



Trawsgrifiad Gwrandawriad

Prosiect:	Fferm Wynt Alltraeth Mona
Grandawriad:	Gwrandawriad Mater Penodol 5 (ISH5) – Rhan 1
Dyddiad:	24 Hydref 2024

Sylwer: Bwriad y ddogfen hon yw i gynorthwyo Partion â Buddiant, nid yw'n air am air.

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Hearing Transcript

Project:	Mona Offshore Wind Farm
Hearing:	Issue Specific Hearing 5 (ISH5) – Part 1
Date:	24 October 2024

Please note: This document is intended to assist Interested Parties; it is not verbatim.

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FULL TRANSCRIPT (with timecode)

00:00:05:13 - 00:00:45:08

The time is now 930 and this hearing has begun. It's the issue specific hearing five into the draft development consent order. Before we go any further, can I just get, um, some message from the case team that we have the live recording, um, the recording and live stream up and running? That's perfect. Thank you. We do. So welcome, everybody, to this hearing. As I've said, issue specific hearing five on the draft development consent order, which we will refer to as the DCO, I'm sure today this is the project of Mona Offshore Wind Limited, who we will refer to as the applicant for an order granting development consent for the Moana Offshore Wind farm.

00:00:46:04 - 00:00:57:21

My name is Jessica Powis. I'm a chartered town planner and a planning inspector, appointed by the Secretary of State to be a member of this examining authority. I'll now ask my fellow panel members to introduce themselves.

00:00:59:10 - 00:01:08:00

Good morning everyone. Barada. My name is Caroline Jones. I'm a chartered town planner and an examining inspector, and I've been appointed as the lead member of this panel.

00:01:08:26 - 00:01:16:16

Good morning everyone and Baradar. My name is Graham Hobbins and I'm a chartered civil engineer with a background in major energy and rail infrastructure.

00:01:18:22 - 00:02:03:05

Now the examining authority consists of five members. The other two members, Mr. Rowlands and Mr. Corsi, are recovering from illness, who are following the live stream today. Rather than joining the meeting directly supporting us from the planning inspector at Case Team today are Stephen Parker and Simon Ray wood, so please don't hesitate to contact a member of the case team should you need help at today's event or with the technology. The hearing today will follow the agenda published on the National Infrastructure Planning website on the 4th of October. It would be helpful if you had a copy of that in front of you at the agendas for guidance only, and we may add other considerations or issues as we progress, We'll conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to.

00:02:03:12 - 00:02:11:02

But if the discussions can't be concluded, then it may be necessary for us to prioritize matters and defer other matters to further written questions.

00:02:12:23 - 00:02:19:04

Today's hearing is being taken undertaken fully virtually, which means that everybody is participating through Microsoft Teams.

00:02:20:21 - 00:02:57:26

Can I just ask for those participating today? Could you please make sure that you stay muted in order to minimize background noise? And if you do wish to speak, then either use the hands up function on Microsoft Teams or put your camera on and we will see that you wish to speak. And please be patient because we may not get to you immediately. The hearing is also being live streamed and recorded, so for anybody watching on the live stream, can I also advise that when we adjourn for breaks, you'll need to refresh your browser page to watch the resumed hearing. The recording of today's hearing will be made available on the Moana Offshore Wind Farm section of the National Infrastructure Planning website as soon as practicable after the hearing has finished.

00:02:58:01 - 00:03:31:22

With this in mind, please ensure that you speak clearly, stating your name and who you're representing each time before you speak. The digital recording and notes are the only official record of today's proceedings. A link to the planning Inspectorate's Privacy Notice was provided in the rule six letter, and we assume that everybody here today has familiarized themselves with that document, which establishes how the personal data of our customers is handled in accordance with the principles set out in the data protection laws. We will aim to take a break mid-morning and break again for lunch at a convenient time, and we're aiming to finish no later than 5 p.m.

00:03:31:24 - 00:03:32:12

today.

00:03:34:06 - 00:03:46:24

Turning briefly to language, then we have translation facilities available for this hearing and we welcome contributions in both Welsh and English. Do we have anybody with us who expects to address us in Welsh this morning?

00:03:49:08 - 00:03:56:01

We don't see any hands raised, but, um, if we do have anybody who wishes to speak in Welsh than they are welcome to do so.

00:03:58:07 - 00:04:22:03

I've been provided by the case team with a list of those who have expressed a wish to be heard today, and I'm going to ask each of those participating in today's hearing to introduce yourselves. Um, again, as we've done for the rest of these hearings, if there is, um, an organisation with more than two people participating, then just the main representatives can introduce themselves and then bring in any other relevant parties as we go through proceedings. I'll start with the applicant then.

00:04:25:19 - 00:04:54:18

For the. Good morning. My name is Liz Dunn. I'm a partner at Burgess Salmon and I am representing Moana Offshore Wind Limited. The applicant. Uh, to my right, I have Olivia Henninger, who is an associate at Burgess Salmon, uh, also representing the applicant. And we are going to be sort of

sharing the discussions around the development consent order today. We also have members of the Moana project team with us who will introduce themselves when they speak as needed.

00:04:56:04 - 00:05:09:29

Welcome and thank you very much. And then moving on to the other organizations and interested parties who have expressed a wish to speak. I'll start with the representative of Denbighshire County Council and Conway County Borough Council.

00:05:12:18 - 00:05:20:11

Hello, I'm David Brown. I'm a chartered town planner, and as you say, I'm here today to represent Denbighshire and Conway councils.

00:05:22:08 - 00:05:27:29

Welcome. Mr. Brown. Thank you for joining us. It's very helpful to have the council's input to the discussion on the development consent order.

00:05:29:24 - 00:05:34:23

Um, and then next for um, Natural Resources Wales marine licensing team.

00:05:37:12 - 00:05:42:20

I Pete Morrison um, yeah. Representing and our police marine licensing team function.

00:05:43:16 - 00:05:45:23

Morning, Mr. Morrison, thank you for joining us again.

00:05:47:10 - 00:06:10:12

Um, I don't believe we have Richard Armitage from the Isle of Man Territorial Seas Committee yet, or today we're also expecting Louise Staples from the National Farmers Union, but I can't see her on the call, so she may join us later. Um, hello? Yes. I'm here. Oh, you are here, Miss Staples. Sorry I didn't see you on the list. Thank you. Welcome. Thank you. I'm here.

00:06:11:20 - 00:06:18:27

Yeah. Louise Staples, uh, represent from the NFU, representing, uh, members of the NFU. Thank you.

00:06:19:02 - 00:06:36:26

Good morning. I think we know, um, when to bring you in on, um, provisions. We're aware that you want to speak on, but if not, just raise your hand as we go through. Um, I don't believe we have the Welsh Government now. Um, but we do have a mr. and Mrs. Hussey, I believe.

00:06:41:01 - 00:06:55:00

Good morning. Uh, Martin Hussey. Interested party. Uh, I'm not really anticipating a great deal of participation during the specific hearing. But we do have something we wish to clarify under agenda item for schedule two. Thank you.

00:06:55:28 - 00:06:58:21

Welcome. Mr.. Mr.. And Mrs. hussey thanks for joining us.

00:07:00:27 - 00:07:15:25

And um we have I think some interested parties joining us from venue Comrie. I believe Stuart Neil and Rebecca face. I'm not sure if we'll be able to see them introduced, but just uh we do have a camera. Thank you.

00:07:17:10 - 00:07:17:27

Uh, hello.

00:07:18:02 - 00:07:21:03

Uh, morning. We've we're not intending to talk today.

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

That's absolutely fine. Thank you for joining us, nonetheless.

00:07:25:27 - 00:07:30:06

Is there anybody else who's joining us today who thinks they may wish to speak?

00:07:33:06 - 00:07:37:22

In that case. Um, I will hand over to Miss Jones for item two of our agenda.

00:07:38:21 - 00:08:13:00

Thank you, Mrs. Powers. Um, the purpose of today's hearing is to consider the draft development consent order, which are now referred to as the DCO. From now and in the draft, DCO is an important document. It is a draft piece of legislation which, if the Secretary of State does decide to grant development 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, ensuring that it does not exceed what is described as the Rochdale envelope assessed in the Environmental statement.

