



## Hearing Transcript

<b>Project:</b>	Byers Gill Solar
<b>Hearing:</b>	Issue Specific Hearing 4 Session 2 (ISH4)
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# TRANSCRIPT\_BYERSGILL\_ISH4\_SESSION2 \_16102024

Wed, Oct 16, 2024 4:17PM • 1:14:19

00:04

Good morning again. It's 1141 and this issue specific hearing number four into landscape and visual matters and the development consent order is resuming. I'm going to ask some follow up questions to do with some answers that were given previously, particularly to do with the diversion of that footpath and the impact on it. So there's a couple of plans that would be helpful. If we could get up on the screen, there's sheet eight of 13 of the public rights of way access. Plan, please, and sheet the similar Sheet, Sheet Eight of 13 of the works. Plan, so

01:27

So if we could start, please with the public rights of way plan,

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this question came out of, or this question is coming out of the answer that was given in the design evolution and how certain areas of panel were removed. And we strayed into this. And we spoke about the accompanied, the unaccompanied site inspection we did, and we walked that footpath, FP, GT, STN three, which is the one that travels East out of the village of great Stainton, and then, at the moment, goes diagonally across the field there, just beyond point 42 and the proposal is to and it goes to the panel area there, which is shaded in pink. And the proposal is to divert that at point 42 travel south, then travel east and pick up the footpath at point 43 and abandon in the the red dotted line that crosses the panel area. So could, could, could you, Mrs. Fisher, just explain, particularly with reference to the existing footpath, how you assess the implications of the development on that Please?

03:16

Mary Fisher for the applicant. So in relation to so there's two parts of this. Obviously, there's the design element, which is to avoid having a footpath which passes between two areas of panels where both sides during early operation would be openly seen because there is no hedging. So the mitigation is to take it around the edge of the field so that one side has the existing field boundary and only the other side is open. In terms of the assessment of effects on that route, it's the people wouldn't be able to experience the view from the red dotted line once the development was operational, because it would no longer be a footpath. So the assessment of effects obviously considers the amended route. Does that answer the question?

04:27

Okay, so, so you were saying you didn't assess the original route because it's been diverted, so there was no need to

04:34

you couldn't be there as a visual receptor to experience the effects.

04:38

Okay, what about assessing the effects, then, of the diverted route?

04:46

Yes, so that's included in the landscape and visual assessment. So if you look at the relevant sections, each right of way in the ES is included in a group, an area based. Group of receptors. So for this one, it would be need to find the group I

05:40

so this is the third group of visual receptors, public rights of way, considered in the ES, which is views from public rights of way within one kilometer of the proposed development east of Elst lane and Hill House lane between Bleech house bank, stony flat farm and Gilly flats. So that's the group. Every right of way is included in the group. And then within the assessment test, there's a table itemizing the rights of way and describing effects on each

06:10

so what are you able to tell us what the effects of that particular bit of footpath between 42 and 43 and beyond to 44 are

06:25

the assessment isn't as granular as that. It doesn't itemize every single little piece of every footpath. But, I mean, you're right next to the panels, the effect will be large scale, which is would move towards the highest magnitude. So in terms of the effects, they're assessed, in terms of their scale, I How big is the change, their extent? How? How extensive is the change and the duration? But certainly all effects on this route would be large scale. It's within a panel area and it's being diverted,

07:06

and there'd be no, is there any specific mitigation for that particular length just to yes,

07:13

there would be a hedgerow on the inside between the new route and the panels do.

07:23

Yes, okay, and going back to the conversation that we had about the removal of panel areas, which is how we got to this. Why? Why would this particular piece of panel area be excluded? Why in the criteria you use to decide to remove panel areas, would this not have been part of that criteria? Because it seemed to us, having walked that that the as you've just said, the effects on that footpath are are very high.

08:00

There are numerous footpaths across development with similar effects. So in order to prevent this particular footpath from being adjacent to panels, the removal of panel areas would have needed to include not only the field which it crosses across diagonally, but the others alongside the route as well. It's a very significant removal of panels for a reduction in significant effects on one footpath. Applying that across the site would have removed virtually all of the areas of panels.

08:49

Thank you. Do either of my panel members want to ask anything else on that? Mr. Pinto,

08:56

yes, thank you. Mr. Wheelchair, Mrs. Fisher, Amsterdam, I'm still still not 100% sure if I can actually visualize in my mind the effects of what you are describing to us in terms of the proposed development. But I would just like to confirm a situation first. So if we go back to the works plan for the same area, and that would be sheet eight of 13 of the works plan, we'll see, we'll see that the footpath will go across and into one of the pink shaded areas, which is identified as works number 1d and works number two. So just so that I can start to puzzle this in my mind, can you please confirm that the shaded area in pink is going to be. Panel areas.

10:04

Yes, that's correct, right?

10:05

And there is a gap in between the red line, so the dcl land in the beginning of the pink area. So that I am, I'm assuming, is some sort of visual and landscape mitigation, some sort of planting in order to minimize the impact of the panels.

