

TRANSCRIPT_EASTYORKSHIRE_ISH1_SESSION2_21052024

00:05

Okay, it's 10 to four. So we'll resume the hearing. Couple more points to get to but not too many. Are we? We finished at the back. Sorry. Points. Item. P is the schedule of protective provisions is something I've referred to before the details of which tend to evolve over the course of the examination as negotiations take place between the applicant and the people who are the beneficiaries of those provisions. So, the point of this item is to get an update from the applicants on the various protected provisions which are included if we could go through them one by one Starting with part one in sheduled, 14 which is the the general provision for electricity, gas water, sewerage, undertakers,

01:20

me standing on behalf of the applicant, so you might need to bear with me because I have the tracker in the order of the shedule of negotiation. So I will try to marry them just the specific parts taking first then National Grid, not sorry at the LNS separate part. So if you just give me a second now there, so national gas transmission PLC, are an undertaker who would be caught by part one of shedule 14 of the draft DCO. We are engaged with national gas transmission as sisters, we provided undertaking for costs negotiated protective provisions. We understand that national gas transmission have their preferred form of bespoke protect provisions, they would like us to consider and we have requested the provide us with a copy to negotiate in the meantime part one provides the protection for their assets in relation to National Grid carbon limited, we have written two letter word carbon emitted and since September last year, and we still continue to not receive any response. However, the standard protection provisions for electricity, gas water and sewage Undertaker's which are included with nevertheless protect their assets. In relation to Northern gas networks, the applicant has engaged with Northern gas network solicitors, we have received their bespoke form of Asset Protection Agreement, which we are reviewing and providing comments on and we understand that once that Asset Protection Agreement is concluded that they will be content to withdraw any representation that they have in respect of the term in relation to Northern paragraph Yocto PLC.

03:16

Sorry to go on. So the the Asset Protection Agreement will be a ineffective side agreement between you and the National Gas networks in addition to the protective protective provisions. Me

03:34

stating on behalf of the applicants. Yes, that's correct. Me standing on behalf of the applicant Moving on then to Northern Powergrid Yorkshire PLC. That is a similar story to national grab gas transmission, and that we are now engaged with Northern Paragon solicitors and we are awaiting a copy of their standard protected revisions as a starting point for negotiations of the bespoke set. We haven't received those yet. As soon as we receive them, we will consider them and consider whether they're

appropriate with amendments to be included within the draught seal for the benefit of that Undertaker. And then oil oil pipelines agency we've had no response from them and we're not they haven't registered as an interested party we consider they will be covered by Part One of shedule 14 and think that those are the only ones which will be covered by Part One which don't have their own specific part. Part two is the protection of operators of electronic communication code networks. And we have written to be PBTS already, again, haven't received a response but we have included standard protective provisions for their benefit

04:58

is being at the Yes,

05:01

the telecommunications organisation in relation to part D for the protective protection of drainage authorities, as mentioned, we are engaged with the Eastern river Durban IDB in relation to protected provisions. We note that they have requested two amendments to protect provisions within their relative representation. The first is in respect of the ADEA to include this standard specified work distance to increase that slightly from eight metres to nine metres and the applicant happy to agree to that that will be reflected in the next version of the DCO. At deadline one, we do also understand their concerns around access to their watercourses. We are not quite resolved as the as to the form of wording which may be included in a requirement or indeed elsewhere in the application documents to give the IDB the Convert they're seeking. But nevertheless, we are continuing to discuss that with them outside of the DCO process. We don't see there's a point of principle between us is just more a form of words in heaven where that protection for access to their watercourses is secured, so we will continue to discuss that with them.

06:23

Do you have anything to add

06:24

as Bill Simon Susan Dolan's internal drainage board? Yeah, the axis we were seeking Saba, an equivalence sort of means of access according to paragraph 51, or schedule 14, which was the Environment Agency one, but it's sort of like a bit of a halfway house on it because we don't want access to an operational construction site. But we do have a pumping station that we need to service and maintain within the vicinity of and blockages and things can occur. So just a little bit work. I'm sure we can get there. Thank you.

07:13

Me standing on behalf of the applicant just completing them the drainage authorities. We are also seeking to engage with the is an Humber drainage board and the Selby area internal drainage board to seek to agree the form of protected provisions. We don't have that agreement in writing yet, but we're not aware of any specific comments or concerns that they have. So we are endeavouring to get that in writing.

07:45

So as far as you're aware that I don't have any specific requirements, which aren't covered by the protecting provisions as currently drafted.

07:56

So far, we're continuing to seek to engage with them to confirm that position. Moving on then, and part four of schedule 14, which is the protective provisions for the canal and river trust, as mentioned earlier, and Mr. Tucker has also mentioned, the canal and river trust and the applicant have subsequently agreed a form of potato provisions. And so that agreed form will be included in the draft DCO at deadline one.

