

TEXT_AQUIND_ISH1_Session3_09122020

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00:00

All

00:08

right, the time is now five past 12. And I will resume the hearing. We've got as far as item 317 on the agenda, what I'll do before I do, I just see a hand raised by Miss Colquhoun, Miss Colquhoun?.

00:27

And I said sorry, I thought I'd at least show my face. I'm just sorry to go back on the French consent. The document, I believe that Mr. Jarvis is referring to is the consensus licensing document, which is document reference 5.2.

00:45

Now, that was updated

00:49

in October of this year, but the actual language, and indications within it relate to the time prior to the timing of the application.

01:06

And therefore, there really isn't any clarity as to the progress of,

01:14

as I say, the French consents, if you look at its page two, seven onwards, that deals with the consensus, consensus licenses, and there is also no information in the text about any further updates. So, whilst it's interesting to hear Mr. Java say everything's progressing well. But there is no information as to that. And it is critical, we think.

01:39

Thank you.

01:41

Mr. Jarvis, I think in response,

01:51

policies found

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only to say that where it's considered to be necessary, we'd be happy to provide an update on how they're going. Obviously, you know, we've submitted our version of that document, when we submitted the application, we've submitted our version of that document at deadline, one there, that isn't an intention to submit one every deadline. But we'll make sure to do so towards the end of the examination, such that there is an update on that that can be taken into account.

02:16

Mr. Jarvis, in terms of the time scale of various activities that might take place, for instance, on the French side,

02:26

do you have an indication of when those updates would be available? What's going through my mind is whether there would be any benefit in asking for a post hearing note at deadline six or not? bearing in mind the comments that have just been made about document 5.2.

02:45

Can you just clarify what you mean by post hearing noted deadlines six, your

02:51

deadline six or a note to be provided after the

02:55

right. Okay. I was wondering whether there would be any use in you providing a post hearing note on this subject app deadline six, because there may be things that have happened that you haven't had the opportunity to put into the examination yet?

03:14

Yes, we'd be happy to do that. I'm looking at it now. And I can see that quite a few of the dates that were in there at the time that it was submitted has now passed. So, we'd be happy just to provide an update on how things are progressing.

03:25

Thank you. And then the second part, then is that you did say that that document would be updated at a further point in the examination.

03:38

Well, it can be updated, or we can deal with it through a post hearing. No, it depends. Okay, then. So, we'll have an update one or the other. Really? Okay, we'll have an updated documented deadline six. Okay. Thank you. Thank you.

03:51

Oh,

03:52

I can't raise my hand. Oh, yeah.

03:56

Thank you so grateful to hear that. Um, the other point, of course, and we raised this in our letter of the 20 things 23rd of November. The other thing that's not reflected in in the consensus document or elsewhere is the impact from the removal of Queen status as a PCI from the attorney regulations.

04:19

And, again, that would be something that we want to come back to

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throughout the examination, but

04:28

we use an examining authority are simply not in position to know what the consequence of that change to the status of this project is. And that could clearly, we say effect timescales as well.

04:45

Right, Miss Colquhoun, I can, I can see and understand the points that you're making. And I can see how it crosses over. There's a lot of things due between the dcl hearing and the compulsory acquisition hearing. I think for

05:00

My mind I had thought of this in terms of the compulsory acquisition hearing,

05:07

I'm happy to would obviously be considered in the compulsory acquisition hearing tomorrow. I wouldn't particularly wish to get too deep into this at the moment.

05:18

So that is how we can actually address this point.

05:23

Does that, how does that sound to you in terms of dealing with this point, Miss Colquhoun first?

05:31

Thank you. So, whenever it's convenient for you. Yeah. Thank you. Thank you. Mr. Jarvis. Do you have anything further to say on this point before we leave it until tomorrow?

05:41

Only that tomorrow we will be joined by my colleague Silca Goldberg, who deals with regulatory matters on behalf of Aquind. So, where there are questions in this regard, they will be best directed towards Silca if that's okay.

05:54

Thank you. Was there anything from anybody else on agenda item? 3.16?

06:03

Okay, nothing head. on to item question 3.17. I'll read it briefly just before we get into it. Is it intended to be a difference between installation construction operation and maintenance rights under articles 23 and possibly, possibly 20? Or what the corridor rights of approximately six and 23 metres in width as shown as a volume to remain in perpetuity for each category is the corridor rights with restricted by anything in the DCM apart from the order limits? And what the DCO prevent the undertaker installing further cables or ducts either at the time of the initial installation, or subsequently under the description provided in the DCM for work number for this job is obviously I've had the response in the transcripts. Thank you very much. would you feel if you wish to very briefly go through that?