10:26

Yes, sir. So if you imagine the progression, if you like, from the red line to the pink area in section, and I believe these are shown in the design approach document,

10:36

apologies, that might very well be true, but I'm just trying to piece the information in my mind. So if we actually go back to the public way now join when street work that were before. Thank you. Can I ask in between what we can see as point 42 and point 43 on that image? So first of all, can I actually ask if the applicant is planning on putting any sort of fencing around the red line boundary that we can see there?

11:17

So just to do, I'll describe it in sequence to address that specific Thank you. Okay, so if one imagines entering the area of the proposed development at point 42 at that point, you would be passing through a hedged boundary. There's no fence. There's no the main fence for the solar areas is not there. Where it's an existing hedgerow. There may be an existing fence as well, but there's no new fencing proposed, right? Okay, so that would be the primary mitigation hedge. You would pass through a gap in it. You would enter into a gap, an open gap between the hedge you've just passed through and a new hedge, which will be newly planted behind, which will be the fence, the deer fence, marking the edge of the

panel area. And then the panels would be beyond. So when it's first planted, you would walk towards you'd walk through a gap in the hedge. You'd see in front of you some small new hedge plants, planted a deer fence and the panels. You'd then turn right to walk down the gap between the existing hedge on your right the newly planted hedge on your left and the fence. And that will continue around the field until you leave the diversion at 43 but the similar esthetic would continue all the way along the route. So

12:49

if one places oneself in point 42 is its walking direction of South, then you would have the open, existing landscape as it stands now at moment, to your right, but you would obviously have the hedgerow to your left is you are walking down the footpath

13:11

other way round, I think the right and

13:13

left as you're going south. Sorry, I'm actually to confuse my right and my left. But if you if you are in point 42 and you are heading south along the boundary, it seems to me to be right. If you are facing south, no left, either way, either way. The important point is to one side you would be facing the edge. The other side, you would be facing the open field as it stands now we can agree on the weekend. So as you're going is considering that experience that seems to me to be quite different, different from the experience of the existing footpath. Yes, and as you have said earlier, the effects will be a large scale and of high magnitude on that footpath, considering that that is the case even with the embedded mitigation that you have just explained to us, how does the applicant? Does the applicant feel it is appropriate to actually look at further compensation, if not mitigation, for the effects on that specific footpath? And I do also take on board the point that you have mentioned, in terms of it may the same principle may apply to other footpaths within the proposed development which is something that we'll definitely look at into further detail after mentioning this, and we might actually follow up on that specific issue. However, we are now discussing this one, and this is one that was particularly relevant and particularly glaring for the xi while conducting its a. A an accompanied site inspection. So if mitigate, if no further mitigation can actually be done in order to minimize the impacts on that specific footpath, what are the what are the measures has the applicant considered in order to compensate for the effects of proposed development?

15:20

Mary Fisher for the applicant. So there's no policy requirement to compensate for landscape and visual impacts, and also they're difficult to compensate for. You can't really create a nice view somewhere else. So the primary measures of enhancement related to this are some new proposed permissive rights of way to improve the footpath network. And whilst that doesn't directly compensate for the landscape and visual impacts, it does help with the amenity of for users of rights of way in general, by improving connectivity. There are also areas around the site where there would be new amenity recreational features, such as near bishopton, adjacent to area E, and they are the primary measures to attempt to, in some way, compensate for the effects on the rights of way,

16:29

although I accept what you're saying that there is no, there is no easier way to actually create a clear replacement for that existing foot bath. Secretary of State, however, is normally looking for compensation and further justification, particularly in terms of enhancements to other footpaths that could potentially be made in line with other similar development consent orders that have had effects that would be comparable. So so I would ask the applicant to actually explore that and explore that, considering, in the applicants own words, the effect will be large scale, how that can be compensated for within the wider area affected by the proposed development. So can I get an action on that, please, if the applicant agrees? Thank you. I don't have any further questions on this point. Thank you very much. Mr.

17:34

Wiltshire, thank you. Mr. Pinto, I'm going to ask my fellow panel members, if they have any questions on any further questions on anything we've discussed so far,

17:47

offer the questions from me. Thank you. Mr.

17:51

Wiltshire, thanks. Mr. Wes, I have one question for the applicant, I think earlier on in the presentation, Mrs. Fisher mentioned about planting along the public right of way earlier on, if I heard you correctly, what I would like to know is what maintenance action are being proposed that will safeguard the public right of the adjoining public right of way and ensure that they continue to be fit for purpose throughout the lifetime of this project.

18:36

Sir, Alex the applicant, so the maintenance of the public right of way network as a matter for the relevant local highway authority.

18:45

Okay, I'd like to clarify when you do planting along the public right of way. These terms, some of the stems might protrude onto the public right of way. Some other plants might crawl onto them and they protrude onto the public right of way. Those are the sort of things that could happen. How do you maintain the planting along abutting the public right of way to make sure that the public right of way continue to be used without unnecessary obstruction? That's my question.

