

# TEXT\_Aquind\_ISH4\_Session1\_17022021

Wed, 2/17 12:34PM • 1:01:15

00:11

Each half of the development consent order sought by Aquin Limited, and we will refer to as the applicant.

00:20

Before we begin, can I check with the case team that you can hear me and that the recording has started?

00:30

Yeah, that holds them on. So you have in case managers begin, I can confirm that we can see and hear you correctly and the recording has started. Thank you very much. Our usual requests, please could all participants ensure they're muted, unless they're invited to speak, and we would also ask you to keep your cameras switched off whilst you're not speaking.

00:53

As most of you will be aware, I am Andrew Marr. I was appointed on the 12th of February 2020. Under Section 65 of the Planning Act, 2008, as amended under delegation from the Secretary of State, as the lead member of a panel to examine this application.

01:12

I have a background in ecology and environmental impact assessment. And I'm a chartered environmentalist and a chartered landscape architect.

01:22

My fellow panel members were appointed on the same date, and I will ask them to introduce themselves starting with Mr. Wallace.

01:30

Good morning, everyone. My name is David Wallace. I'm a chartered member of the Royal Town Planning Institute, and have academic qualifications in environmental planning. I will hand over to Mr. Roscoe.

01:43

Good morning, and I'm Steven Roscoe. I've got a background in engineering and development and I'm a chartered civil engineer.

01:52

Thank you both and you may have already spoken to our planning Inspectorate colleagues, who will be working with us on this examination, having Jones as the case manager leading the planning Inspectorate case team for this application. And here's a company today by two case officers Jake Stevens and K to learn.

02:09

As always, you'll find information about the application and documents produced for this examination on the planning Inspectorate national infrastructure website.

02:20

Our rule eight letter of the 11th of January 2021 includes the web address.

02:27

We will be inviting participants to speak at appropriate times during the hearing. Should you need to make an urgent comment at other times, you may use the hands up function, but please be advised there may be a delay before we see it. And please wait to be invited to speak.

02:44

Any telephone participants should clearly state their name if they wish to make an urgent contribution. But again, please wait to be invited before making your comment.

02:55

participants should note that the Microsoft team's chat function is not in use today.

03:01

Please speak loudly and clearly when you make submissions, especially those on the telephone.

03:07

The applicant has arranged for the hearing to be live streamed on the website production 78. If you're watching this, please be aware that the chat function on the production 78 webpage is not in use.

03:20

For those participating in the hearing, it is important that you understand that you will be recorded and live streamed and that a digital recording with subtitles will be published. It will be made available on the project page of the national infrastructure website that I referred to earlier.

03:39

Now the planning and spectrums practice is to retain these recordings for a period of five years from the central state's decision on the development consent order.

03:49

Because the digital recording is retained and published, it forms a public record that can contain your personal information, and Twitch the general data protection regulation applies.

04:01

So to avoid the need to edit the digital recordings, we would ask you to try your best not to add information to the public record that you would wish to be kept private and confidential.

04:14

Mr. Roscoe will be taking notes of any post hearing action points that arise during the course of the hearing. And he will seek to agree these with the applicant before we close the hearing.

04:24

Mr. Wallace will now take us through agenda item two.

04:29

Thank you very much Mr. Demand. Today is a hearing into the draft development consent order as proposed and amended by the applicant. The examiner authority has issued a detailed agenda to which I hope you have a copy to hand it can be downloaded from the project page of the national infrastructure website. If not.

04:49

The agenda is set out in the form of questions that the examining authority wishes to explore in this hearing. The answers that parties may give to answers are not prejudicial to their positions and we

05:00

aspect of the application. The examining authority may ask questions to explore points raised in this hearing at any time. Speakers of course will have the opportunity to provide us with a written summary of their submissions today, together with any supporting evidence or references by deadline eight in the examination timetable, deadline is Monday the first of March 2021. The applicant will also be invited to respond in writing to the appointments made today by that same deadline.

05:35

Now, I'd like to confirm for the purposes of the recording those parties who are here today and wishing to speak when I call you please identify yourself with your name and your position at the organisation if that's applicable. Let's start with who's representing the applicant please.