00:08:14:08 - 00:08:51:18

This hearing is being held on a without prejudice basis, so that does mean that even if your position is that development consent should not be granted and therefore that the Secretary of State should not make the draft DCO, you can still make representations in this hearing on the drafting of the DCO, and that's without conceding your wider position that it should not be made. It's really important for the examining authority, because we are under a duty to provide the Secretary of State with the best drafted DCO that we can. So even if we do end up recommending to the Secretary of State that they should not make the DCO, this is because we do not decide these applications.

00:08:51:21 - 00:09:12:11

We make recommendations to the Secretary of State and they make the final decision. So even if we did recommend that refusal, um, sorry, that development consent should not be granted, we would still append a draft DCO, ensuring that the Secretary of State can decide to make one if she or he wishes. Does anybody have any questions on what I've just said?

00:09:15:14 - 00:09:46:27

I'm not seeing any raised hands, so we'll move straight into agenda item three, which is to deal with the articles and schedules of the DCO, the draft DCO. If I could just start by asking the applicant to give us a brief overview of the changes that have been made to the latest version of the draft DCO, and an explanation of why that change has been implemented. Obviously, this is with the exception of schedule two, 12, 14 and 15 as we are going to come on to them later in the agenda.

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

Livia Heinisch.

00:09:49:24 - 00:10:00:02

On behalf of the applicant, I thought I would start today by just setting a bit more of a wider framework for the drafting of the DCO, so that we can refer back to that at any point later in the discussions.

00:10:01:27 - 00:10:36:25

So I'll start by noting that the drafting of the order has largely followed precedents set by other development consent orders, in particular other offshore wind farm development consent orders. So this, um, this means recent orders such as the A1 and more DCO, the Sheringham Shoal and Dudgeon extension projects, DCO and the Hornsea Project for DCO. The full set of precedents which have been followed are described in the Explanatory Memorandum, as well as a fuller explanation of the drafting of the order. So the draft DCO generally follows a structure of these similar orders.

00:10:36:27 - 00:11:10:28

Part one sets out the definitions which apply within the rest of the order. These include key definitions for example, the definition of commence, of authorized project, and of maintain, as well as other definitions relating to built elements of project and various relevant documents which are also certified documents. Part two of the draft DCO covers the principal powers. This includes the article three the consent under the Planning Act 2008, which grants authority to construct the authorized project subject to other controls which are set out in the DCO.

00:11:11:00 - 00:11:44:05

That's including the requirements for the authority to operate the authorized project is included in article four and the ability to maintain it in article six. Other articles in part one cover items such as the deeming of the marine licence and the Dis application or modification of other legislation. In part three, various articles are included to provide street works powers and traffic regulation powers. These allow the undertaker to interfere with and execute works in or under streets within the order limits for the purposes of the authorized project.

00:11:44:15 - 00:12:16:08

This includes temporarily stopping up or restricting streets or rights of way, and is to facilitate the provision of temporary and permanent accesses along the onshore cable corridor at landfall, and that the onshore substation site without the need to seek separate consent from the local highways authority. Details of the streets and rights of way to be affected are set out in schedules three, five, three, four, five and six. Part four contains supplemental powers, so this includes the power to make connections into watercourses and drains.

00:12:16:10 - 00:12:52:00

For example, the power to access and survey or investigate land, and the ability to undertake protective works to buildings. Part five contains the powers of compulsory acquisition and temporary possession, which Mr. Dunn described last week during the compulsory acquisition hearing. So I'm not going to further detail on those at this point. The final section of the DCO articles are in part six. These are a series of articles that cover miscellaneous matters. For example, the ability to fill or lop trees and remove hedgerows and undertake works to trees which are subject to a tree preservation orders.

00:12:52:02 - 00:13:23:09

These are in articles 35 and 36, which are supported by schedule 11, where details of those hedgerows to be removed have been included. Specific matters relating to Trinity House and Crown bodies are also set out in part six. These are articles 38 and 39 respectively. And then we have a series of articles that apply the relevant schedules later in the DCO. For example, um, article 40 applies the protective provisions which are set out in schedule ten. Moving on to, uh, schedule one.

00:13:23:11 - 00:13:47:07

This contains the details of what constitutes the authorised project. So this is where we have the works descriptions, which are numbered 1 to 36 and apply to the work areas which are identified on the works plan. So those are onshore works plans and. Offshore works plans complementary to these works, which comprised associated development and ancillary works. And those can take place anywhere within the order limits.

00:13:48:22 - 00:14:21:00

Schedule two sets out the requirements which the Undertaker must comply with as part of the construction, operation and maintenance and decommissioning of the authorised project. So, taking a few examples of these, um, there is a requirement to submit details of plans for construction and details of decommissioning. Um, this also includes the table of parameters, which sets out the maximum limits of what can be constructed in respect of the authorised project. So together, these schedules and articles provide the framework within which the Undertaker can deliver the authorised project.

00:14:21:02 - 00:14:54:05

It also provides for the ability to operate and maintain that project, and finally also covers the ability to decommission. So all of these elements are subject to the applicable controls which are described in the order. Um. The draft DCO has been drafted to take account of comments that were made by interested parties. So this includes the local authorities, other interested parties such as Natural Resources Wales, Trinity House and also comments made by the Examining Authority and the applicant will continue to take account of these comments throughout the examination.

00:14:55:25 - 00:15:34:10

So, moving now to the changes which were made at deadline two, uh, these fit broadly into three categories. I'm not going to talk through every single change, but should there be comments on other changes made? Um, we can endeavour to respond to those here or in writing. So the three main changes were those which relate to providing further detail on temporary construction compounds, which were required in connection with the construction of the development. Um, the second set of changes related to the article, article seven, which is for the transfer of the benefit of the order, and finally the addition of a new article 47 to cover inconsistent planning permissions.

00:15:35:26 - 00:16:09:24

So, taking the first of these general sets of changes, the applicant understood from comments made by the examining authority during issue specific hearing one, that further clarity was required with regards to the different types of temporary construction compound and which are necessary for construction of the development, and also how those were to be controlled. So following these discussions, further details of those temporary construction compounds were described in annex two of the response to hearing action points. So that's document reference rep 1-012.

00:16:10:08 - 00:16:41:16

And to follow up with that more detailed note, the applicant updated the works descriptions in schedule one and also added complementary new definitions in article two of the draft DCO. So

looking at the works descriptions, first the applicant updated work number ten, and this was to refer to the Transition Joint Bay Temporary Construction Compound and a secondary temporary construction compound which together will not exceed 30,000m².

00:16:42:01 - 00:17:17:27

Work numbers 13, 16 and 18 were also updated to include reference to primary and secondary temporary construction compounds as appropriate. Work numbers 23 and 24 were updated, and this was to include reference to the onshore substation site, temporary construction compound, and the new definitions were then added to explain all of these temporary construction compounds, so these definitions include reference to the activities that can be undertaken within those compounds, and also the maximum area that can be covered by those compounds.

00:17:17:29 - 00:17:22:04

So the controls are imposed through the definitions themselves.

00:17:24:14 - 00:18:01:20

I will now move to article seven. So this is the, uh, article which allows the benefit of the order to be transferred or leased by the undertaker to other entities, and without the ability to, to have this order in place. No party other than the Undertaker, which is currently defined as Mona Offshore Wind Farm Limited, could operate the power station without committing a criminal offense, so the article is necessary to ensure that the project can be fundable, could be sold or leased in the future, and for the transmission and generation assets to be owned separately in the future.

00:18:01:22 - 00:18:39:12

In future, through the, um, the off toe regime. So the applicant reviewed the drafting of article seven and made updates to that article in order to align the drafting more, more closely with recent precedents. And also the Morgan Generation Assets Draft DCO, which is also an examination. The purpose of the changes is to allow for the whole of the marine licence to be transferred, but only the whole. So the ability to transfer or lease part of the marine licence has been removed, and some additional drafting changes were made to more closely again align with recent precedent.

00:18:39:14 - 00:19:17:05

But those changes didn't change, didn't alter the meaning of of the drafting. They were sort of just a tidy things up, I suppose. Finally moving to article 47. This is a new article to cover, um, the potential for inconsistent planning permission. So following the Supreme Court ruling on on the Hillside case and will provide the full case reference in the in the hearing summary, the applicant has included this new article to address the risk associated excuse me with implementation of planning permissions which overlap physically with the development or are otherwise inconsistent with the development.

00:19:17:28 - 00:19:48:17

So the hillside case sought to clarify the approach to successive grants of planning permissions within the same redline boundary. It was predominantly under the Town and Country Planning Act. It was held in that case that if there's an existing planning permission which has been implemented, a second permission which overlaps physically with that um, cannot be lawfully implemented if there is a physical barrier. So the physical barrier arising from the implementation of the first permission, um, would then prevent the second permission from being constructed.