19:22

Thank you, sir. Alex menick from The applicant the I think perhaps there are two sides to this. The applicant is committing to provide landscape screening of the sort that we've been talking about, and that would be controlled primarily through the landscape and ecological management plan, which we've identified previously as controlled by a requirement, requirement 12, in the draft DCO, the extent to which that planting will. Have a detriment, detrimental impact on the public right of way network, potentially, I'm not sure, as something that has been identified by the local highway authority who will have control of the maintenance of the network. So there aren't any specific measures that the applicant is proposing to undertake to address overgrowth, if we, if we refer to it in that way. And I think

the the way in which I would see that principally being addressed is through the local highway authority's ongoing maintenance of the public right of way network.

20:42

Sorry, I would have thought that responsibility should lie with the applicant, because you have to choose the type of species that you plant and then ensure that these terms doesn't necessarily obstruct the adjoining public right of way, and if there's any sort of other plants that might crawl onto it and overlap the public right of way, because we have used the public right of way during our side visit, and I love them well, significantly obstructed, even by some funds. So that's the sort of thing I want the applicant to look into and clarify for the examining authority.

21:26

So thank you. I'm being corrected by my team. There is a design height and width which is specified in the landscape and ecological management plan for this form of planting, and the applicant would be looking to maintain that

21:44

I have the action, then please register.

21:50

So forgive me, what? What action in particular is it to identify where that obligation

21:53

Yes, and then fully documented in any supplementary document that you're going to provide?

22:04

If they thank you, Mr. Abadi, if you can find us the reference to that while we're carrying on, I think that will be sufficient to answer it where the reference is in the documentation they've referenced. Yeah, I won't take that as an action to take away if you can just find that for us while we're dealing with other matters.

22:25

Thank you. So yes, we're have a look into it, and we're provide a response before the next adjournment, if not before.

22:31

Thank you very much. I'm now going to ask the local host authorities for their comments, if I can, please, first turn to Darlington Borough Council, and I'm particularly looking for comments in line with their local impact report. Rep one oh 23 and landscape and visual amenity, rep one oh 21 and as with a general comment to everybody who's going to ask further questions, I would ask you to concentrate on the main outstanding areas of disagreement at this point, because we've got a lot to get through, and we need to use Our time efficiently. So Darlington Borough Council, thank you. Applause.

23:24

I thank you. Sir Stephen Laws, landscape consultant to Darlington Borough Council, the two main areas of outstanding disagreement primarily relate to the view that they should be there should have been more rationale and design analysis, site analysis, provided in the design approach document and through all the other documentation. So we so we could see how the design had been involved taking on board the actual site characteristics, and it's probably been a concern of ours since, since we started, since we, when I say we, I mean Glenn Kent. Landscape consultants were appointed by Darlington, so it was a concern that we raised with Darlington Borough Council in the fact that we couldn't we couldn't understand the rationale the design process from the information had been provided, how the developer had come up with a development layout which seemed to focus solar panels around the villages and and that concern has been continued, as we've seen the the environmental statement documents, if you look at the design approach document that's been submitted, the only mention of the villages is just in a factual statement saying there are villages there and and if you look at the design objectives and you look at the vision, there is no mention of the setting of the villages. And you would have naturally expected the vision and the design development to express a concern about maintaining the setting of the of the villages and to minimize the impacts on the villages. So in effect, that sort of sums up where we're still in disagreement. I and we raise that again, because I'm aware that the inspectors has now provided examples of good design approach, documents on on your on the pin site, which I don't think were there when we initially were talking to the applicant, but they are there now, and I noticed that the exemplar scheme, which is presented on pins is the Hinckley C connection point, and it's held up as an exemplar scheme because it actually does provide that rationale for the design. So that's where, that's probably the key area where we sort of differ at the moment. And our point, our concern about that is, if you don't provide that, and you don't provide the analysis of the landscape, how do you then, when you look at mitigation, for instance. And if we were looking at a mitigation and you were talking about a particular footpath, if you don't understand where the key views are, how do you then, and how do you then understand the benefit of the mitigation, where are the key views within that entire 10 square kilometers of steady area. If you don't understand that, how do you understand the overall effect? And how do you understand where you where your mitigation strategy maybe should be strengthened? And so that is still a point of disagreement. We're basically is the local authority we're taking the view this should be included. We at one point through the consultation process, I think, I think there was an expectation that that would be provided, but I can't see anything in the design approach document. So, so, so that seems to be our, the main key sort of area disagreement, and the other one is how the visual information, the photographic viewpoint information, has been presented in the Es. I think we are at odds at the moment as to which things are fairly basic principle. But where it seems to be at odds at the moment is whether you should be presenting worst case photographs, and based on your analysis on worst case photographic views. I don't know why. I'm unsure a little bit as to why that is a seems to be in dispute, but that seems to be the case. And it seems to me that if you don't understand that, if you don't present the worst case, or you don't consider it, and you're presenting analysis in the EES, do you? Do you actually fully understand what the visual impacts are? And certainly, if you relate that to, for instance, great state in which we focused on the local impact report, the photographic evidence we produced, or examples we produced in the Impact Report differ significantly to what was put in the environmental statement. And we did. We have raised this. We have raised this previously with with the applicant and some additional photographers was undertaking. But it's those, those that sort of aspect of the selective Viewpoints is really the only, the



only major area of concern I think we have, in fact, there's quite a bit of agreement on on the actual landscaping visual effects.