05:58

So I appear on behalf of the applicant Simon Byrd Queen's counsel instructed by Herbert Smith free hill with Mr. Martin Jarvis, also Herbert Smith, free Hill, and Mr. Martin Jarvis will be the principal spokesperson today. And we'll be assisted by other members of the team today and they are Miss marieta Bowden is the landscape lead on the project, Chris Williams, who's the transport lead? Joe wellborn of Ws p, who's the principal engineer at Ws P and holds a Master of Engineering honours degree in civil and coastal engineering, and has been the flood risk and water environment leads since August 2018.

06:36

Alan O. Sullivan, who's leading the acquisition of land and writes for the proposed development, Ross Hudson, on marine elements of the application and Paul Hudson on the cable engineering. Thank you, sir.

06:50

Thank you very much, and welcome to everyone that

06:53

now can ask who's representing Portsmouth city council please?

07:01

Morning, sir. It's Celina Cahoon, here counsel for Portsmouth City Council. I'm here with

07:07

with Kieran Navan who solicitor for Portsmouth City Council. We're also supported by a team who are contacting us through whatsapp group and that includes Mr. Hayward, Mr. McGuire, there are others forgive me if I don't give you a list, but I believe that Inspectorate was provided with those who would be attending in the background should should should you require any clarification?

07:33

Very much. Thank you.

07:36

And next could ask as a parent for Winchester city council please.

07:42

Good morning, sir. My name is Steven Cornwell. I'm a planning officer in the lead officer Winchester regarding the Queen scheme. I've got two colleagues with me today.

07:54

Katherine Knight, the council solicitor, and Phil Ted Ridge, who's the environmental health practitioner.

08:04

Thank you. Thank you very much. And welcome.

08:08

Next, who's appearing for South Downs National Park Authority, please.

08:14

Good morning, sir. My name is Mike Hughes. I'm a chartered town planner South Downs National Park Authority. Thank you. Thank you very much. Thank you.

08:23

And next Hampshire County Council please.

08:29

Good morning, Sir Richard Turney council instructed on behalf of Hampshire County Council. I've got on the line for officers of the Council. They are Ian Ackerman, the permit scheme and Traffic Manager, Holly Drury, Principal transport planner, Tim Guymer, spatial planning lead officer and Chris Hurst transport planner. I'll bring them in as I need to.

08:52

Thank you very much and welcome all.

08:56

Next, who is appearing on behalf of Havant Borough Council please.

09:03

Good morning, sir. It's John Halls. Planning officer. I'm actually founding officer at East Hampshire district councils. I'm representing established council but there is a shared service between the two councils. And I've picked up the matter on behalf of Havant Borough Council as well. And for both authorities, I'm joined by sharp advocate from environmental health team.

09:26

Excellent. Thank you very much. And thanks for clarifying your role in respect to both authorities there. Thank you.

09:33

Next may ask who's appearing on behalf of the parish Council of Denmead. Please.

09:42

Good morning, sir. That's myself. It's Paula Langford Smith. I'm chairman of them the parish Council. Excellent. Thank you very much and welcome. Thank you.

09:53

Next, who is here on behalf of the marine management organisation please

09:59

Good morning.

10:00

I'm Jennifer Ford on behalf of the marine management organisation and I'm a senior case manager. We also have EFM, Shaq. He's a senior case manager and Daniel Walker. He was a case officer. Excellent. Thank you very much. And welcome.

10:15

Next task is appearing on behalf of Historic England please.

10:22

Good morning sir. My name is Dr. Christopher Pater and I am head of marine planning with historic England. Thank you. Thank you very much and welcome. And I believe last but by no means least, who is here representing Mr. Jeffrey? Mr. Peter carpenter, please.

10:42

Thank you, sir. I am. My name is Chris Jones wat to AES and Zed w AR t council a third bonus it's chambers. I'm supported by Anita kacian. Kiss AN are Blake Morgan. And I have behind me as it were, Mr. Stott and Mr. Bryce, whose experts reports you have although recognising This is a drafting ishs. I'm not anticipating hearing anybody behind me that you may want the opportunity to ask him questions in due course. And you will no doubt flag that up as we go through the day. Thank you. Thank you very much. Mr. Schwartz. Thank you very much. Is there anyone else here who I've not yet introduced who wishes to speak?