06:55

Yes, I can.

07:01

So article 20 provides for the composer actresses lands and article 23 provides for the composer acquisition of REITs in the imposition of restrictive covenants overland, an article 20, provided that the undertaker may acquire so much of the auto land within the permanent limits and described in the book of reference as is required for the construction operation and maintenance of the authorized development.

07:24

And article 23 provides the same in relation to REITs. Specifically, the approach that has been taken is to apply the ability to temporarily possess and use all of the land within the order limits. And that approach has been taken such that those rights can be relied upon for the purposes of construction, there's no need for the applicant to acquire permanent rights in relation to the construction, they just need to be able to be on the land in order to carry out the construction and then to acquire the permanent rights and restrictions so as to protect the cable once it's been built. So, if we look at the 23 metre corridor, for instance, as an example, that's a corridor width that's required for the purposes of installation and includes the areas for haul roads, storage of materials, etc. Whilst the excavations are taking place that would not represent a permanent easement with oval, I would not represent the permanent easement width that is to be acquired in relation to those cables once they have been constructed.

08:25

And on the basis that the articles are worded such that you can only acquire what is required and necessary for the purposes of the authorized development. And then it would not be necessary to acquire permanent rights for purposes of construction. My view is that it would not apply to allow you to do so it would be ultra-virus and outside the terms of those articles. In essence, the approach that's taken is to ensure that the extensive land which are affected by permanent rights is the minimum amount possible.

08:56

Thank you,

08:57

just on that

09:01

matter, in terms of the permanent easement with that you spoke about for the let's just call it the operational maintenance of the proposed development. You've given us that in an indicative width and you mentioned the 23 metres for instance,

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what would be the indicative width of the permanent easement in for instance, agricultural land which relates to the 23 metres in the first place.

09:30

The typical easement width in agricultural land would be 11 metres

09:35

unless it's HDD in which case because of the span of the HDD as you drill it would be wider than that to represent the span of the cable.

09:43

Yes, thank you. And then in terms of for instance, the highway situation, which was the

09:52

six metres construction if you like.

09:58

It depends on

10:00

See how the cables are installed next to one another? That the position would be that you would have

10:07

typically, two metres either side of the cables where the easement applies.

10:13

And of course, that couldn't fly outside of the order limits.

10:17

Yes, of course, yes. Yes. Right. Okay. And cute. And then in terms of the crossovers between the articles, if I can call it that, we've got an in terms of maintenance periods, we've got the construction, and then construction maintenance.

10:43

And there we have the five-year time limit on it.

10:47

And then we have the, the, the operational maintenance that I've spoken about. Now, I'll actually deal with these in question 3.9. But I just wanted to relate it back to the width that we've that we've just been talking about. And that's the 11 metres for agricultural and the two metres either side for highway

11:12

are those widths for the five year maintenance period after operation commences.

11:24

They're not necessarily the same width No, because, for instance, if you're looking at maintenance during operation, it might be the case that part of taking possession would be to carry out work in relation to trees, which are outside of that width, and therefore you carry out the work in the areas where the works are undertaken. But the permanent rights that are required would not change, it's just that during that period, the temporary position could apply to the order limit.

11:51

So, from what you've given me there, you're suggesting that the maintenance period Wits could be greater than the indicative width of 11 metres and two metres either side?

12:05

Yes, the maintenance period, which could be Yeah. But they would probably be most more akin to the construction area with.

12:16

Right.

12:18

Right. Okay. And I just say at this point, then in order to bring these matters together, I would request a post hearing note on this subject, just to basically describe the indicative with some e-liquid locations that you've just done for us in the hearing.

12:44

Right, I

12:46

don't think I particularly had any other points I wanted to raise on that. Was there anything from anybody else?

12:57

Okay, nothing heard.

13:01

I'll then move on to

13:04

agenda item 3.18.

13:09

which relates to the difference between the use of the term carrying out in articles 30 and 31. And construction, in the statement of reasons, paragraph six to one. Now again, Mr. Jarvis, I've seen your response in the transcript. Thank you very much. And your view that there is no difference between the two terms.

13:34

I was wondering then whether construction could be used for clarity between all the documents? Is there anything that you wish to respond to on that?