29:52

Thank you for that. Um, Mr. Laws, I'm going to give the applicant an opportunity to. To respond if they wish to what they've just heard.

30:09

Mary Fisher for the applicant. So both of those points were raised in the local impact report, and we responded in writing, in our response to that, which was someone give me the document reference,

30:37

rep, 2008, no, not proposing we necessarily turn that up, because they can provide a response. So in relation to the rationale provided in the design approach document, since that time, we've obviously responded to further questions, and claret provided more detail in particular in the design evolution document which we were discussing earlier, and as hopefully, all those present will recall the first mitigation item that we discussed, Item one done very early in the project, before scoping specifically related to the removal of a panel area close to braferton, specifically in relation to protecting the character and setting of that village. So whilst the text of the design approach document might not have reflected the priority of considering the village settings, it was the first item of mitigation identified and continued throughout, as we saw in our discussion of the effects on great Stainton. So although design approach document might not have explained things as fully as it could have done, the applicant team considered that in subsequent documents. We now provided that information, particularly demonstrating that the character and setting of villages and views from them have been considered throughout the design from the earliest stages.

32:27

I'm not going to try and repeat what Mr. Laws said, but in writing a few notes on it, when he was talking about that first main area of disagreement, he used some sort of terms along the lines of, if you don't understand where the key views are, and understanding the setting of the villages, how could you Just respond to that? A little bit more. Please. I uh.

33:04

Mary Fisher, for the applicant, I'm actually very familiar with this area, having worked on lambs Hill and Morehouse wind farms, the two wind farms that you'll see when traveling around the area. So not only from this project, but from 10 years ago. So all of my input has been informed by quite detailed local knowledge subsequent site visits. The fact that I haven't produced a drawing showing all of where all the key views are doesn't mean I don't know. It's not that that type of drawing, or, you know, showing arrows with pointy views, perhaps, is not something I do as a matter of course, in my assessment and design analysis work, and actually, I also didn't write the design approach document, so it doesn't reflect my knowledge as it were.

34:09

Mr. Pinto, I think you Yes.

34:10

Thank you. Thank you. Mr. Wiltshire, just a couple of points in terms of the last comment regarding the design approach. Mrs. Fisher, if I understand and accept your comments, but I would ask the applicant then to actually provide us with the witnesses that would actually be able to answer questions on that specific issue in terms of design approach, if Mrs. Fisher does not feel that it is within her responsibility in terms of her professional capacity and work that she has been commissioned to do for the applicant. But putting that specific issue aside, you have you have mentioned your responses to the local impact report in particular. The document that Darlington Borough Council commissioned, and that was presented as part of the local impact report, and within that response is now exiting, apologies. I'm hearing some feedback. Is it? Can everyone see you hear me clearly? Yes. Okay, thank you. I I was saying, in terms of your response to the local impact report, you do mention within page 93 of 92 in relation to one of the main aspects that I believe Mr. Laws has raised. And I think that there was several main aspect, but one of them was in terms of the misinterpretation of the village setting in the absence of an assessment of that setting. And that's actually an issue that you have picked up on your response quite rightly. And then you referred the xi in your response to Chapter Seven landscaping visual as part of that specific issue, however, and correct me if I am wrong when you actually go through chapter seven landscaping visual, or when you actually read the whole of your response to that specific point, I can't see the applicant's view or response to the specific viewpoints that I believe were identified by Darlington Borough Council within their assessment and that were the basis of that disagreement. So does the applicant have a view on that, or does not have a view on the usefulness and how appropriate those additional and different points viewing points are for the assessment of the impacts of the proposed development. Sorry, I know it's a very long winded question, but I'm happy to try and resume if it's going to be helpful. Thank you. So just let sorry. I was just trying to explain my stream of conscience.

37:07

I've got I'm roughly with you. I just need to clarify. So if so, we were looking at our response to the local impact

37:15

report, yes, in relation to how does the applicant respond to the additional viewpoints that the that Darlington Borough Council has included within their assessment is more I believe that word and please correct me, Mr. Los, if I am incorrect, more representative of of the real setting of the proposed development is that, is that case? Mister laws, yes,

37:46

sir, that's That's correct. They were just, they weren't comprehensive. They were just another set of examples. The photographs were just examples that weren't comprehensive,

37:58

and these were additional ones that identified within your report? That's right in

38:02

the local impact report? Yes.