11:31

I'll take the silence as a good sign. It means our protocols are all in place. Thank you, everyone for those introductions, just to remind everyone that we do have a lot to get through today. So in order to make best use of hearing time, and to ensure fairness, please do not repeat points that have been made by others and be assured that the examining authority will have heard and understood the point. I should also point out that if you bring up matters that are not relevant to the examination, we may interject to explain this and ask you to move on.

12:03

Please also refrain from interrupting or disrupting the event as this will be unhelpful to you. And to us in getting the points heard.

12:12

The examiner authority does have the ability to issue an award of costs against anyone who's behaving unreasonably.

12:21

We will adjourn for regular breaks during the proceedings to avoidance to avoid screen fatigue, a lunch will be convened at an appropriate time. are sure to keep connected to this hearing event during the breaks and lunchtime to avoid confusion, and the need to rejoin the event afterwards. At such times, just turn your microphone and your camera off. And that should suffice for your privacy.

12:45

Please note that those watching the live stream may need to refresh your internet browser after a break in order to continue watching. For those of you who haven't attended proceedings such as this, there is necessary formality and I would ask that you refrain from interrupting I'll now hand back to Mr. Man for agenda item three.

13:08

Thank you, Mr. Wallace. And before we start the agenda item three proper. I'm hoping that all parties are aware that Winchester city council submitted a version of the draft DCA annotated with proposed changes of deadlines seven and then subsequently Portsmouth city council provided a detailed commentary on the draft DCF on the 11th of February 2021. The latter was accepted into the examination as an additional submission, though I think it has probably already been shared with the applicant in any case.

13:42

Since then, Hampshire County Council has submitted observations on the draft DCR deadlines seven C and Winchester city council sent us a further submission that deadline seven C in reply to the applicants response to its original annotated draft development consent order. So that's the third iteration I believe of the discussion between the applicant and Winchester City Council, which I'm assuming took place outside the examination.

14:11

Can I ask if the applicant has had the opportunity to read Hampshire County Council's and Winchester City Council's deadlines seven c submissions that were published yesterday Mr. Jarvis.

14:28

Nasty feedback.

14:35

Mr. Jobs, you're muted, I'm afraid.

14:39

Good morning.

14:42

I have had the chance to read them. I haven't had the chance to take instructions on them. I am nonetheless happy to consider them today as necessary and respond to them where I can. The duck will always be in the context that I may not be able to provide an answer today.

14:59

Some still

15:02

Well, just Firstly, say we're grateful to all these authorities for taking the time to prepare and submit these notes. And I do hope that other parties had an opportunity to read through them as well.

15:14

And

15:16

I think potentially the best way forward, is it's probably not reasonable for us to expect yourself or anybody else indeed to have read and digested the deadlines, set and see submissions, and play with all of these submissions, and also the examining authority schedule changes, we potentially have a huge amount to get through today. So our suggestion, therefore, is to take the documents as read that we've received other than the two received at deadlines seven C. And that is the applicants response to the Winchester city council annotated draft decio, and Winchester City Council's latest submission

15:55

to Java Jarvis, could we ask you as we go through the agenda, in the first instance, for the applicant to respond to each agenda item in turn, pick up the matters raised in the various documents as we go through the agenda.

16:09

And can also suggest if the applicant intends to accept any other suggested changes as proposed in full, you simply say so. And then we can skip these today and focus on those that remain in dispute. Does that sound like a sensible way forward? And was I clear?

16:26

Yes, I'll do my best to record with that. Thank you. Thank you. And everybody else, of course, will have an opportunity to speak on that as we go through. And of course, there is also the backstop of an opportunity for all interested parties to respond in writing to anything today at deadline eight.

16:46

Mr. Swan, did you have a point?

16:52

Yes, sir.

16:54

I'm just going to come on the screen. You're on? Oh, thank you. I'm very briefly, we've been slightly hampered in terms of understanding what the current state of play is by the iterative drafts of the decio. And we understand that the approach of the applicant is essentially that as each deadline passes, they publish a decio draft, which has simply got the most recent changes, track changed. And it's very hard to work out what's changed before without going back through each and every draft, could we ask you to ask the applicant to provide a composite track change draft, so we can see where essentially debates have occurred and where we then need to engage? And it's not unusual in this iterative process for that kind of document to be published. But it would help us inordinately because it helps us to identify what's been discussed previously, and what hasn't. And what's taken as read as it were. Thank you. But we'll do our best otherwise, in the meantime, jobs is that possible?