13:48

Thank you, then I just thought that'd be fine. And I can look at updating those documents.

13:54

Right. Having said that, then

13:57

I have also

14:03

had something from Portsmouth on that at deadline five, but I believe that that response echoes Portsmouth points at deadline five. So just before we leave this item, was there anything else that anybody wish to say on agenda item? 3.18.

14:23

Okay, nothing hurt. Thank you very much.

14:31

Then come back to

14:34

the difference between temporary use and temporary possession.

14:40

In terms of the DCR that's, that's question 3.19. Item 3.19. And it's what is the difference between the temporary use of land and temporary possession flatland in terms of the dcl it's the Jarvis AI scene, the response that you've given in the transcript. Thank you very much, sir. Anything else that you wish to say, in addition to that response,

15:01

No, sir. There's not. Thank you. And was there anything from anybody else on this point

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is cool. So, yes, I just want to clarify, where we stand on this.

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The

15:17

I listened very carefully to miss Jarvis discussing maintenance periods and that the separate so we have construction, maintenance construction periods and then post construction, the importance of temporary use and temporary possession is of course, the difference between possessing a right, going forward permanently and being able to utilize that right at any particular point. And a

15:49

the acquisition of a right that is only for a set period. Now, the moment it is still not clear to Portsmouth or to me that, and obviously, I'm looking at article 30. And again, I know that we will be discussing plots of 1014 and where we're going with that with compulsory acquisition. But

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there are a number of concerns that

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that it's not clear from article 30 that, that what is being sought is actually a temporary, a permanent right to use land at temporary junctures. And if that is what is being sought, then that needs to be made clear.

16:44

Thank you, Mr. Jarvis In response,

16:49

I don't think there's anything in either article 30 or article 32 that suggests permanent rights. I'm not entirely sure where that understanding has come from.

16:58

Very clear throughout the article that it always confirmed that the position is taking temporary possession and what the actions are in relation to that and what compensation provisions are in relation to that also use issues because it's the purposes for which that land is used one temporary possession

has been taken out of it. And that reflects the response that I provided in the statement before the hearing today.

17:18

Mr. Jarvis, can you just confirm the period over which the right to take that temporary possession that you've just described, would exist.

17:29

So, in relation to the construction of the authorized development, it's also limited to five years, that's provided for in Article 31. And that's when possession can first be taken. It's an article 33, which sets out the period that one person undertakes to remain in possession after they've taken possession.

17:55

In response, in respect of plot 1014, as has been mentioned, by Mr. Cohen, it's very clear that you can only remain in possession of that plot for the period that the purposes, which you've tested for are being carried out. And that is essentially the period of any cleanup that's required in relation to bentonite. And then in relation to Article 32, which is temporary use of land for maintaining the authorized development, Article 3212 is unequivocal and concerning that the maintenance period for the purposes of this article is five years, beginning with the date on which that part of your thrive development first brought into operational use.

18:29

Thank you. And then when that period that you've just referred to in terms of articles 3212 ends, in other words, after the five years, what rights would be available to maintain the proposed but the proposed development, the permanent rights that have been acquired in relation to the development

18:53

Thank you.

18:55

Not in, it's not intended that the ability to temporarily use land for maintaining the authorized development is the primary sort of ability to maintain the authorized development that will be dealt with through the permanent easement that's required in connection with the development because that will need to subsist after that five year period has ended. This provision is article 32 is primarily providing to circumstances outside of that, where there's the potential for a need to do things, for instance, replacing trees where they die within five years. We're not going to acquire a permanent right in relation to those trees, but we would temporarily reserve the right such that we can replace them in accordance with the outline landscape and biodiversity strategy.

19:37

And that then you said would be

19:41

undertaken within the five-year maintenance period? Yes. So, there's a five-year requirement in relation to replacement of planting and that's reflected in the articles in terms of their time limits. Right. Okay. I think because of the crossover between the maintenance

20:00

periods and the availability of that power. And also, then you've talked about trees again, and you've talked about the corridor with, I wonder if the response that you've just given now could be included in the post hearing note that I requested. And I think it was agenda item 317. So that this subject can be brought together. And I'm happy to see in that references to other documents that have already been submitted, if that's appropriate.

20:29

Miss Cahoon, was there anything that you wish to respond to in terms of what's just been said?