38:07

So I think we've moved on from village settings to viewpoints, so I can't find the relevant reference in the document, so I'm struggling a little here, but the

38:24

Sir Alex, and then

38:26

the viewpoints are supposed to be describing the setting, the village setting. Hence why I was linking it, linking it to the village setting. I'm sorry if I confused you in any way. It's the viewpoint. Can I ask Mr. Laws to please clarify the position in terms of the settings that were identified and what was the validity of identifying those additional viewpoints in relation to the setting, please.

38:55

So, so there were two issues there. We didn't necessarily agree with the with the setting analysis that had been provided by the applicant, and I didn't necessarily even agree with the process. And we have, we have spoken about this to the applicant. I mean, I can go into it a bit more detail if you would like, but we there is a bit a bit of a disagreement of how that that setting was evaluated. Our view is that the setting should have been seen as a separate receptor from the basically from from the village character. And the reason we said that is because the village settings is part of local policy, the protection of the village settings, and it's also one of the key characteristics of the landscape time. So you would think that if you did an assessment and the impact on the settings was significant as a standalone receptor, that would that would actually then inform your view on how on the overall in. Facts on landscape character and maybe on policy. So there was the setting, and then the other issue was the photographs that were used to illustrate the setting. So there's two different things there. So I've waffled on a little bit, but there are two different things, and we felt in the local impact report, we had to provide an example of the additional photographs, which I think should have informed the applicant's view of the setting. We did mention very early on our consultation, we basically said we were concerned generally about the about the viewpoints that were presented in the ES, there was a reluctance we felt by the applicant to review the viewpoints they took on board several but we said that we had a general concern that the viewpoints didn't necessarily reflect the worst case view from a number of receptors. Go back. Could you please go back and you know, just review all your viewpoints. In effect, it wasn't our job to do it. So that is when we came to the local impact report, we thought we would provide examples of where those views are. It's not comprehensive, but we provided some further examples of viewpoints, say, in relation to great stains, and we're trying to, we're trying to expand on our on our views on the setting and the effects on the setting.

41:29

Thank you for clarifying that point. Mr. Loss. Can I ask the applicant to respond to that so those two key points now, according to my notes that are separate for the applicant to reply, please. I will not try and reiterate again, in case I confuse everyone. So thank you.

41:48

Okay, Mary Fisher, for the applicant. So if we start with the point about effects on the character of the villages and their settings, as Mr. Laws was referenced. This is a point deriving from local planning policy, rather than normal landscape and visual impact assessment methodology. When we approached this originally a scoping stage. The intention was to use the local landscape character assessment as the main baseline document identifying receptors in relation to character and that was done in within that the villages aren't identified as separate character areas. They're encompassed within the larger rural character areas. Through consultation, it was agreed that, as Darlington had requested, specifically an assessment of effects on the character and setting of the villages that we would provide that but it's not a normal aspect of landscape and visual impact assessment. It's a specific response to their concerns. So that was provided in a preliminary assessment in the peer at that point we had the further engagement now the assessment of effects on the character of the villages and the setting was informed by viewpoints, but they weren't specifically selected for that purpose. The representative viewpoints are primarily used in the assessment of effects on visual receptors, but they also happened to be in and around the villages, so they informed the assessment, and we also provided illustrative views in a separate appendix, which were specifically referenced in relation To the assessment of effects on character and setting the um in attempting to engage with diet council to him to to improve matters for the environmental statement, we did ask if they could identify particular locations or types of views they felt weren't adequately represented, because it's quite difficult to address a vague you haven't got it right response, which is how I felt we were getting feedback. We were hoping that at some stage they would identify particular concerns or particular locations. We never received that so it was difficult to understand precisely what the problem was and how it might be addressed. We did try moving on to the selection of worst case viewpoints in. That is not a concept recognized by guidelines for landscape and visual impact assessment. Viewpoints are meant to be either representative I representing the range of different receptors, effects, distances, directions and views of the development or illustrative which, as we've discussed, illustrates specific points being made in the text. So for instance, we had some of those in relation to the village settings, or specific, ie, they are locations to which people go specifically to experience the view.

45:39

Okay, thank you, Mrs. Fisher, for that specific comment. Can I just ask if Darlington Borough Council would like to comment? I'm gonna separate, as you have in your response the two different issues, one would be the setting and the other one would be the photographs. If I could ask you to comment please on response from the applicant in relation to setting, first, and then we'll take the issues in terms of photographs. I would like to hear Darlington's borough Council's view on this specific issue, please.

46:11

The reason, the reason why we the reason why we were concerned about the setting the way it's been presented in the US, because setting is actually just lumped in with a whole series of different factors in the in the analysis of the village character and what, what that, what that process does in the way it's presented, in the US. It tries to establish a value for the for the villages, and then by establishing a value, you get to what the overall sensitivity is. But the setting is just it just forms one of a number of different factors, how that's been the way the process is being done. My view is that the setting should have been separated out, and the reason being that because it's because it's highlighted as one of the

key factors in the landscape camera studies, and it's in policy, the setting in the villages, you would automatically think has a high value. So you would automatically think that the setting should be, should have a high value. And that does not necessarily come out in the process that was that was undertaken in the ES. We did ask to be assessed separately. The response was, it can't be done. It's not a common it's not a common methodology. I don't agree with that. I've been doing this for 40 years.