17:55

There is a schedule of changes submitted to the decio at every deadline for which has set out the ongoing commentary in relation to the DCA. I'm sure that could have been reviewed to understand the



situation. Nonetheless, if the examining authority would like me to submit a composite track change rather than against the original draft of the DCR. At deadline eight, I would be happy to do so.

18:18

Thanks. I think that would be useful, mischievous as possible, right at the end of the process. Thank you. Thank you.

18:28

Miss Cahoon?

18:33

Sorry, it says pedantry on my part, I think it's called copyright version, because that should show where each change has been made. And indeed, I'm very grateful for Mr. Schwartz and Mr. Jarvis's indication that that could be provided. It does obviously help everybody at the end of the examination to see precisely when changes have been made and what what has been picked up. So I'm just forgive me, but that that that should be able to show in, in a coloured format, where the changes have been made. Thank you.

19:11

Is there anything else?

19:17

Sorry.

19:20

Okay, thanks.

19:22

Also, Mr. Jarvis, by far by way of advanced warning, and could I also ask the applicant to provide an overall schedule of all suggested changes to the draft decio for deadline eight, so it's everything we discussed today or anything that's come in the last two deadlines in terms of suggested changes to the draft decio. So that should cover each of the steps suggested changes to the draft decio from the examining authority, portal, the City Council Winchester city council and Hampshire County Council. And could that shedule record the outcome of today's and then external discussions in each case and if you could

20:00

highlight any outstanding differences between each of those proposed changes, and the applicants final position that would be very helpful to us. Clearly any of the changes that come out of submissions by interested parties which arise out of the hearing today should similarly be recorded on that. shedule.

20:18

Does that make sense as well?

20:21

Yes, thank you. Thank you very much. In which case, if we're all happy, let's get into the substance of the agenda today. And agenda item three, if we may.

20:33

As I say, in each case, what we will do is invite the applicant to respond. And we'll work out at each stage whether we need to go into discussions on each point, or whether we can actually take them as read on the day.

20:46

So agenda item three, and 3.1. And we're in the draft decio preamble and articles examining authority sheduled changes has one minor point in relation to the preamble.

21:00

Does the applicant agree they should read section 74?

21:05

Yes.

21:07

Thank you. I hope the rest are as quick as that Mr. Jarvis. I'll do my best.

21:15

Moving on to 3.2. We're into the general provisions part one of the draft develop consent order. In the definitions in Article One, permit schemes are defined with dates, and so on and so forth.

21:30

The question that's being asked is should the phrase at the date be removed or modified to allow for any revision or future iteration iterations of the permit scheme orders?

21:44

Given this applies through construction and maintenance, I'm happy to remove that wording. The only other point I would like to highlight is that I'm reviewing the definition. The year of the Hampshire order wasn't stated in 2019.

22:00

Thank you

22:03

have a bit of an issue with a meeting in hearings and extra extra screens being put up good whoever's doing that, remove them.

22:15

top right, cross. Thank you.

22:20

Sorry, let's just moving on.

22:24

We're on to Article two, and the definition of commence,

22:28

which excludes any works following the definition of onshore site preparation, preparation works, as this question the first instance due to the local authorities, and do they have any outstanding concerns with the definition of commencing the draft SEO or the scope of works that's excluded from that definition, which are principally contained in the definition of onshore site preparation works which are listed as a to J inclusive.

22:55

particularly interesting if Hampshire County councillors content them work number two BB which is J is within the life list of onshore site preparation works cabinet has been pursued under a separate 278 agreement. Mr. Attorney first, please.

23:13

So rich attorney for Hampshire County Council, we still do have concerns in relation to this. And we want to make sure that when we're dealing with preparatory works, that they're not works, which are likely to have any material impact on highways, which includes HGV movements, because obviously, this will predate the approval and coming into force of the plans which will ensure the proper management of those impacts. So the first concern is in respect of the use of an existing access Broadway farm, which we've identified in our written representations. And

23:59

that is something which we still need further response from the applicant on. We also have a

24:08

concern that the onsite preparatory works might include the delivery of plant and equipment, which would require HGV movements. So we're concerned about the scape of what is in the preparatory works in that respect, in particular.