00:19:49:08 - 00:20:26:29

So article 47, paragraph one deals specifically with planning conditions or other Town and Country Planning Act consents, where those are inconsistent with the authorised project. So this circumvents

any risk of non-compliance with the Moana Draft DCO requirements. Um, due to conflicts that might arise between those permissions and allows the authorised project to take precedence over those conditions and permissions to the extent that they would otherwise conflict. Um, really, this is to ensure that the development has certainty over its ability to proceed, whilst at the same time ensuring there are no unnecessary constraints on other consensus.

00:20:27:01 - 00:20:58:21

It's linked to commencement of the development, so article 47, paragraph two deals with planning permissions which are granted in respect of land within the order limits, where those permissions are consistent with the authorised development, but otherwise have environmental impacts which will exceed those assessed in the year or any other development which is unrelated to the authorised development. Um 47. Paragraph two ensures that the implementation of these consents will not prevent further development of the Moana Offshore Wind Farm.

00:20:59:07 - 00:21:13:22

Again, it's allowing for separate planning permissions to be granted and implemented for this proposed development um, for which a separate EIA has been carried out. But to make sure that that would not conflict with the ongoing development of of the Moana offshore wind farm.

00:21:16:00 - 00:21:38:05

Finally, the drafting of article 47, paragraph three removes the risk of criminal liability pursuant to sections 160 and 161 of the Planning Act 2008 through conflicting planning consents, so it ensures the enforcement action cannot be taken in respect of planning permissions which are inconsistent with the Mona DCO.

00:21:40:11 - 00:22:13:09

In summary, the inclusion of article 47 is to prevent issues arising whereby the delivery of the authorised project might be hindered by either a third party consent, which is inconsistent with the Mona DCO, where conditions attached to a third party consent are inconsistent with the Mona DCO, and or where Mona itself requires an additional consent, which is technically inconsistent with the Mona DCO, but is nonetheless required. Um, and we think the the drafting currently covers all of those um, those aims.

00:22:14:06 - 00:22:16:03

And I will stop there. I have some water.

00:22:19:00 - 00:22:45:15

Thank you. That was really helpful. Um, we probably do have a range of points and questions on, on some of the things that you've just raised under the parts of the DCO, but I intend to go through the DCO in order this morning. So we'll we'll come to those points as we, as we get to them. And if anybody else has any comments or questions relating to specific topics or articles as we're going through the DCO in order, please do just raise your hand or turn your camera on to let me know that you want to come in.

00:22:47:02 - 00:23:13:04

Um, just before getting into part one, there's just a little query I had on, um, some of the preamble, um, the preamble text. It's the sort of preceding paragraphs just before part one, and it's just, um, it says that the Secretary of State is satisfied that the open space forming special category lands specified in the land plan. Um, there's not an article within the DCO regarding open space. Uh, should there be?

00:23:17:24 - 00:23:59:11

Uh, let's done. On behalf of the applicant. Um, it's. We don't consider. There should be. We're happy to take that one away and have a look at it. Um, clearly, we've identified that there is open space land. Um, or we're assuming it's open space land at the landfill and the beach. Um, so so it hasn't been it it isn't designated in a, in a local plan as open space, but we've assumed it is open space. We've obviously explained in the statement of reasons why we consider that, um, the cable works and the use of the temporary construction compound will not affect the long term, uh, use of that, that open space or that any replacement land is required.

00:23:59:20 - 00:24:09:21

Um, we'll check back on that in terms of, of the wording and follow it through. I don't think there will need to be an open space article on that basis, because there's no permanent loss of open space.

00:24:10:14 - 00:24:42:04

That's great. I just wanted to sort of check that. So if you could go away and have a look, that would be great. Thank you. Okay. Then we'll move straight to, um, part one. Um, article two. We've just got a few, uh, queries on some of the, uh, definitions, um, definition for, um, building at the minute says that it includes any structure or erection of any part of any building. Um, but then uh, requirement six then goes on to restrict the height of any building to 15m.

00:24:42:06 - 00:25:02:07

Now, we know and we've discussed several times throughout these hearings that there are going to be lightning rods, which would be no more than 30m. I think at the minute. That definition, including the word structure, I think we would you would consider a lightning rod to be a structure. I don't know whether you need to maybe exclude lightning rods from that definition. Perhaps.

00:25:02:28 - 00:25:08:15

Olivier, on behalf of the applicant. Um, yes. That certainly seems to be something that we need to look at. Thank you.

00:25:14:13 - 00:25:32:23

If we could just turn to the definition of commence. Um, for offshore works, it refers to the first carrying out of uh, licensed marine activities authorized by the deemed marine license. I'm just wondering whether that should include any reference to the standalone marine license.

00:25:38:26 - 00:25:41:14

It is done on behalf of the applicant. Um,

00:25:43:09 - 00:26:18:25

again, we'll have a look at that. I'm. I'm not sure it could, given that the standalone marine licenses are separate license document. Um, and therefore, um, I'm, I'm not sure it can. It can link to that trigger. Um, again we will we'll have a look at that for the purposes of, um, for the purposes of that drafting. And I think I understand the point you wake, which is that there could because the draft development consent order uh, from a from a planning act perspective authorizes the cables.

00:26:19:03 - 00:26:25:28

Um, that we just need to make sure that that that is linked together. We'll have we'll have a look at that one in terms of of how those work together.

00:26:26:04 - 00:26:35:14

That's fine. I think because this is the first, um, DCO, isn't it, where we've got this, uh, scenario. So we just need to make sure that all the wordings right on that basis.

00:26:41:06 - 00:27:11:23

Okay. If we could just, um, turn to the definition of maintain now, please. Um, this is on the basis of some of the more recently made, uh, development consent orders, where the Secretary of State has added wording into the definition of maintained to ensure that it doesn't allow for the replacement or reconstruction of any part of the development. Um, I'm just wondering if any wording could be added to ensure that that's not the case in this in this scenario.

00:27:11:29 - 00:27:29:06

I'll give some examples. The Bramford to twin STD development consent order and the Sheringham Indulging Development consent order had some additional wording added to to uh, the definition of maintain just to ensure that it didn't allow for the total replacement of reconstruction of the onshore substation, for example.

00:27:29:18 - 00:28:02:05

To leave behind and go on behalf of the applicant. Uh, yes, we're familiar with those discussions. And with the particular drafting for which you've referred to, we will take that one away. There are some thoughts around it as to whether it would restrict The Undertaker's ability to, to do repairs in the case of needing to replace a wall. So we just want to make sure that it would not unnecessarily restrict the undertakers ability to to make sure that the buildings are safe.

00:28:02:16 - 00:28:04:27

Um, but yes. Thank you. We'll take that one away.

00:28:04:29 - 00:28:05:26

Okay. Thank you.

00:28:09:13 - 00:28:34:16

Okay, turning now to the definition of me and high water and mean, uh, low water. Now, this was amended in version two of the draft DCO from Mean High Water Springs. And I understand that the reason behind that was because on the annotations on the S maps, it's referred to as mean high water and mean low water. Am I correct? And understanding that.

00:28:35:23 - 00:28:37:27

Is done on behalf of the applicant? Yes, madam.

00:28:37:29 - 00:29:11:20

You're correct. So just a couple of things around that. We obviously have Natural Resources Wales maintaining that it should revert back to the original definition because um, that would be consistent with terminology in the Makkah 2009. Sorry, my advice is going to act. Um, and they also have concerns in relation to the use of mean high water to define works number three and eight, which could lead to a potential discrepancy between the boundaries of works within the transmission marine licence and that within the DCO.

00:29:12:09 - 00:29:21:15

Um, is there anything that the applicant wishes to comment on those points raised by Natural Resources Wales? And I'll ask Natural Resources Wales if they'd like to come in in a minute as well.

00:29:22:02 - 00:29:54:21

At least done on behalf of the applicant. Um, appreciate that. We haven't quite managed to resolve this matter. Um, it is a largely technical, um, uh, definitions. It doesn't actually change anything that needs doing. We're just trying to provide sufficient clarity around where that position is. It's one of the points we've identified that we probably need to take away and, and confirm where that should be from the applicant's position.