47:38

Thank you. Thank you, Mr. Los, if I could ask the applicant to just very quickly come back on that specific point in terms of how the setting was valued, and can the applicant please comment on if it was valued as high as it is suggested now By Darlington Borough Council or not?

48:02

Mary Fisher for the applicant. So I think one thing, just to get this in context, is this is primarily a disagreement about methodology for two of the three villages. We agree the effects on the character of the village and its setting, regardless of whether it's set separately or together, would be significant. So there is not a disagreement that effects on the setting would be significant. It's just a discussion about whether they should be regarded separately. So I hope that helps in relation to how value was considered in the assessment. If we look at a P, P, O, 3o there's an assessment of value for each landscape and visual receptor and for the settlements that is provided In Just give me a minute while I look I

49:48

Yeah, Appendix 7.3, so for instance, point three, yes, which is.

50:02

Is that a different document

50:03

to the Yes, sorry, it's summarized, if you like, it's referred to from the ES where the assessments made. So, yes, it's a separate document. It's what references it, just finding it. Oh, thank you. A, PP, 134,

50:26

sorry. I'm having to look offline because my computer's flashing up security warnings every time I try to access the main site.

50:32

Best possible moment.

50:36

So if, for instance, we look at page four of that document will see an assessment of value for the character and setting of brafferton.

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Is that the one village that you were mentioning earlier in your answer that there is a disagreement

50:54

on there are three villages considered. So this is just one of them, the

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one where there is the disagreement, one of the ones that there is a disagreement, or the one where there is a disagreement,

51:07

I'll have to check that. Does it? Can

51:09

I ask at this point and ask Darlington Borough Council if it's just a disagreement in relation to setting? Is it just on one village, or is it on three? If you could,

51:25

we have a disagreeing, because we basically, we basically saying that the setting should be a separate receptor, and each ability setting should be the effect should be significant. So it we're not we do not compare like for like in effect.

51:41

So if I may, Mr. Laws, then it is a disagreement on the methodology, which therefore applies to all of the villages. It does, yes, it does that clarify as well situation. Thank you. If you would like to continue. Mrs. Fisher,

51:56

yeah, so I've selected one example, but all three villages are approached in the same way. Thank you. So if we look at the top of that page, you can see that a series of factors are considered and described in relation to contributed factors that relate to value. So it's cultural heritage, the condition quality and distinctiveness of the townscape, cultural associations, amenity and recreation opportunities and perceptual scenic qualities, and each one is described and considered as to whether it reflects particular levels of value, and those are defined in the methodology for the LVA. It's the same approach as is used for landscape character. And the three levels that are the three primary levels that might be used are national which you'd expect to see in something like an aomb or a national park. But equally, for instance, we might have national level of heritage value in a particular area so varies depending on the criterion regional which reflects a wider than the value than the immediate locality. And for instance, for the villages where there are conservation areas that will be higher, tend towards regional reflecting the Conservation Area designation and or community, which is an everyday place, pleasant enough, but valued mostly by the local community who live there and in the environment.

53:45

Thank you, Mrs. Fisher, in that case, to then link back to the point made by Darlington Borough Council, that analysis was actually considered separately as a separate receptor, analyzed separately or not

54:04

in each case, the analysis was provided for the village and its setting as a character or area, if you like.

54:16

Can I ask if Darlington broadcasts would like to comment on that in terms of how suitable it is that approach.

54:26

So probably end up repeating myself, but I don't feel it's suitable, because the value setting itself, and I would, I wouldn't agree with the applicant the terms that you don't normally assess the setting. I've certainly done that on numerous assessments where setting has been raised as a policy. It's not uncommon at all. So and certainly in this case, and. Um, the setting itself is seen as one of the key characteristics of the landscape. So they so for that reason alone, you would, you would assess it separately, and then, and then evaluate how that changes and what the effects on that setting is because it actually because when you address setting, it's not just about landscape, it also covers views as well the visual amenity. And as there's a visual amenity of the local residents, and setting sort of straddles landscape and visual amenity that it is difficult to deal with, and it's not clear in the guidelines how you deal with it, but I think most practitioners would have separated that out. In my experience,

55:47

would would Darlington Borough Council be able to provide us with examples where the approach that you have just allotted to has to as Mr. Laws has been taken the

56:04

I don't know why. I'd have to check with darling and have those on their records. I would say that the methodology for assessing setting is number is very weak in the guidelines, like we use for landscape visual assessment, like it's almost silent and the best, probably the go to source of doing that is from Historic England. So how you actually assess setting is not necessarily well set out in the guidelines, whereas a practitioner, I certainly do it, and certainly other practitioners do it, and we could, we'll have to provide examples,

56:41

and in terms of the of the methodology that you have mentioned from Historic England, in my experience, methodologies set by Historic England are normally used to assess impacts on the historic environment. So is it is that guidance applicable to only historic environments, or is it applicable more wildly?