20:36

No, sir. I

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I think a lot of this will come back to when we look at what's been

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what some of the suggested changes have been. And I look forward to Mr. Jarvis's note as well. I think there are still questions, but I don't want to take up for the time at this juncture, because

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I think it I'll wait and see what's said, and then we can raise it at that point.

21:02

Thank you. Was there anything from anybody else on the agenda? Question three, What 319?

21:10

Okay, nothing heard. Thank you.

21:13

Amen. Then to Agenda question 320. Would article 32 allow the undertaker to take possession of any part of the order land at any time in the future? whilst the proposed development is operation for the purposes of its maintenance? That's effectively the issue that we've just dealt with. In part, Mr. Jarvis. Was there anything that you wish to say in terms of that? agenda? Question, first of all,

21:40

no, nothing further to add. So, I think we have just covered it. Thank you.

21:46

Anything from anybody else on that?

21:49

Okay, nothing heard. Thank you. All now two agenda questions 321.

21:56

Article 32 of the DCO appears to allow temporary use during the maintenance period, which is said to be five years refers to the explanatory memorandum and advice in the statement of reasons. Now, I've obviously seen the transcript that's been provided by the applicant on this.

22:15

I don't have any specific matters to raise bearing in mind what's already been discussed. But Mr. Jarvis, was there anything that you wish to say under this agenda question?

22:24

No, nothing further, sir. Thank you. Thank you.

22:29

I see a hand up from Mr. Turney. Mr. Turney?

22:34

Thank you, Sir Richard Turney for Hampshire County Council is it's just a point here about the management of taking possession again during the five-year maintenance period. And it applies I think, both to your last question 320 and 321.

22:49

HCC is concerned to ensure that if there is any ongoing maintenance, and that requires any highways intervention, that's dealt with an appropriate approvals process, and we're still not entirely clear how it said that, for example, reopening a means of access to the highway would be dealt with the approvals process. So that's an ongoing concern. It's a subset of the broader concerns we've raised.

23:19

Thank you.

23:22

Mr. Jarvis was there anything you wish to say in response,

23:26

only that there's no intention for it not to be the case that you would apply through new roads and streetworks act, and that would be applicable. And I'm more than happy to look at the wording to confirm that that is the case.

23:39

I will need to particularly consider how the exclusions in the book of reference, which relates to that land relates to this articles and whether that addresses the point or if there's a need for anything further in this respect, but we can look at that further.

23:54

Thank you.

23:57

Just on that point, Mr. Jarvis effectively, from what's been said, so far, it would appear that the any maintenance, let's just give an example opening up of the street would be done under the NRS

24:17

where the circuits were laid in the sub soil below. And rights have been sought to actually lay those access, if I can call it that would still be required through the highway. And it's I think it's been said to us so far that that would still be done under the new roads and streetworks act until you got to the bottom of the highway effectively.

24:43

Is does that? How would that relate to the management of taking possession for the proposed development where it's located below the highway, in the subsoil below the highway

25:02

I mean, principally the way in which you would deal with any, the only the circumstances in which you might react because eight, as well as the cable failure. But in the name, what you would actually do is remove the stretch of cable from between the two joints. So, you wouldn't really be going in and re excavating safe in very limited circumstances. Now, in event you were to do that, and let's take the example of this being outside of the five-year period, because I think that's the more appropriate way to look at this. Yeah, you would benefit from your statutory authority in accordance with Article 11. To break open the street, you would need to obtain your permit in order to do that also, by virtue of scheme applying, and that applies in relation to construction and in relation to maintenance, you would then excavate down such that you get to the location of the cable, and the permanent easement which you've acquired would be sufficient for you for your excavation, essentially. So, you'd never be outside the bounds of your permanent easement with when you're undertaking those work. And therefore, you already have those rights secured.

26:02

And so, looking at it in terms of the depths, then is it correct that you're using the new roads and streetwork have to get to the bottom of the highway? And then you're using the subsoil rights then to actually get down to the cables themselves? Yes, because the breaking open of a street is covered by the new road and street Works Act. Right. Okay. And I take on board, I mean, I, I understand the points that you made about maintenance methods. But here, we're really looking at the powers that are given by the articles rather than the probability of the need for those powers. Right. Yeah. Thank you for that.

26:44

Just before I move on, then was there anything else that anybody wish to raise on this matter, including Mr. Tony, if you wish to respond to what's just been said?

26:55

Thank you, sir. Thank you.

26:58

Right, if there isn't anything else on that, then? Okay, nothing heard.