00:29:54:28 - 00:30:26:04

Um, the important, uh, element is the interaction between the offshore works and the onshore works, and where that line is, and that it's clear where that line is. And obviously, in the absence of a mean high water mark being noted, I understand the issue is that on the Ordnance Survey mapping in Wales, mean high water springs isn't mapped. It's its mean high water and mean low water correspondingly.

00:30:26:06 - 00:30:57:12

So rather than having a clear line on a map that everybody knows where it is, mean high water and mean low water remarked on maps, uh, and mean high water springs isn't shown anywhere. Therefore there isn't a clear. So whilst conceptually there is a mean high water springs, it isn't shown on any of the OS mapping bases, which is why the applicant, uh, changed from mean high water springs to mean low water, because that is very clearly shown on the OS based mapping.

00:30:57:14 - 00:31:19:11

So we're trying to work through what the best position is just to ensure that we completely understand Natural Resources Wales concerns. But it's also very important to us. And obviously for everybody else looking at this order and the plans that that that point is clear as to as to where it is. So we are seeking to work that one through.

00:31:19:20 - 00:31:52:08

That's fine. I'm just just before I'll ask Mr. Morrison if he has anything to add. I think from my perspective, we've got because it's now changed definition in the DCO, but we've got reference still to mean high water springs, you know, water springs within some of the management plans or the landfill construction method statement, for example, still refers to the the previous definition. And obviously in the environmental statement it's originally referred to. So I don't want to cause any confusion between all of the assessments and the management plans. I think whichever way you go, you would you would, you're going to need to make sure that everything's consistent.

00:31:54:20 - 00:32:32:21

At least done on behalf of the applicant. I, I, I think those points are all noted. Um, again, we felt that for the purposes of the DCO and the plans, particularly the land plans, uh, sorry, particularly the works plans, if it was clear on those plans, it whilst it could be different within the outline plans and the environmental statement without it actually causing too much difficulty, because it isn't, it isn't. But we're aware of we are we're very aware of the issue and we're trying to find a resolution, um, that is the most straightforward and obviously, um, and clear for everyone.

00:32:33:14 - 00:32:37:00

So, Mr. Morrison, do you have anything you wish to add on that matter?

00:32:39:16 - 00:33:25:25

I, I sorry, excuse me. Uh, Pete Morrison and I do believe in licensing. Uh, I think he summarized it quite clearly. Our, um, view is that the Marine and Coastal Access Act defines the licensable area is

seaward of Mino Water Springs. Um and that the Marine Transmission Marine licence is to cover work including work number three, but using mean high water springs as the definition for work number three and eight, whether that causes, uh, potential issue, I guess, and noting that, um, other echoes uh, we've looked at appeared to use mean high water springs.

00:33:26:09 - 00:33:26:24

Okay.

00:33:26:29 - 00:33:33:11

Thank you. Thank you for confirming. Is there anything which the applicant wishes to added before I move on?

00:33:36:27 - 00:33:38:15

No. Nothing further. Thank you.

00:33:38:17 - 00:34:14:17

Okay. We leave. We'll leave you. I'm confusing myself now. Between me and high water and mean high, low water. So we'll move on. Um, onshore site preparation works. If we could just turn to that now. we have dealt with this, um, to some degree in issue specific hearing one. So I won't repeat some of the, the, um, things that we raised there. Um, one of the things that I do wish to raise today, though, is, um, and perhaps Mr. Brown can come in on this one as well for the councils is in relation to, um, site accesses.

00:34:14:19 - 00:34:22:05

Could you, could the applicant just clarify what is meant by site accesses in relation to the on site preparation works, please.

00:34:29:09 - 00:34:42:27

Uh, Phil Williamson, on behalf of the applicant, uh, establishment of the site accesses uh, is essentially the, um, the development of the the access bell mouth, uh, which would be, um, agreed and signed off by the highway authority.

00:34:43:27 - 00:34:49:01

And that's the sort of temporary in this case. Are you referring to temporary site accesses?

00:35:06:05 - 00:35:50:13

At least done on behalf of the applicant. So just to just to clarify, um, the intention with the um, with the site access is, is that they are, as Mr. Williamson has said, is is the establishment of the bill mouth's um, as onshore site preparation works. Um, there wouldn't be a further approval process from the Highways Authority. And this is these are matters that we're discussing with them at the moment in terms of ensuring that within the highways access management plan, there is sufficient information and detail regarding those site accesses so that effectively the Highways Authority will have, um, will have confirmed their.

00:35:50:18 - 00:36:20:25

Their, um, will have confirmed that they're happy with the design that's put in their through the highways access the outline highways access management plan such that there doesn't need to be a further sign off of those accesses, um, prior to construction. And just to be clear, they're not just the temporary, um, they're not just the temporary hardstanding they are it will be the creation of those permanent site accesses at the landfill and the substation.

00:36:21:19 - 00:36:23:07

Okay. Um, that's, um.

00:36:24:07 - 00:36:24:28

Sorry. Apologies.

00:36:25:00 - 00:36:25:22

Temporary construction.

00:36:26:00 - 00:36:26:15

Plan.

00:36:26:17 - 00:36:27:04

One. Yeah.

00:36:27:06 - 00:36:29:18

Yes. It's the landfill. Just the landfill?

00:36:29:20 - 00:36:48:23

Yeah. Um, okay. That's understood. And I'm. If I'm honest with you, I'm not quite sure that the outline highway access management plan is quite clear on that, because the way I've read that at the moment is that you will be seeking approval from the council before, um, Before constructing those accesses.

00:36:49:15 - 00:37:01:25

Uh, Lasdun, on behalf of the applicant. Yes, we we accept that, um, and are doing further work with the Highways Authority, which will go into the Outline Highways Access Management plan to address those points.

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

Okay. And, uh, what happens? Um, obviously normally with an access, for example. And as we saw on the accompanied site inspection, some of those roads were quite busy. Um, you would we would normally expect a road safety audit stage one to have been undertaken before. Um, accesses are approved by the highway authority. Is will that form part of of the works being undertaken?

00:37:28:08 - 00:37:59:29

Live behind and go on behalf of the applicant. So as Miss Dunn has alluded to, we are in discussion with the local highways authority about the street works and traffic regulation powers that are in the draft development consent order, and we understand the local highways authority is concerned. um, about being able to approve the technical and safety details in advance of those accesses being delivered. Currently, we are discussing the best means of of achieving that and making sure that those processes are in place. Um, as as agreed with local highest authority.

00:38:00:01 - 00:38:15:26

Currently, we don't quite know the detail of how that drafting is going to look, but we have, uh, progressed those discussions very well. And the idea is that those safety, uh, that safety information will be provided in advance of the, uh, access being delivered.

00:38:16:27 - 00:38:29:19

Um, so not just in advance of the access being delivered. I'm asking if that's going to be provided in, in, in advance of you will be expecting the highway authorities. You have signed that off and agreed agreed to it not just provided it to them.

00:38:31:07 - 00:38:57:04

They're behind it on behalf of the applicant. I think this is part of what we are trying to figure out. We understand that, um, the drafting currently in the DCO doesn't quite work to necessarily achieve those aims. So we are trying to find the best way of doing that. Um, and whether that process. Um, well, we are trying to, yeah, discuss it with local highways authority to make sure that they are comfortable as well.

00:38:57:17 - 00:39:22:21

Okay. So just just for my understanding, just so I've got this this clear, you're hoping to come up with a solution whereby the highways, the outline highways access management plan will provide the agreement between yourselves and the council during the examination process. So as we close, you should have an agreement between you and the Council as part of that, that plan. So there's no further approvals required should the DCO be made.

00:39:23:14 - 00:40:02:06

Olivia, on behalf of the applicant. So this is going into detail that we haven't necessarily discussed with the local housing authority, but one of the ways in which we could achieve this would be to update the drafting of requirement ten, which currently covers permanent access only But could potentially also cover temporary accesses. And for the Outline Highways Access Management plan to possibly to move from the cockpit requirement into requirement ten. So that becomes the document which will be updated in the examination and then approved with local highways authority in advance of the works being delivered.

00:40:02:15 - 00:40:17:10

Um, as I said this, this isn't something that we've kind of come down on with a final decision on yet. Um, and we need to make sure that it works from a DCO perspective. But that's, that's currently the thinking that the. Okay. Yeah. The road that we're going down, no pun intended.

00:40:17:12 - 00:40:29:22

Yeah that's fine. You've added uh you've asked you've answered one of my questions further down for requirement ten actually by that. So thank you for that. Um, understood. Do you have any rough timescales of when this is likely to be sorted?