24:29

Thank you.

24:32

Is there anything immediately you wish to come back on?

24:36

Yes, sir, just to note that regards to Broadway farm, has been discussed between the parties as to what the restrictions need to be on HTV using that access.

24:47

I have no issue with ensuring that a construction traffic management plan needs to be approved in relation to those works before they commence to confirm the traffic that's applicable and that can be added into requirements 17

25:00

And then just in relation to the more general what preparatory works will encompass and what will be carried out pursuant to them. They are all subject to the need for a construction environmental management plan which will address those matters. So I don't personally consider that any issues arise as a consequence of that, and it's already been adequately addressed.

25:19

Thank you.

25:21

Any other points, turning?

25:23

Was it rich attorney for Hampshire County councillors just to know that the Broadway farm access is something which, as far as we can see, has not been the subject of proper assessment. And the expedient that we're proposing is in respect of limiting to two, three and a half tonnes to ensure that we're not creating new HGV movements with important material impacts on the highways network. But the overarching point is there hadn't been a proper assessment in the first place.

25:55

Okay, okay.

26:00

Let's go on is anything from Portsmouth City Council on this point?

26:09

So you've had Portsmouth's comments in relation to this matter? Sorry, I was dealing with something else just online.

26:19

And

26:21

we've set out in in detail in our comment tree, which deals specifically with the onshore site preparation works. It's page two of the document that we submitted. I don't know whether you put that before you, sir.

26:36

Yes, Karen.

26:39

So

26:41

all I would do is draw your attention to the analysis we carried out there in terms of onshore site preparation works.

26:51

And

26:57

there's nothing further from me. So.

27:01

Mr. Jarvis, is there anything in response to the Portsmouth City Council on this point on that document?

27:08

just confirm everything is acceptable. So that's agreed with?

27:13

Thank you very much.

27:16

Mr. Cornwell? Anything from Winchester on this, please?

27:20

Thank you. So Steven como from Winchester City Council, simply I was looking at requirement 10 Highway accesses, which

27:30

does have reference to commencement, but does seem to allow the on site works

27:36

to take place. And I wondered if there was a potential there for to be losing headroom before we've actually seen any detail

27:47

and agree dealing with regards to what actually is coming out.

27:53

Thank you.

27:55

So just to clarify, Mr. Khan, while your concern would be that there's a possibility that some hedgerows may be lost,

28:02

before the details of that hydro loss are known. Exactly, sir. Yes. Mr. Chavez, do you have a comment on that?

28:11

Yes, just to highlight again, that there is a requirement for a CMP the agricultural method statements are required as part of the CMP any hedgerow removal would be covered by those. So that will be known and approved by Winchester City Council in advance of those works being undertaken.

28:26

To come? Well, this is your point.

28:29

It does serve a new issue whether this is an appropriate time for me just to ask for clarification or not. But we'll the 278 agreements simply relate to the Broadway lane access. And it's not proposed to extend its scope to cover other proposed access points that are required. Youngest?

28:52

That's correct. It's just dealing with the converted station access and the passing places on day lane. All other temporary construction accesses will be dealt with through minor works agreements, also with Hampshire County Council, that this requirement 10 would also apply in relation to them so that the details of them are confirmed in advance.

29:14

Thank you very much, Mr. Hughes. You had a point.

29:19

Thank you, sir. Mike used to South downs National Park Authority. And yes, my comment, I suppose cuts across

29:26

this particular article, and then also requirement and six and I'm a little bit confused. So some clarification from the applicant would be appreciated. And we're concerned in relation to the exclusion of work number to be the access junction, the associated gated highway link. And there are some fairly significant changes there and Mr. Attorney has already referred to those in terms of traffic impacts, it wouldn't surprise you to know that I'm concerned in terms of landscape impacts and you know, given the location

30:00

Adjacent to the national park boundary. And then also I said cross cutting. I noticed in requirements six and maybe the time is to raise that later. Work number two BB is excluded from requirements. So I'm just keen to understand what what confidence we have that, you know, we're gonna get cited those requirements. Sorry, we're gonna get cited those plans before they happen as I understand it we're not I may be I may be airing that Thank you sir.