08:33

In Yeah, Mr. Tucker, I take it you've nothing to ride on that point. Until crumbles.

08:43

Thank you, Spencer, that that is correct. Yes. We'll confirm that in our response to that line, mom. Thank you. Mr. I think on behalf of the applicant, moving then to part five of schedule 14, with the Environment Agency. Again, we have touched on this already. And in this hearing. The applicant has included their protected provisions by the Environment Agency, which we understand really acceptable to the Environment Agency on our recent solo DCO schemes. However, we are yet to hear back from the Environment Agency agencies representatives on any specific concerns they have with their scheme. I'm confident that as a matter of engagement and timing. We've also sent them a draft statement of common ground for review. So we're hoping to engage with them and get the necessary confirmations. Rarely an examination

09:41

maybe impossible question but timescale for that, is that likely to come through by deadline one do you think?

09:51

A misspelling on behalf of the applicant? I think it's probably an impossible question. I don't see any substantive reason that that couldn't be done. It's just a question of whether or not we could get sufficient engagement and that time

10:12

you misspelling on behalf of the applicants Moving on then to part six of schedule 14, which is protected provisions for the benefit of network, we'll have to see the yes the applicant and Network Rail have completed a voluntary option agreement in relation to the crossing of the railway. We're engaged in prepaid tax provisions and these are substantively agreed. And we're just finalising the agreed set to be submitted at deadline one.

10:49

Installing on behalf of the applicant and then the final part of chapter 14 As part seven for the benefit of national grid electricity transmission. We've been working to agree a form of protective provisions to be included within the draft DC or knotting the SEC, which the applicant has already put forward. We are

substantively agreed in relation to the form of protective provisions for the protection of National Grid's existing assets within the order limits. The current focus then of the parties is to put provisions in place in relation to National Grid future assets, specifically the Eagle Two scheme to ensure that the US Yorkshire solar scheme and the Eagle Two scheme can coexist. We're confident that agreement can indeed be reached and that coexistence can be ensured within the time scales of the examination and will provide regular updates to the examining authority. So, yes, we're substantively agreed for existing assets. But as you can imagine, for future assets, there's a certain level of unknown that the parties are working through just to make sure that both schemes can coexist, but we don't see any substantive difficulties with that, again, it's just something we're working through with them. So

12:01

do anticipate that enough is known about the future assets to be able to frame setup and protecting provisions.

12:11

Amy standing on behalf of the applicant. Yes, so it's more than it needs to be a level of reciprocity given that we are also a future scheme. So just to make sure unlike existing assets, which would be impacted by this scheme, these are two schemes which are both in the development phase. So it's just ensuring that they can both coexist. We're confident they can. It's just the technical teams and other matters are just working through that and practice.

12:52

Okay, thank you for that.

12:55

May I speak? Of course, yes. It's Sally Beckett on behalf of Becky's McMillan's. Obviously you had a lot of list on things there but I didn't notice you mentioned the water supply which are under the verges. Have you been in contact with the water supply companies to know where the pipes are?

13:24

Me standing on behalf of the applicant? Yes, I Yorkshire water limited. So I did miss that from my list when we were going through in the order. We had initial discussions with Yorkshire water limited in which they said they would submit a relevant reputation representation if we had any comments on the protective provisions that we have in place for the benefit of water undertakings. We know that Yorkshire water didn't submit a relevant representation and we understand they don't have any concerns with the proposal on that basis.

13:57

It will be good to have something more than the absence of a response from Yorkshire water about something that's that's something you could look into and see if we can bottom something out by deadline one

14:11

me standing on behalf of the applicant Yes sir. We're more than happy to contact Yorkshire water to have something more affirmative

14:31

anything else Mrs. Beckett

14:36

and just that water. Our water supply comes underneath one of the fields that they will be piling their solar panels into

14:54

the final item under three of the agenda is the The dean marine licence. And I'm looking for an update from, from the applicant on its position on initially the need for a deemed marine licence and explain why that is, in fact the case. We haven't gotten Natural England here who did take an interest in this at the acceptance stage. And I think there was some doubt on their minds in their minds as to whether a theme very licence was required. Perhaps you could encompass that in your in your response, Mr.