00:40:32:28 - 00:40:36:13

Olivia Hine and or on behalf of the applicant we are aiming for deadline five for that.

00:40:43:12 - 00:40:44:02

Thank you.

00:40:45:28 - 00:40:50:26

Does the, um. Mr. Brown. Do you have anything that you wish to add from the council's perspective on that?

00:40:53:22 - 00:41:26:07

Nothing too much to add. I agree with the applicant. We we are in discussions on that point. Given that we raised concerns in our submissions into the examination around the relationship between

those, um, on site preparatory works, the articles within the DCA as they currently stand down. Requirement ten. Um, I think there is some rewording of the DCO that's required to enable us to approve those works, to allow them to commence. Um, and it's yeah, it's a highway safety concern. So the highway authority are convinced that we can come to an agreement.

00:41:26:10 - 00:41:31:09

Um, but as long as we're satisfied on the highway safety prior to those works commencing. Okay.

00:41:31:29 - 00:41:40:02

Well, it sounds it sounds promising that you. I'm going to come to a solution. So we'll leave you to get on that and look forward to an update on that at deadline five. Thank you.

00:41:42:08 - 00:41:57:20

Um, in terms of the existing definitions, I have nothing more to raise. I've I've got a query about potential additional definitions. So, um, just before I move on to that, does anybody have anything they wish to raise on the existing definitions in the draft DCO.

00:42:00:26 - 00:42:08:06

Okay. And in which case I'll just move on. Um, the examining authority. I just wondering about whether, um,

00:42:09:29 - 00:42:40:16

we need a definition of stages. Now, obviously, when we get to the requirements, a lot of those, uh, requirements are set by stages, and we have a stages, uh, requirement itself. And I know in other made development consent orders, there has been a definition of, of stages because I think at the moment it's not quite clear whether this means sort of temporal geographical construction stages. So just wondering, um, if there's a possibility of adding a definition around stages into this part of the DCO to the applicant.

00:42:40:18 - 00:42:41:05

Sorry.

00:42:41:15 - 00:43:04:29

Uh, les done on behalf of the applicant, um, I think our starting position is it is it isn't needed. And clearly within the, um, within the requirement, um, there's the there is a flexibility for, for how those stages would be discharged. We will look if you've got any, um, references to other made DCS that include that we're happy to have a look at that drafting and see if it'll work.

00:43:05:19 - 00:43:11:21

Yes. I can give you an example. The Yorkshire Green Development Consent order had a definition of stages in that.

00:43:15:06 - 00:43:15:22

Thank you.

00:43:22:01 - 00:43:37:12

Okay. That is all I had uh, to raise on on those matters. Now I'm going to jump straight to, um, article seven. So does anybody have anything they wish to raise. Um, and the intervening articles before I go there.

00:43:41:23 - 00:43:44:11

Bear with me. I'm just going to get my page to the right one.

00:43:55:06 - 00:44:09:21

Now, we had a helpful, um, update on why the changes have been made to article seven, but I do know that Natural Resources Wales have still some concerns, I think, on the wording of this article. Mr. Morrison, is there anything you wish to raise at this point?

00:44:13:14 - 00:44:23:11

Um, I think our concern has been, um, surrounding the need and the lawfulness of a like the transfer provision being changed from, um,

00:44:24:28 - 00:45:00:21

the transfer provision or matka, um, which sets out, you know, transfers are done by a licensing authority. Um, so we raised in our I guess it's worth highlighting that these are the first decode and marine license that we have dealt with in Wales. Um, so so yeah, I'm aware, as the applicant has said, um, that there is precedence for this in terms of marine licenses set in England, but but we we've not been involved in those previous discussions around, um, how that came to be.

00:45:00:23 - 00:45:09:27

So, so from our perspective, we still have concerns around the lawfulness of such a provision. And, um, we also

00:45:11:12 - 00:45:31:27

think that it leads to a divergence between the transmission marine licence, which will not have such a provision, and the transport need to come through us, which is the same for other, um, large projects like the all the more projects where there isn't such a demanding licence. So.

00:45:34:28 - 00:45:42:18

Okay, the applicant like to respond to that? Or perhaps, um, provide a bit more of an explanation on on that part of this article.

00:45:42:29 - 00:46:16:27

Yes. Liz Dunn, on behalf of the applicant, I think I'd probably start, madam, by saying, um, I don't think we're going to be able to reach agreement on this one, and I think it will be a matter ultimately for yourselves and for the Secretary of State. Uh, it, um, as as the applicants made clear in its responses. Um, uh, there's two parts of this. The first is the ability to transfer the deemed marine licence as part as when I say part of a transfer of the development consent order, I don't mean splitting it.

00:46:16:29 - 00:47:10:08

I mean, if you're transferring the relevant part of the development consent order, the fact that the marine licence will transfer with that, this is something that through, um, the, uh, when the planning Act process came into place, um, in 2008 with the projects that came forward, uh, there it was the subject of early discussion with the marine management organization in respect of those transfer provisions. And everybody who was involved, anyone who was involved in those projects will remember the amount of time in writing that there was going back and forward seeking to come to a position, um, in respect of that, that, um, the marine, uh, the marine management organizations position was a concern around a partial transfer of a marine license at that point, which was if you

could split, you know, if you're splitting a D marine license, that there would be issues about enforceability.

00:47:10:10 - 00:47:53:02

And that was that was accepted that, you know, clearly, there was the potential for there to be an issue there, which is how the practice of having separate marine licenses for transmission and generation arose, so that ultimately to facilitate the offshore transmission operator transfer, there wouldn't need to be a split of a marine license and subject to resolving those matters. Um, uh, certainly within the the made development consent order, since then, it's been established that it's it is it's legally possible to transfer, uh, a Diem marine license with a transfer of the relevant provisions of a development consent order.

00:47:53:11 - 00:48:35:22

Um, and that the wording which is within the, uh, applicants draft development consent order is appropriate to do that. The applicant has, uh, provided the drafting at uh article um, uh, 711, which um, dis applies effectively the relevant provisions of the Marine and Coastal Access Act. Um, and as, uh, as you'll know, that is something a development consent order can do, um, it can apply relevant provisions and that is providing clarity, um, that those provisions, section 72, seven and eight are the ones that, uh, deal with transfer of marine licenses.

00:48:35:28 - 00:49:07:18

Uh, and it effectively applies those, uh, those provisions. Um, we understand the point Mr. Morrison's making about, uh, their needing if the transmission marine license, uh, because that's been granted by separately by Natural Resources Wales that under Natural Resources Wales procedures they would have to that that couldn't be an automatic transfer. We understand that provision. But I don't think that justifies why this would be applied in this case in respect to the generation element.

00:49:07:20 - 00:49:43:09

Clearly, um, the development consent order, um, is designed to streamline process as far as possible, and it is very important to the undertaker that that provision is included. Um, I would again just note appreciate this is the first in marine licence um in Wales with Natural Resources Wales, but I don't think that is a reason to in this case, um, to change from that recognised precedent in terms of the importance of why that ability is there.

00:49:43:17 - 00:50:27:10

Um, it is also worth noting that within the, uh, within the article, it is subject to Secretary of state, uh, approval, save where you're transferring to the, um, to another party that has a, um, a electricity licence, effectively. And the Secretary of State must consult with Natural Resources Wales on that, on that. And that's, uh, article seven four. So it's clearly Natural Resources Wales will be part of that process in terms of the suitability or otherwise of the party that, that, that the, um, that the Dean marine license would be being transferred to and and our our cases that and our submissions are that that those are appropriate provisions.

00:50:27:12 - 00:50:35:27

They're well precedented um, and, uh, as I said, our position isn't going to change on this one in respect to the drafting.

00:50:37:18 - 00:50:56:20

That's understood. Thank you. Mister. Mister. Mr. Morrison, I appreciate that that this is the first, uh, deemed marine licensing in whales. And so that that that's very new to you. Just the fact that this has

been established as lawful in, um, English development consent or does give you any comfort on the question of lawfulness?

00:50:58:04 - 00:50:58:19

Uh.

00:50:58:24 - 00:51:31:02

I guess from our view, um, we haven't been privy to all those conversations which has taken on before, during all those previous, um, consents. We don't, don't know what position the MMO holds on on it. Um, whether it is an agreed great position now. You know. Those aren't things we are aware of. Um, so so we in terms of questions of lawfulness, it's just a question that we raised in terms of from our perspective.