57:04

It's only applicable in the sense of how you define the extent of the setting. And this is, this is where, you know, there's going to be a bit of subjectivity in it, and but in effect, that's, that's, that's the starting point to define what that's, what the extent of that setting is, because until you do that, you can't then say, Oh, the setting is going to be significantly or not significantly affected, and so and so you've got to establish what that method is that you've used to establish the extent of the setting.

57:38

Thank you, Mr. Boss. If I could then ask Darlington Borough Council if you could actually take back an action with a caveat that it might not be possible, but if we could actually see sort of evidence in terms of that approach being taken on comparable projects, NC projects, particularly national, significant infrastructure projects, that would be really useful for us, I will now ask the applicant if they would like to comment and come back and obviously give them a right to reply, although I feel that perhaps we have sort of come as far as we possibly could today in terms of this specific issue of setting. However, there is still the issue of viewpoints that I want to revisit, but if I could ask the applicant to comment now please.

58:20

Mary Fisher for the applicant, I think your questions have to Darlington have gone to the questions and the response that we would make. So you know, yes, Historic England guidance relates to if it's on heritage assets and their settings are protected by policy and very long established chain of establishing how it should be done has gone into their guidance, but it relates specifically to heritage assets. Secondly, an example, if Darlington have one of comparable projects would be useful and informative. Thank

59:00

you. Okay. Thank you very much for that approach. Mrs. Fisher, now we also mentioned the other point that was mentioned was the photographs that were used linked to the viewpoints. And I'm looking again at you, Mr. Laws, if I am misrepresenting your submission, and please do let me know if that's the case. But could I ask the applicant to then comment on that second point in terms of the photographs that were used link to viewpoints in relation to The comments made by Darlington Borough Council? Thank you. Applause.

59:51

So we now moving on to the location of the viewpoints or the actual appearance of the photographs. I'm not quite

59:59

I would probably. We say it might be useful to cover both. Okay, thank you.

1:00:04

So the viewpoints were selected to represent, as I mentioned, a wide range of distances directions receptors. And, you know, people using boats, using footpaths across the study area, and certainly no additional specific locations have been selected that we have rejected at any stage, apart from there are some early ones where we discussed them and agreed with Darlington council that they weren't needed. We left at the end of the EIA stage process, we left an open invitation to Darlington council to identify any further viewpoints they felt should be included. So as far as we know, no further locations deemed necessary by any party, but certainly none. No specific locations have been identified. And then, in terms of the photographs, all of the photography presented in the ES was first provided for the preliminary environmental information report. It was all winter, I think, apart from one viewpoint, which



was added at the request of Darlington Council later in the process, no specific comments were provided at that stage, suggesting that new photography was required to show different weather conditions. And so this winter, photography was reused for the environmental statement, because the photography was undertaken in cloudy winter conditions, the appearance of the panels in the photo montages reflects those weather conditions. If we had taken our photographs in bright sunshine, the appearance of panels would have reflected those weather conditions. There's no requirement in guidance to show the appearance of development in multiple different weather conditions and and certainly we weren't requested to do that for the EIA stage at any at any point. Okay,

1:02:40

thank you. Mr. Fisher, can I ask if Downton Borough Council, perhaps Mr. Laws would like to respond to that, particularly in terms of the applicants responded? No further specific locations were identified, further to the ones that were already carried out.

1:02:58

Yes, the sort of sequence of events. The way it happened is that we attended a consultation where we after we reviewed the peer documents, and our general response at that point was that we felt that the viewpoints, too, many of the viewpoints were not representative of a worst case, and that some of the viewpoints weren't even typical. And we said at the time, we presented a number of different examples, it wasn't our job to go out and identify our viewpoint another 30 viewpoints or whatever. But we did say we were recommended to the applicant that they possibly should review their viewpoints, even at that stage, and see whether they were representing the worst case. I think we were particularly we were particularly concerned about some of the views that were presented around great Stainton and round brafleton, and there seemed to be a general reluctance to do that based on the fact that the applicant felt that they didn't have to illustrate worst case scenario. I hadn't come across that response before worst case scenario, seems to me a well and tested approach to doing all environmental assessment work and where the applicant is correct in saying that The guy our guidelines the landscape visual guidelines focus on representative views. And again, it's not particularly strong on worst case. It's only mentioned once. But the approach is, represent. You would represent the worst case. It's not that you do not avoid the worst case. So that's where we came from, and we almost came to an impasse, where. We said, I think you need to go and review on many of your photographs. Thank

1:05:05

you. Thank you. Mr. Loss, can I ask the applicant if would like to comment on that?

1:05:15

I can try and formulate it in the form of a question yet again, but I think that, I think that Mr. Loss have explained it actually quite clearly. So if I could ask you to reply anyway, thank you.