27:08

On to Agenda question 322.

27:14

If the above advice in the explanatory memorandum is correct, why can't all future maintenance be carried out under Article 32?

27:22

I'm conscious that was the explanatory man memorandum and the statement of reasons and that those have now been amended. So, I don't have any further points on this.

27:34

Mr. Jarvis. Was there anything you wish to say under this agenda? No, thank you.

27:40

And was there anything from anybody else?

27:44

Okay, nothing heard. Thank you.

27:48

agenda. Question 323.

27:51

Could the applicant explain the reference to classes h, f, and C and the response to question ca one 338.

28:00

Mr. Jarvis, I've seen the response that you've given to this, was there anything further you wish to say on this item?

28:06

No, nothing further. But I would just summarise actually that they these are the classes of rights that are specified in the book of reference. And they are applied specifically in terms of the classes that apply to each plot in the book of reference. So, when looking at that document, it is clear what those rights are.

28:25

Thank you.

28:28

Was there anything from anybody else on this agenda item? That's 323.

28:34

Okay, nothing head. on then to Agenda question 324.

28:42

And I will pray see this one? Can the applicant please explain using practical examples, the rights and temporary use powers for allotments open space and sports pitches? And the explanation should also include the reference to the response in question ca one 333.

29:04

So, Jarvis woods, is there anything that you'd wish I've obviously seen the response that you've given in the transcript? Is there anything that you would wish to summarise before we actually get into this question?

29:22

No, I don't think there is actually that I think I'm happy if we can go into any further detailed comments or queries that you might have in relation to the responses being provided or any of the other participants may have. Thank you. Right. What I will do then I will start off.

29:41

I'll concentrate on the allotments first. That is lot 1014. And the other plots that art if you like associated with that

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and I wanted to

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first of all, talk

30:00

about the various items that are in the in the cross section, if you like of

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development to be undertaken

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on the site.

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Now, in terms of plot 1014 First of all,

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the book of reference now identifies the

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the classes that are sought in terms of plot 1014 as a whole, and these effectively are the rights that are sought for the HDD below the allotments. Now, the first point is that in the book of reference, it refers to a depth and this was touched on earlier in the hearing this morning. And it says that depth is circa 2.5 metres, I can understand the point that was made about the depth being variable and subject to the arc and

31:05

possibly also condition ground conditions that are found below the surface. I'm just looking at the fact that the impact is related to possibly a minimum depth. And I'm wondering about the use of the word circa, I can understand how the depth would certainly not be constant at 2.5 metres. But the word circular allows variation both higher and lower than that 2.5 metres under Mr. Jarvis comments first on whether that 2.5 metres could be put in as a minimum depth if that length of HDD is identified, as you offered to lock into earlier on in the hearing. So, it's the it's the replacement of that word circa with some form of minimum

32:00

I confirm that shouldn't be problematic, sir.

32:04

Thank you.

32:07

Then wanted to keep with generally plot 1014, which includes Well, I should possibly say it. No, I will, I will, I will ask I will offer the matters raised to others at the end of this particular question. If others have a point they want to raise, please indicate and I'll come to you as an appropriate time

32:31

continuing on with plot 1014 then

32:37

we have the classes that I've just mentioned, I think the A, D and H then relates to buildings and vegetation restriction.

32:49

Now,

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because the rights are given below 2.5 metres if that is the position that that we get to what would those class h rights actually give the right to do in plot 1014 in terms of buildings and vegetation restriction? Is the Jarvis they are they're a restriction rather than a right so they would restrict anything being constructed or placed on the land such that the depth to which it goes could potentially interfere with or damage the cables that are beneath the allotments.

33:30

Now, that restriction would apply at the actual depth of the cable. And 2.5 metres is the minimum depth at the edges of the drill, but actually go beneath the allotments. And as I think we've explained in relation to other questions that have been raised, possibly also in tomorrow's hearing, the actual depth of insulation is much lower than this for most of the allotments and it arcs but it goes down to roughly seven metres below ground is my understanding. In fact, 10 metres below ground, I'm being told in the corner of my eye.

34:01

That that's essentially what that would do. And I think if I can refer back to your question to Mr. Travis Stark on Monday evening, with regards to the sorts of buildings that could be erected on the allotments, it was made clear there that there aren't those sorts of buildings erected on the allotments people are not digging foundations, that they're holding things down with flagstones. They are sheds polytunnels in greenhouses, I believe was how they are described. So, the practical effect of the restriction, they wouldn't actually appear to be one because it's not seen that that the use of that land would interact with that restriction. But that restriction is nonetheless applied for if in any reason, there's any change in the character of that land in the future that would require that sort of development to be placed on it for the protection of the authorized development.

