then voluntary negotiations, negotiations for leases, um or licenses for the for those areas of land. So the different nature of rights forms part of the voluntary discussions in terms of notifications, um, the use of compulsory acquisition powers and temporary possession powers was stated in the section 42 and section 48 notices that were sent to um affected persons at the statutory consultation stage, and then they also the drafting of the section 56 notice, which notified um affected persons of the acceptance of the DCO application, also made it clear that the DCO included powers of compulsory acquisition and powers for temporary use, and obviously that information is contained.

01:30:57:00 - 01:30:57:22

In the book of.

01:30:57:24 - 01:31:17:08

Reference, the statement of reasons and the land plans. So the applicant's position is that all affected persons, um, where those sorts of powers are being sought, um, have been made aware via the voluntary negotiations, but then also by the formal notification processes that are part of the Planning Act regime.

01:31:17:10 - 01:31:52:11

Thank you, thank you. And obviously we'll come back to any particular points or concerns, um, in relation to particular plots or areas of land, when we talk about when we look at, um, when we hold the, um, the CA hearing in a couple of weeks time. All right. Are there any, um. Points that anybody else wishes to make around, um, the powers of acquisition sort. Oh, okay. Thank you. So the time is now. 1132 and I suggest it's a good opportunity to take a break.

01:31:52:21 - 01:32:01:29

Um, so can I ask that we return at, um, 1145, please? Thank you.