00:51:31:12 - 00:51:57:06

Um, yeah. We we've raised queries around the lawfulness. And to date, we don't think the responses that have been received have given us that clarity, um, surrounding the lawfulness of it. Um, and I guess just just setting out that it has been done before. Um, but it doesn't necessarily answer that question of lawfulness.

00:51:57:21 - 00:52:17:05

Okay. Thank you. I'm just wondering that perhaps the applicant, is there anything that you could perhaps provide or submit any, any extracts from any other examinations or medicos that you could provide a bit of extra comfort to Mr. Morrison in this regard? Perhaps. Um, MMO. Comments on the matter, for example.

00:52:18:00 - 00:52:52:19

Are lies done on behalf of the applicant? Um. We've already provided a reasonable amount of material and as as I say, um, ultimately, this will be a matter for the Secretary of State, I suggest. Um, I'm sure we can we can look at whether there's more we can provide, and we can certainly provide comment on the lawfulness, but I think, um, further detailed submission. I think the parties positions on both of this is on both of these are clear. Um, and what I, what I don't want is that that there are.

00:52:53:03 - 00:53:07:21

Sorry. This is a matter for you, madam, ultimately as to what you want, but I think it's not helpful to the examination for there to be further extensive representations on this which are, well, certainly from our position, are not going to move on. We're going to move on.

00:53:08:03 - 00:53:10:06

Yeah. Okay. Understood. Thank you.

00:53:15:12 - 00:53:46:23

Just a couple. I just have a couple of drafting points. Now I'm just reading my notes. I'm going to read them out. It makes sense in my head to do please say if it doesn't make sense to you. Um, so paragraph seven, which I think let me just hang on. Let me just go to it. So I've got this right in my head that, that that is for when agreement has been made in accordance with paragraph 2 or 3, references for the order to the undertaker will include references to the transferee or lessee.

00:53:46:25 - 00:54:03:22

That that makes sense. I'm just wondering whether that should exclude. So paragraph five. And the reason being is it wouldn't make any sense in that paragraph for the Undertaker to mean, um, a transfer. Really? See?

00:54:05:23 - 00:54:16:15

Because of the meaning behind. Because that confirms I think it confirms the the rights and liabilities imposed. Does that make sense?

00:54:19:28 - 00:54:29:22

At least done on behalf of the applicant. I think we might need to take that one away and just read the drafting through. Um, yeah. So, so the the suggestion is that, um, you.

00:54:29:24 - 00:54:35:27

Exclude paragraph five from paragraph seven. Yes. Does that make sense? Yeah, we'll.

00:54:35:29 - 00:54:37:04

Look at that one. Yeah.

00:54:40:13 - 00:54:57:18

And finally just on on this article, I'm just wondering, is it, uh, for, uh, paragraph eight, is it, is it necessary to notify the Secretary of state where it's the secretary of State who's, uh, granting the consent in the first place

00:54:59:03 - 00:55:00:03

or the transfer?

00:55:02:10 - 00:55:15:09

List done on behalf of the applicant. That is, there are there are circumstances in which the consent of the Secretary of State isn't required. So, for example, to the holder of a generation license or, um, or other license.

00:55:15:11 - 00:55:15:28

Um, okay.

00:55:16:05 - 00:55:28:01

Uh, so, so yes, there will be circumstances in which the Secretary of State's consent is required, in which case, obviously there will be notified, but in other circumstances, um, that consent,

00:55:29:16 - 00:55:40:23

there will be an automatic effectively transfer of that. So it's a notification to the Secretary of State. And just to make the point that, um, that that. Yes. Sorry. That's it.

00:55:41:05 - 00:55:43:14

I think that that makes sense. Thank you.

00:55:48:18 - 00:56:22:20

Okay. I have no further points to raise on article seven. So I move to, um, article eight, uh, which is the application and modification of legislative, um, provisions. Um, just confirming for article eight A and C, um. it would be the it would be the councils, wouldn't it? In this instance that would be

effective. Yes. Yeah. Now that means that that requires, um, section 150 consent of the Planning Act 2008.

00:56:24:22 - 00:56:45:09

Do you have that half of the sorry list done on behalf of the applicant? Um, they are matters we're in discussion with the local authority about. And, um, uh, the applicant is understands that if that consent isn't forthcoming from the, uh, from the local authority, those provisions would need to be removed. So it's something that's under discussion.

00:56:45:15 - 00:56:49:21

Okay. That's good to know. Does the council have anything they wish to add on that matter?

00:56:52:22 - 00:57:03:18

On behalf of Common Council. Um, nothing to add. I agree with the applicant. We're in discussions around, again, the provision of further information, particularly around the Land Drainage Act, um, and the application of those provisions.

00:57:04:12 - 00:57:05:21

Okay. so thank you.

00:57:07:12 - 00:57:21:18

In which case I am going to move on and I'm going to jump ahead to articles 12 and 13. So, um, just just before I do that, does anybody have anything they wish to raise on any articles in between.

00:57:24:00 - 00:57:26:10

No. Okay. In which case. Um,

00:57:28:02 - 00:57:46:15

just a very, uh, simple question on that. I think article 12 one just is to the applicant. Sorry. Um, it enables a stopping up alteration or diversion of any street for the purpose of carrying out of the authorised development, should this be limited to streets within the order limits, or do you mean streets outside of the order limits as well?

00:57:49:10 - 00:57:52:18

Live behind and go on behalf of the applicant. Um.

00:57:54:25 - 00:57:57:28

Yeah it is. It is intended to apply to any street.

00:57:58:00 - 00:57:58:15

Any street.

00:58:08:20 - 00:58:17:24

Okay. And in that case, could we perhaps just have a little bit more of an explanation as to why that's appropriate and proportionate? In the explanatory memorandum.

00:58:20:09 - 00:58:23:15

Lays down on behalf of the applicant. Yes, we'll we'll provide that.

00:58:24:00 - 00:58:24:18

Thank you.

00:58:32:27 - 00:58:36:17

Does the council have anything they wish to raise on article 12?

00:58:40:25 - 00:58:51:09

I have a comment. Derbyshire Council's earned nothing immediately, madam. I might take that one back, if that's okay. To our higher authority. No problem. We fully understood that meant any street. So. Yeah, I'll take that.

00:58:51:18 - 00:58:52:17

Yeah. Thank you.

00:59:06:16 - 00:59:18:12

Okay I am. Next article I wish to raise his article 19, so I'll just check that nobody has anything they wish to raise before we get to article 19.

00:59:20:19 - 00:59:29:09

I'm not seeing any hands, okay, in which case we'll move to that. Um, just to the applicant, please. Are there any known burial grounds within the order limits?

00:59:36:11 - 00:59:51:28

Up for Hillary Williamson on behalf of the applicant. There are no known burial grounds found. But during the trial trenching exercise, um, some remains were discovered and they will be covered under the, um, the outline updates to the outline WAC.

00:59:52:06 - 01:00:12:11

Yeah. Okay. Just just in respect to that matter, um, more recently made development consent orders have removed this um, uh article altogether when there are no known burial grounds, particularly where they are covered by the, uh, the watching brief as well. So I'm not sure that this article is actually necessary at all.

01:00:14:17 - 01:00:39:03

Les done on behalf of the applicant. Um, we tend to we tend to include it just because we've had circumstances where we haven't included it and been asked to put it back in again. So it's it's, um, uh, it the applicant's position may be that we leave it in and then if the, if the examining authority or secretary of state feel it isn't justified, will will remove it. Um, okay.

01:00:40:19 - 01:00:41:07

Understood.

01:00:43:02 - 01:00:45:03

The staples you've got your hand raised.

01:00:45:12 - 01:00:55:14

Sorry. I just wanted to. Yeah. Sorry. Louise Staples from the NFU. Um, I wanted to raise, um, just a thing on article 17, if that's possible, please. Sorry I couldn't, uh.

01:00:55:27 - 01:01:01:26

No, that's no problem. We can go. We can go back. Just. Just before I leave. Article 19. Does anyone else have anything they wish to raise on that?

01:01:04:14 - 01:01:06:27

Nope. Okay, Miss Staples, go ahead. Uh.