34:48

Right. So just so that I can be I can be clear on it, then the restriction would actually apply to the surface, but it would actually only apply

35:00

two buildings or vegetation that had the possibility of affecting the proposed development?

35:10

Yes, that's correct.

35:12

Okay.

35:15

An alternative way of looking at that might be to limit the restriction

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in terms of the two and a half metres minimum depth that we had talked about previously.

35:33

Yes, that's correct. But then in accordance with the book of references, it will be updated the only area over which we can apply those rights. It's below two and a half metres. So, in effect, it does apply to that below two and a half metres, but nonetheless, it would restrict anything built on the surface that goes below that depth.

35:50

Yes, I can see the point that you made wouldn't breach the restriction if you didn't go below two and a half metres? If you see what I'm saying and therefore was affected, it would never be a practical effect. Yep, you would have to turn on or something else to actually go in at or below 2.5 metres depth? Yeah.

36:08

Okay.

36:16

I'm not asking for this stage of post hearing note on this particular aspect. Although I may summarise with a request or one at the end.

36:26

I'm just looking at how that could be.

36:31

Could be expressly restricted to the restriction restricted? Not to not to have the power to take out buildings which don't go more than two and a half metres in depth? Not sure if I've been very clear on that. But I think you can see the you can see what I'm what I'm saying if, if a building didn't go below two and a half metres, but you thought it might affect the proposed development, it could still be taken out under the current situation, is that correct?

37:06

But if it didn't go below that depth, it wouldn't affect the proposed development. But I think I understand the point you're making is that what's the clear concept that's given that what you're doing what you're maybe doing wouldn't breach the restriction.

37:21

And I can have a further think about that, about what we could confirm.

37:27

I would like to avoid as possible, creating further sub classes of rights.

37:32

But I can also have a think about that and how this may apply across all HDDs. Further to the earlier requests for confirmation of the parameters in relation to the depths for those also. Yes, I think it I think it focuses on clarity rather than intention rather than anything else. But if you could do that, that would be useful.

37:56

I think that I've got a number of other questions relating to the articles relating to these matters and the requirements. I think I would actually request a post hearing note to cover the matters that we have discussed or will have discussed under agenda question. 324. Just before I move on, Miss Calhoun, I can see that you're you wish to make a point. Thank you. So yes, it's more clarification and query but I'm sorry, but, um, the What about trees? So, if, is there the potential with subclass h for

38:42

a tree that potentially has roots that go below or infringe upon the 2.5 metre that they would also have to go?

38:54

Mr. Jarvis, I've

38:57

I think I use the word buildings and vegetation restriction in that is there anything that you wish to say in response?

39:05

And I don't know enough about fruits of trees, unfortunately. But I believe I have Neil Davis on the call as well, who's our agricultural guest who may be able to comment on that and whether they would in actual practical effect be any restriction imposed.

39:20

So just before that occurs, then Mr. Jarvis, I just wanted to be clear in terms of what is in my mind on this and what is in my mind is still the two and a half metres minimum depth and the effect of any buildings or vegetation on the proposed development. Just with those things in mind. Mr. Davis, if there's anything you wish to respond to, please do so now.

39:49

Hello, now Davis for the applicant. The vast majority of tree roots tend to exist in the Upper 1.2 metres of available routing material.

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In addition to that, British Standard 5837 does provide a guidance table for

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HDD and micro tunneling. And it gives suggested depths for that below tree roots. And I don't recall the depths, it suggests off the top of my head, but I can certainly get that extract across to Martin and include it in the in the note to follow.

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Thank you. Thank you. Let's go ahead. And was there anything further you wish to say on trees? No, that's it. Thank you very much.

40:34

Thank you.

40:41

Mr. Jarvis. I was going now to some of the detail in terms of Article 30.

40:50

And some of the exclusions, I'm specifically looking at

40:58

article 3330, brackets three.

41:07

And I'm specifically looking at 30 brackets three brackets See,

41:13

in the earliest subsections, that is a and b, plot 1014 is excluded.

41:22

Why is that not the case for a 33 c?

41:31

That's the case because

41:33

c applies to in the case of land referred to in paragraph 182. And plot 1014 is not in 102. It's in 181. So that's not applicable to plot 1014.