15:39

Amy Sterling on behalf of the applicant? Yes, sir. We are confident that a deemed mean licence is an appropriate provision to include within the draft DCO for this scheme, without getting in too much detail in putting legislative provisions in the healing. The Marine and Coastal Access Act is the act in the UK which governs works within the UK marine licencing area. Section 65. One of that act confirms that no person may carry on a licensable marine activity except in accordance with marine licence. The UK marine licencing area includes the waters of all rivers insofar as they are Tidal. And at the point where the cables for this scheme cross the river is the river is indeed Tidal. That means that if the undertaker were to carry out any works in that area without marine licence, or with a benefit of an exemption, which I'll get on to that would be an offence under the Marine and Coastal Access Act. Currently, however, there is a marine licencing exempted activities are done in place whereby board tunnels under the Marine licencing area does not require licence. However, that is just an order which is in place at the moment it could be revoked in future. And indeed, the applicability of that exemption order is only judged by the MMO at the time the activities are carried out which could be some years from now. Therefore, to put the matter beyond doubt, the applicant applicant has availed itself of the power within the Planning Act to include a deemed marine licence within the consent. And the form of that the marine licence is in a similar form to that granted in the clean house or farm order, in relation to work the flood defences. And we know that a similar approach has been taken, and the draft DCLs for the gate, Burton, West Burton and Kortum solar projects, where they also cross a tidal river with their cable corridor. Therefore, we're confident and content that the powers we have proposed are necessary and appropriate in this instance. Again, happy to set that out in more detail in our written submissions. Thank

17:58

you. Has there been any further contact with Natural England on this point?

18:08

In your standing on behalf of the applicant and no sir.

18:23

Thank you for that. That brings us to the end of item three on the agenda. Item four is the opportunity for anyone else who has there any points on the development draft development console centre ordered to speak? Looking perhaps in particular, Mr. Field, you have as expense specimen view on a couple of points.

18:55

Nothing further at present.

18:57

Thank you. Anyone else wish is to raise any point on the DCO at this point? Right. Well, there is another matters item on the agenda. Anything else that you feel we haven't covered under the DCO? At this stage?

19:19

It's just a question. I can't quite understand how certificate or certified documents and the TCO fit together. There's a section shedule 11 that lists about 10 of the items in this documents in the submission that are then referred to in the DCO. Are they automatically legally binding by virtue of being listed in sheduled 11? Or is it just those sections of it that the referring paragraph and the DCO is referring to the become legally binding

20:00

You want to kick us off on that Mr. Ling,

20:02

me standing on behalf of the applicant? Yes, this isn't to ensure that the commandments that the applicant makes and for example, its framework management plans that it is actually held to. So for example, were there one of the requirements dates that the public rights of way management plan must be in accordance with the framework management plan, it's important that everyone knows what the framework management plan is, and that can be certified and secured. Ultimately, the way that examinations are run, quite often, updates to framework management plans are provided at different points of the examination. So this schedule is constantly updated to make sure it's clear, which is the version which is secured by the requirement. And then post DC your board should the DC will be granted, the documents are submitted to the Secretary of State and they are stamped and certified for the purposes of that shedule. So the local planning authorities know when they're discharging a requirement, what the correct version of the document is, they have to look at to make sure that the final plans are in accordance with those plans. So it's to is a way to ensure that all of the mitigations are appropriately certified and secured and the Secretary of State takes responsibility for that physical certification process.

21:19

Perhaps it'd be better if I phrased my question, but let's take the environment statement. Because that's volumes. That's an enormous amount of stuff that's listed as one of the items in sheduled 11. Does that mean that every word written in the environment statement is a legally binding term that you have to agree by, or is it just wherever is referred to in the DCO?

21:45

Amy's doing on behalf of the applicant, and it's wherever it's referred to in the DCO. But the DCO does refer to the environmental statement. So for example, the associated development that to the extent it's not specifically listed, can only be carried out to the extent it doesn't give rise to any materially new or different effects from those assessed in the environmental statement. So it was important the environmental statement as certified so that if anything, were to be carried out, it could be cross checked, and the environmental, environmental effects considered against those presented in that document. I guess, both guess maybe the answer to the question. Yes,

22:25

I think you've answered. So in the ES there will be many, many paragraphs that are not referred to end of the DCO. Those are not actually legally binding, just the ones that the DCO specifically refers to

22:39

me standing on behalf of the applicant, the DC refers to the environmental statement and its entirety, as I've described. So, for example, in relation to associated development, it must be in accordance with the assessment and the environmental statement, and its entirety.

23:02

anything further to add Mr. Field?

23:04

No, thank you very much.

23:09

Anyone else wish to make comments on the DCO? Before we finish this as a? No. Okay, in that case, thank you very much for all your contributions. We'll close the hearing at this point. The next item on the examination timetable is the publication of the rule eight letter, which sets out amongst other things that are written revised timetable. And I also published my first set of written questions at the same time. I'm not going to put a date on that exactly, but it will be done as soon as possible. So with that, thank you again and goodbye from the moment