1:05:25

Mary Fisher, for the applicant, sir, I think we did respond to that consultation process. It wasn't a reluctance to to respond, it was more a lack of clarity in what Darlington council wanted from us. It's quite difficult to reconsider your viewpoints across a very large study area when you've already gone through the process of identifying what you feel are the best locations where they did make specific

comments we did actually respond. So for instance, viewpoint five was moved to a new location that they suggested, which was deemed better by both parties. I think the additional viewpoint that we included was also nib rafferton, viewpoint 34 so where they may comment. Apologies

1:06:25

to interrupt you. Can I just ask a quick question and apologies if I have missed this in as part of the applicant submission. But have you provided us with a written justification for each one of those viewpoints where there is a disparity between Downton Borough Council and the applicant in terms of why they were not considered and why you did not revisit them for each and every one of those, I don't recall seeing that, but please do point me in the direction of a document where that is set out, if I've missed it.

1:06:56

So for the most part, specific locations weren't identified. It was more a go away and have a think where they did provide specific locations those are worked through in the ES, in the section relating to consultation, and I think in the appendix relating to viewpoint analysis, quite indeed,

1:07:17

just off time, can I ask the applicant to take back an action, to come back to the examining authority with a response to that, in the interest of saving time now with detailed information in terms of where the XA can actually find a more detailed response to the areas of disagreement between both parties. Yes, and please continue now with the rest of your answers. Mrs. Fisher, if it's not finished, thank you.

1:07:48

In relation to illustrating the worst case, the landscape and visual impact guidance mentions worst case specifically in relation to assumptions made about the design of the development reflecting the principles around concepts such as the Rochdale envelope, and that is reflected in the visualizations, in that The solar panels are modeled to the maximum height identified in the design parameters. It doesn't apply to the selection of viewpoints. If one always selected the worst case viewpoint, every single viewpoint would be next to the panel areas with a fully open view, or it doesn't quite make much sense. So generally, if your points are selected in the most open locations that represent the relevant receptors, except where that's unsafe or otherwise not sensibly accessible.

1:09:04

I accept that, and they have got to be representative of the different locations. But in your own documents, you set out within several different chapters, within the environmental statement that you have evaluated a worst case scenario. So I would expect the applicant to be able to then demonstrate that the worst case scenario was actually looked at from a landscape in visual perspective, because otherwise, if you are saying that you did not pick the worst case scenario, then we're going to have to revisit the basis on which the environmental statement was submitted to the XA.

1:09:43

Sorry, I think you perhaps misunderstood my response. We did consider the worst case scenario, ie, the greatest design parameters for the development that is the worst case scenario. So for instance, the panels, maybe,

1:09:56

thank you for that clarification. Yes, definitely. Application was needed. Thank you very much. Can I ask Darlington Borough Council? I think that similar to what has happened to the previous issue, we might have explored this as much as we can today. However, you would would Duncan Borough Council be willing to provide us with a list of those specific viewpoints where there is still a disagreement, as you have explained to us, Mr. Laws, so that we can then compare with the action that we have just asked the applicant to do in terms of submitting detailed justification for each one of those viewpoints. If that is clear and acceptable,

1:10:43

yes, sir, we will work with the applicant. Thank

1:10:46

you. Thank you very much. And over to you now. Mr. Wiltshire, apologies.

1:10:51

Thank you. Mr. Pinto I don't know if it's helpful. I've just got a follow up question, having sort of listened to what's gone on, it's and it might help the people in the room. It's been, it's been quite a technical discussion between two experts. Are you able to say how great the disagreement is in terms of what's been proposed, as opposed to all the things you've described, the methodology the different professional approaches, is the gap between your view of the landscape and vision impact assessment and the applicant's large or not large.

1:11:42

So, so, yes, I think, I think I get your point. We there is, regardless of our differences in opinion and in the methodology, there is quite a little bit of or quite a lot of consensus on this, on the significant landscape visual effects, apart from what we've talked about previously, about the setting of the villages and and I think the other one, I think, is on the effects, on the on the roads, on some of the local roads, but they tend to be the The main areas of disagreement, still, how we got there is a different matter, but that probably sums up where we are.

1:12:30

Thank you, Mr. Laws, applause.

1:12:40

And then thank you for that. I think where we're at, and it's just approaching one o'clock, I'm going to adjourn for a lunch break. We've got a lot to cover. Still, would 45 minutes be sufficient? Is there any objection to that? So we will resume? It's it's now 1254, so if we could resume, please at 140 Mr. Nick sir. Thank

1:13:22

you. Quickly, before we break, I promised you a reference to our previous discussion on footpaths and rights of way. I have it for you, sir. It's the outline landscape and ecological management plan, which is document app, 118, and the key paragraphs to look at are paragraphs five point 2.5 and 5.5 point 10. And I think looking at those paragraphs, it will become clear that the conversation we had previously and the commitments that I was corrected by my team have already been offered as part of that document are evident in those paragraphs. Thank

1:14:05

you very much for that. So we're adjourning. It's 1257 we'll resume at 140 Thank you very much. Applause.