01:01:06:29 - 01:01:50:25

Thank you. Yeah. In my, um, submission, uh, to you, I raised the issue, um, that at the minute, the wording at the beginning of article 17 includes, um, land shown within the order limits, or any land which may be affected by the authorized project. Um, I'm just raising this as that seems quite wide and wondered whether that could be made tighter. Um, and then second, I raised about the wording being included, which has been included under many, um, articles for surveying, which is the wording that I included, which was the notice required under paragraph two, must indicate the nature of the survey or investigation that the undertaker intends to carry out.

01:01:57:05 - 01:02:00:11

Miss Dunn, do you have anything you wish to add.

01:02:00:28 - 01:02:40:07

On behalf of the applicant? Um, in respect of the, um, wording of article 17 one, um, it is the intention that, um, that this allows survey both within the order limits and as it said, there on any land which may be affected by the authorized project, that is the key obviously the key provision, um, and it may well be that there is, uh, land directly adjacent to the order limits where actually it's necessary to survey and investigate that land in respect of the, um, in relation to that point around the, uh, it being affected by the authorized project.

01:02:40:09 - 01:03:08:09

So the applicant that that wording is also, well, preceded in other orders, um, and, and the applicant doesn't intend to, uh, amend the drafting there. Um, we do note, uh, Miss Staples comments regarding, um, article 17 two and we will take that away because clearly, landowners being aware of the reason for which, um, entry is being requested, um, would seem a reasonable request. So we will take that. We will take that one away.

01:03:09:18 - 01:03:10:09

Thank you.

01:03:16:24 - 01:03:17:25

Miss staples.

01:03:18:22 - 01:03:31:24

Thank you, Louis Staples for the NFU. Um, is it possible then? Um, has as has just been raised, that adjacent then can be put into that wording and a definition of adjacent then included as well at the beginning of the DCO.

01:03:34:29 - 01:03:35:14

Thank you.

01:03:36:11 - 01:03:36:26

It's done.

01:03:37:29 - 01:04:05:20

Uh, Liz. Done. On behalf of the applicant. Um, no we don't we wouldn't be prepared to make that change. Um, it's too limiting in terms of, um, in terms of, uh, the ability to go on to other land, which, as we've said, is land which may be affected by the authorised project, that may be adjacent to it, may be at a distance from it, but if it may be affected, the applicant needs the ability to go on to that land to be able to survey and investigate.

01:04:15:03 - 01:04:53:13

So the applicant would, would kind of would just raises some examples here. And we've obviously had representations in terms of the, uh, the trout fishery. Um, if it was necessary to go onto land there in order to, uh, to, to check whether, um, and to ensure and to confirm that there is no effect from the development on that land, we'd need that ability to go onto that land. These this wording does, um, uh, does is is very similar to the powers that exist under uh, section 172 of the Neighbourhood and Planning Act, which is used regularly to access.

01:04:53:27 - 01:05:05:02

Uh, in terms of the serving of notice to access land. So it isn't, uh, it isn't, uh, unusual or unreasonable. Um, to include these provisions.

01:05:06:12 - 01:05:15:08

Okay. Thank thank you for that. Mr.. And apologies if you already have written that, but maybe you could add something to the explanatory memorandum as to that effect.

01:05:16:12 - 01:05:17:00

We'll do.

01:05:17:02 - 01:05:20:06

Thank you. Thank you, Miss Staples.

01:05:21:05 - 01:05:32:16

Uh, yeah. We staples for the NFU. Um, I'm sorry, but I'm really concerned. I think that that's just too wide. Um, an area then just just left open like that.

01:05:33:08 - 01:05:34:03

Okay. Thank you. Mr..

01:05:34:05 - 01:05:35:24

It does need to be looked at. Okay.

01:05:35:26 - 01:05:44:21

But we certainly understand I think we understand your your points. And we also have the, the applicant's position. So I think that's something that the examining authority will have to consider. Okay.

01:05:44:23 - 01:05:45:10

Thank you.

01:05:45:12 - 01:05:46:03

Thank you.

01:05:56:06 - 01:06:09:00

Okay. And, uh, in which case I am going to move on to part five, which is the, um, powers of acquisition. Before I do that, does anybody have anything else they wish to raise?

01:06:14:09 - 01:06:24:22

Okay. In which case I'm going to move on. Now, I know, Miss Staples, you do have some comments you wish to raise within this section. Just raise your hand when you when you want to come in to let me know. Okay.

01:06:25:12 - 01:06:25:27

Thank you.

01:06:31:26 - 01:06:34:25

Hi. I'm just going to start with article 20, if I may. Um,

01:06:36:25 - 01:06:53:03

and it's just something to double check with with the applicant. I'm just wanting to check. Uh, obviously, um, interests of the Crown are not expressly accepted from the CCA powers in the draft DCO. Could the applicant just explain how this is achieved? Is that is that through the book of reference only?

01:06:57:05 - 01:07:13:22

List on on behalf of the applicant. Sorry, madam. So your question is how the exclusion of the A the applicants. But the undertakers ability to acquire crown rights is secured through the development consent order, is that right?

01:07:13:24 - 01:07:14:09

That's right.

01:07:14:11 - 01:07:36:11

Uh, I think that is, um, that's article 39, which states that nothing in this order, um, uh, affects any interest or estate. Um, and it confirms that, um, that the, uh, the undertaker cannot acquire cannot compulsory acquire crown land.

01:07:36:16 - 01:07:37:01

Okay.

01:07:47:24 - 01:07:51:19

Thank you. Does anybody have anything else they wish to raise on article 20?

01:07:58:13 - 01:08:00:25

Okay. I was going to move straight to, um,

01:08:02:12 - 01:08:04:03

article 26.

01:08:05:27 - 01:08:09:18

Miss staples, is there anything on the articles in between that you wish to raise?

01:08:11:05 - 01:08:12:09

No, it's fine, thank you.

01:08:12:13 - 01:08:25:24

Okay. Article 26. Just a minor point. I was just wondering whether the, um, compensation paragraphs need to be added to this section, as you have the previous sections.

01:08:26:11 - 01:08:31:06

It's done on behalf of the applicant. We will take that away and check and confirm. Thank you.

01:08:56:17 - 01:09:04:27

Okay. I haven't got anything else I wish to raise on these articles. Miss staples, do you have anything you would like to raise?

01:09:07:18 - 01:09:14:15

Uh, Louis Staples for the NFU. Um, the only two articles I wish to raise something on was article 29 and article 30.

01:09:15:01 - 01:09:16:26

Yep. Do you want to make those points now?

01:09:17:09 - 01:09:49:16

Okay. Thank you. Um, so as I raised in submission, um, we don't think that the 28 day notice is long enough. Um, and we'd really like to see that being a three month written notice and both of those articles. I mean, this is just due to now seeing what is happening now that some of these DCO schemes are being built out, that we're now well aware that actually just having a 28 day notice really isn't long enough and that landowners require more.

01:09:54:13 - 01:09:54:28

Thank you.

01:09:55:10 - 01:09:58:04

Okay. Thank you. The applicant like to respond, please.

01:09:59:06 - 01:10:18:13

Uh, Liz Dunn, on behalf of the applicant, um, that 28 days is a is a standard period. Um, it also says not less than 28 days. Um, so clearly 28 days would be the minimum. We've noted Miss Staples, um, points. Um, but, um, we consider it to be a standard period, which is a reasonable one.

01:10:27:24 - 01:10:43:29

I think I think on this one, I think, Miss Staples, we have your submissions and we we understand your position. Unless there's anything else you you wish to raise on that. And taking the applicant's point Again, I think we're just at a two different points there in which the examining authority will have to, uh, consider and adjudicate on.

01:10:45:16 - 01:10:48:09

Is there anything else? Any anything you wish to raise to that?

01:10:48:13 - 01:11:12:15

Yeah. Louis Staples to the NFU. I just think I know it has been standard in the past that it's been 28 days in some discos, but things are now moving on. And as I said, due to now some, um, scheme is

being built out. We are now well aware that the 28 days actually, and especially for this scheme where there's a lot of livestock farms, 28 days is not going to be long enough. Thank you.

01:11:14:02 - 01:11:19:17

Staples, could you just give us some examples of why or how the 28 days has caused problems?

01:11:21:00 - 01:11:38:18

Um, it's just that, yeah, people aren't getting enough. Uh, that just isn't enough notice for people to to reorganise or change something if that's needed. Um, and especially on a livestock farm, they're going to need to plan far away ahead of 28 days.

01:11:40:04 - 01:11:44:07

We have raised this, um, with the with the applicant

01:11:45:22 - 01:11:46:23

in meetings.