41:47

Is that the basis? Sorry, go on. It's on the basis that it's specified in schedule 10. And one a one is the land specified in column two of scheduled 10. Which plot 1014 is one a two is any of the order land in respect to which learners century has been served. But it's not applicable to that land that's within schedule 10.

42:11

Right.

42:13

That's my understanding the least I can look at it further. But that's the basis on which I've drafted it.

42:20

Thank you. I think as I've already said, I would wish to have a post hearing note concerning the responses to Agenda question 324 as a whole.

42:34

And so, if that could be included in in that.

42:41

I am, actually, just on that point was there anything I can see that a hand is raised by Mr. Davis? Mr. Davis, do you wish to make a point?

42:54

I can see the hand gone down. So, I'm assuming unless you say otherwise, that that was still from before and I hadn't spotted it. Thank you.

43:03

I was on talking away on mute there. Apologies. Right. And it was just say, I've found the section of the British Standard, and I was mistaken. It doesn't state minimum depths, it gives guidance for the type of micro tunneling that may be appropriate. And it does caveat that it's dependent on the structuring counted. But I'm, I can provide a reference to that.

43:29

Okay, on this thing, then, I've already said that three to four would be covered by a post hearing note. And so, if those matters could be included in the post hearing note, I'd be grateful. Thank you.

43:42

Right, going on to a 31. A two

43:57

in terms of order land,

44:00

irrespective which no notice of entry has been served.

44:06

Mr. Jarvis, I was just wondering whether this particular subsection would have an effect on any part of plot 1014, on which notice, hadn't been served. And I suppose it's, it's a combination of that, and whether the DCO includes those powers in the first place. But really, the question is whether a 31a two overrides, can override in other way, in any way, the powers set out in the remainder of that article,

44:47

Mr. Jarvis, that the rights and restrictions which has sought over the surface of that land is a right of access on foot over the path

44:59

to which he knows

45:00

Entry may be served, there are no other rights sought over the surface for which a notice of entry may be served. So, I don't consider that it could override

45:09

what's in a one, two, in actual fact, I don't think the order would grant powers in any event to acquire more than what I've just described.

45:20

Right?

45:23

You, you mentioned then on foot, we've been talking about plot 1014, which is the allotments themselves.

45:34

The surface access on foot, just with class H

45:39

is 1014 A.

45:42

And so, therefore, I wasn't sure why you refer to plot.

45:50

So, what you're what I what I'm getting to, is that notice of entry for the surface of plot 1014

46:00

wouldn't have been served, because notice of entry would only have been served for 1014 A, and so therefore, does 31 A two come into play then?

46:13

It shouldn't do. And I can see the point that's being made. And so, I will look at it further to confirm that it doesn't apply to plot 1014. Should amendments need to be made, but there's certainly no intention for it to do so.

46:27

Right. Thank you.

46:37

Was there anything else from anybody on that point?

46:41

Okay, nothing heard. Thank you. I just wanted to return to the

46:49

the point, Mr. Jarvis, where you where you spoke about Mr. Mr. Stark at the open floor hearing and, and his comments. And we've talked previously this morning about

47:02

clarity, in terms of the rights sorts sought in terms of minimum depths, Mr. Stark also referred to seasonal variation.

47:16

Recall that he said,

47:19

use the months of between April and August, as an example of when

47:26

the, the access could be, could be limited could be restricted, if you like so that it was only access could only be sought outside those areas for access. But specifically, in terms of clearing up bentonite escapes.

47:44

I wonder if you've had chance to reflect on those comments. And if there's anything that you can give in response as to whether the works in this area could be restricted so that they weren't undertaken between the months of April and August, as indeed there are restrictions in other parts of the proposed development. And as the from the way it's been explained, the implementation of the duct implementation would take place at some point before the cable pulling. So, I wonder if there's anything on that kind of area of consideration that you can give me in the hearing today Mr. Jarvis. Thank you.

48:34

There isn't anything I can give you in the hearing today with regards to any sort of restriction on during activities during that period. However, it is a matter that is being considered. And it's something I'm happy to cover confirming a position in our post hearing notes as provided in relation to this question.

48:52

Thank you.

48:54

Just on that, on that point, I was

49:00

I was interested then in terms of the likelihood of bentonite escapes in terms of the need to actually use the power to access a lot of plots. And I say this now because we are looking for post hearing note on

this subject and thoughts going through our minds, we're that it appears to us at various locations up and down the edge of the harbour if you like.