01:11:50:19 - 01:11:59:23

Thank you. That's helpful for us to understand. Um, I can see, um, that we have a another hand raised account in the names.

01:12:04:26 - 01:12:10:06

Would you, like, like to come in? Oh, sorry. Sorry, sorry. Miss me?

01:12:10:16 - 01:12:12:08

That's okay. It's a Rebecca.

01:12:12:10 - 01:12:43:25

Face. Um, affected party. Um, I, I would just potentially like to assist Miss Staples there, uh, with a potential example. For instance, if someone is growing hay and at that point that they receive the 28 day notice that hay may need another 2 or 3 months to mature before it is able to be cropped. But once those bulldozers come on to site and remove all that, that farmer has then potentially lost their entire year's worth of feed.

01:12:44:14 - 01:13:04:28

So with the applicant, be able to compensate them for their entire business structure for that entire year because they have ripped out all of their feed. I believe that's a prime example in the livestock area of where it would be a big effect for a farmer to not get sufficient notice. Thank you.

01:13:11:16 - 01:13:25:20

Sorry I didn't have my microphone on. Thank you, miss Faith. That's really helpful. Um, to have another example to help us understand that. And I think we understand everybody's, uh, position on, on this matter. Does the applicant want to come back on anything?

01:13:28:22 - 01:14:09:12

At least done on behalf of the applicant? Um, I think just finally to say obviously the, the temporary, the, um, temporary possession powers within the Dcau, a last resort where it hasn't been possible to reach agreement with landowners, um, in respect of, um, in respect of, um, accessing land. And, um, they certainly do provide for compensation, um, payments. And obviously, from the applicant's

perspective, timing of entry onto land, um, will be done in such a way as to, uh, not only minimise impacts on those landowners, but also minimize the compensation that's likely to be payable.

01:14:10:13 - 01:14:12:12

So taking into account those matters.

01:14:14:21 - 01:14:15:06

Thank you.

01:14:17:25 - 01:14:25:18

Okay. In which case, if nobody else has anything they wish to raise on the, uh, compulsory acquisition powers, and I will, I will move on.

01:14:28:22 - 01:14:56:09

Not seeing any raised hands. So I'm going to, uh, move to article 47. Um, now, we had a helpful explanation as to why that's been added at the beginning of this hearing. Um, but could the applicant identify the planning permissions that you believe paragraph one would apply to? Do you have a list? I'm supposing if you're if you're wanting to apply them, then you must be aware that there are some existing planning permissions.

01:15:00:10 - 01:15:41:28

List done on behalf of the applicant. Um, we don't have that list in front of us at the moment. Um, and clearly there's been, um, there's been a review of the site, um, and an awareness of, um, other development that's coming forward. It is something we can have a look at and, and come back to, I think whilst the this, this sort of base position in terms of those existing planning permissions is important. Clearly there are other planning permissions being granted um, throughout or there will be other planning permission effectively being granted um in respect of of the area within the order limits.

01:15:42:08 - 01:15:49:12

Um, and therefore, whilst the current position is relevant, this is also relevant to things that may happen in the future.

01:15:53:04 - 01:16:03:16

Etc.. So it's not just for existing planning permissions at the point that the DCO is made. This is supposed to apply to anything that comes after it.

01:16:05:13 - 01:16:07:16

I'm just talking about paragraph one here.

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

At least done on behalf of the applicant. Yes, it's certainly meant to apply to planning permissions which are in place at the date of the order and, uh, in the future.

01:16:21:27 - 01:16:36:28

Okay. And in that case, I think I understand the reasons behind that, but I do think we would if you could provide us with a list of those. There must be a reason for why you feel this is necessary at this point. And I'm guessing that's because you've identified inconsistent planning permissions within the order limit.

01:16:37:16 - 01:17:26:02

At least done on behalf of the applicant. I think the key driver for this article, um, is the fact that this is a linear project and, um, where, uh, where you have a, um, let's say this application was just for the, the, um, the substation, you've clearly got a single, um, you've got a single site, um, and, um, and, and, uh, far less risk than there is where you have a linear project where, um, the DCO consent will overlay over the top of, um, of, you know, a that the whole of that linear project where, um, certainly from the applicant's perspective, the aim is to minimise the interference with landowners use of the land as far as possible going forward.

01:17:26:11 - 01:17:38:10

Um, and therefore the potential for interactions between, uh, the DCO, um and, and, and the consent granted there and future planning permissions I think is is far greater.

01:17:39:18 - 01:17:40:16

Okay. Thank you.

01:17:44:21 - 01:17:58:20

Uh, just in relation to paragraph, um, two, could you just explain what is meant by development that is consistent with the authorized development and development that is unrelated to the authorised project?

01:18:03:22 - 01:18:48:26

At least done on behalf of the applicant. Um, that development, which is consistent with the authorised development, um, is essentially development which um, which could be part of the authorised development. So, so, um, madam, you well, you you may be aware that, um, in certain circumstances, uh, where, um, where a development consent order has been granted for associated development, uh, and for some reason, um, it's necessary to amend, uh, that part of the associated development that can be done through a Town and Country Planning Act application separately from the development consent order.

01:18:49:10 - 01:19:22:08

Um, and therefore, it would be so in, uh, an example that's happened, uh, on other projects is where it's been, uh, necessary to, uh, to, to make a minor amendment to say, our highways access or the, the route of the cables. And rather than amending that through the Planning Act process, you can do that because it is associated development through a Town and Country Planning Act application, which then would sit alongside the development consent order.

01:19:22:10 - 01:19:45:00

So that's the type of development that would be, uh, consistent with the authorized development, save that its impact hasn't been assessed. Those, uh, development unrelated to the, uh, to the authorized project would essentially be anything, uh, brought forward by another party, um, which is is not connected to the scheme that's being proposed.

01:19:47:01 - 01:19:58:06

Okay. Thank thank you. I think what I'm just trying to check that this couldn't be used to permit amendments to the DCO, effectively circumventing the legislative process that that's set out in the planning Act.

01:19:59:06 - 01:20:03:06

That's understood. And and we will check we'll check the drafting on that basis.

01:20:03:08 - 01:20:10:12

That's great. And I think that's quite a helpful explanation as well. So I think sort of words to that effect would be really useful in the explanatory memorandum as well.

01:20:13:22 - 01:20:15:27

Yes, we'll add that. Thank you, thank you.

01:20:31:20 - 01:20:50:28

Okay. That is actually all I had to add on on articles. Um, I've just got one minor point on, um, schedule one, part one, which will bring this agenda item to a close. So just before I move to schedule one, part one, does anybody have anything else they wish to raise on any of the articles?

01:20:53:11 - 01:21:26:23

Left behind and or on behalf of the applicant, I want to raise one further point with regards to the, um, schedule linked to the removal of hedgerows. So just to flag to the examining authority that we are adding an additional change to the draft DCO at deadline. For the reason for this is that the applicant has been in discussions or communicating with the local authorities regarding trees, which are subject to tree preservation orders, and the precise details of those trees have now been provided by Conwy County Borough Council.

01:21:27:08 - 01:21:54:15

Through reviewing that detailed information, it's become clear that there are now trees at the landfill access which are subject to tree preservation orders and which need to be removed so the applicant will update schedule 11 at deadline for with all of the relevant details of those trees. And I will just flag that it is a small part of a protected area. And yes, we will provide all of the information at deadline for.

01:21:56:27 - 01:21:58:05

Thank you for letting us know.

01:22:00:19 - 01:22:11:21

Okay. Um, I have one very, very minor point just to make on schedule one. Um, part one and that is that coordinates seven and eight appear to be duplicates.

01:22:14:10 - 01:22:35:22

Olivia Henninger on behalf of the applicant. Thank you. This point was also raised by an Adobe marine licensing team. So is on our radar. And we will. Yeah we will. It's eight and nine in the, uh, in table one. And I think it might be seven and eight in the, in the DML. Um, so we'll take that away and just make sure that there's no duplication. Thank you. Lovely.

01:22:36:26 - 01:22:51:13

Thank you very much. Um, that, uh, is the end of the questions that I have on agenda item three. Um, I'm going to suggest that we take a short break now, and lest anybody else has any further points I wish to raise under this agenda item.

01:22:55:27 - 01:23:03:23

I'm not seeing any hands raised. So we'll move to the break and we'll take roughly, uh, 15 minutes. So if we come back at 11:10,

01:23:05:16 - 01:23:06:28
that's great. Thank you everyone.