49:33

It may well have been the case that historic landfill reclamation whatever you may wish to call it has taken place in the past and that that would therefore be made land ground which could have voids in it. For instance, I'm interested in the potential relationship between that and bentonite escape and an indication if it can be given away

50:00

They have the risk or probability of that happening. I accept that it would vary according to the depth at which the HDD was carried out. But just something to give an indication of the chance, if you like that's thought of bentonite actually appearing at the surface. I don't know if there's anything that anybody can give me from your side, Mr. Jarvis at the moment on that matter.

50:34

If not, I'm obviously perfectly happy to personalize anyway, in the post hearing note, as to Jarvis.

50:42

Certainly, getting into that level of different ground conditions is not something I can comment on. I am aware that in terms of any bentonite breakout, it can be controlled so that if there is a breakout, you can essentially drop the pressure of the drill, which then release the problem. So, you can go at a slower pace through a particular area, so that you don't have a continuing impact. But it is something that can be managed.

51:01

What I would call on is that we do have persons joining tomorrow's compulsory acquisition hearings, which are specialists in ground conditions, and I think would be better place to ask to answer similar questions then. So, if there are points you would like to raise tomorrow, then we'd be happy for you to do so. or otherwise, we can address the point in writing at deadline six.

51:23

Right, thank you for that. I don't think that I have any further points, in addition to what I've just said. But I think it would be useful for us to have a conversation with the relevant people in your team, if that was available tomorrow at the compulsory

51:42

acquisition hearing.

51:49

Now, I didn't have anything else that I wished to raise

51:55

under the gender question 324. Was there anything from anybody else before I move on?

52:06

Okay, nothing hurt. Thank you.

52:11

All now to Agenda question 3.25.

52:17

This is advice on a typical width over which restrictions would be sought, where HDD or micro tunneling is used. But just before I go on to that question, we got quite deeply into matters relating to the allotments and 324. I just like to return to that. And also, to ask, I didn't have any

52:41

matters that I wish to raise under the open space and sports pitches, elements of 324. Was there anything else on the open space and sports pitches element of 324? that anybody wished to raise?

53:00

Just looking around.

53:03

Okay, nothing hurt. Thank you.

53:06

So

53:11

I will briefly go. I will go into a further question. And then I will be minded to adjourn for lunch now. But just before we do, I'll deal with agenda question 325. And that is, as I've just said, the expected typical with, over which restrictions would be sought rights would be sorted where HDD or micro tunneling is used, sorry, its restrictions.

53:36

Mr. Jarvis, I've seen the response that you give them for 325. Is there anything that you wish to add?

53:44

No, nothing further that I wish to add. Thank you. Right. I just had one point in terms of considering the width of rights sought for HDD.

53:56

And this might be quite difficult to explain. But effectively, we've got the four ducts.

54:02

And with the width be over those four ducts,

54:06

allowing for a variation in them. Or would it or would it be a wider width, over which those four ducts can actually be positioned according to individual ground conditions. And just try to try to get an idea of how the ducts would be how the ducting would be approached in terms of those widths. And I have to add, that it could well be that this is a discussion best left for tomorrow.

54:39

Thank you for it may well be a discussion that's best left to tomorrow. My understanding is that the restriction would apply over the entire width plus an area either side of the four. However, I would need to check what the position is on the longer drills where the essentially there's a wider span

55:00

Because of the length and you go deeper and as to whether it would apply across all of them or whether in those circumstances because the spacing is such that it wouldn't need to apply to all of them, it would apply to them individually. So, if we can come back to that tomorrow, that would be appreciated. Right. Okay. Thank you. I hope that in the conversation that we've just had, I've been explaining able to explain where we're coming from, if you like in that to enable some thought to be given to it.

55:26

Right, still dealing with 325 then was there anything that anybody else wish to raise on that particular agenda? Question?

55:35

Okay, nothing heard. Thank you. Now, the time conveniently, is now one o'clock, I'm minded to take the lunch adjournment now. Just before I do, so, I would remind those on the live stream that if they have difficulties getting on after the adjournment, they should refresh their browser. Was there anything anybody else wish to raise with me before I adjourn? Just looking around quickly.

56:03

Okay, nothing heard. Thank you. I'll therefore adjourn the acquit the hearing to be resumed at two o'clock. That's two o'clock. Thank you very much.