30:33

Thank you Mr. Jarvis.

30:37

I think at the moment they are excluded.

30:41

But listening to the comments, I'll just need to give some consideration as to whether I have a specific design requirements related to work to BB, it's obviously important that they are the first words coming forward that the section one fix will require that and that therefore dealt with separately. But there isn't any particular issue with the design of those being concerned. So I will give further thought to that. And I anticipate that the design requirements in relation to them be included in the decio submitted deadline eight.

31:12

Thank you follow up with a note at the end, presumably deadline eight on that.

31:17

Okay.

31:20

This is what you have your hand up as well.

31:27

Thank you. So, very briefly, you will recall that the carpenters would be directly affected by certain works. And we just highlight in relation to commence a number of points. The first is that you will recall as the examining authority in terms of approach to the drafting, that the Planning Act 2008 scheme renders breach of a decio term a criminal offence, it's not a civil matter. And therefore, there's potentially wide elasticity in the terms as drafted and a different approach in the criminal context to appreciating the flexibility which they import, unlike a planning permission. And we've included the garvie case in our 70 deadline submissions to remind you of that. And it also recalls the Trump case, where a difference in approach in relation to criminal matters prevented implication of terms. So there's there's a lot more scrutiny of the drafting in this matter, as you recall.

32:23

Secondly, our client is obviously a key site for the project. And because the the land is sought to be acquired for the converter station, for delivery of a power

32:35

station in relation to the field, field of energy, and land is envisaged to be taken. So you recall also the Presta case we refer to which obligates decision makers to apply quote, most careful scrutiny unquote. And that's over and above your obligation to examine the application. So there's particular care required to be taken by yourself and the Secretary state in your consideration of the terms which the applicant proposes to you. And lastly, sir, in terms of approach, because land is sought to be taken in this particular context, you'll recall that the onus of demonstrating the terms and the case light exclusively not on yourself, not on the Secretary of State, not on us, but exclusively on upwind alone. We don't have to do anything, but we're here to assist as best we can. So, in relation to the the the particular definition here commence, we highlight sir that you may recall that section 1551 of the Planning Act uses the term begin not commence this instrument therefore has to be viewed through the perspective of that statutory provision, which takes the development to begin when there is quote and material operation which unlike the Town and Country Planning Act section

34:00

56 you will recall is not categorised at all other than by exclusion, section 51 552 is only refined to exclude the marking out of a road. So the threshold for material operation is very low. So why does that matter? It matters here because the definition of commence is seeking to exclude a category of operations which are defined as onshore site preparation. If you go to the list of onshore site preparation works A to A to J you'll see a whole shopping list of matters there which will no doubt trigger material operation under Section 155.

34:42

And then if you go further forwards to shedule one, you will find for example

34:51

works number two a works to construct the converter station and associated equipment. So that's on our land. So a site clearance

35:00

Preparation. So it's envisaged to undertake works in the affected parties land with some kind of carve out, which will then purport to push back the commencement of the instrument itself and presumably all of the safeguards in relation to works undertaken on the affected party land, including potentially powers under it. So we would request that you scrutinise carefully the operability, of having a carve out, and the interrelationship of the statue instrument with the statutory provision under Section 155. Together with the linkage of the protections afforded to an affected party within the body of the SI, and we just offer that up for consideration. Thank you.

35:48

Thank you for your service. Mr. Mr. Jarvis, did you have anything to say on that?

35:58

I think if I can summarise the point, it was that Mr. svart wouldn't want works to be carried out on his clients land before they've been subject to the relevant controls.



36:10

As I've set out, there is a need for construction environmental management plans to be obtained beforehand, they would deal with removal of vegetation, all those sorts of matters. I don't see there being any particular issue that where an undertaking has been granted a dceo to undertake these work,

36:26

that they can then go on and do work for site clearance an earlier stage before triggering all of the conditions there isn't any particular issue with the fact that commencing the or in the act is pursuant to Section 155. But that certain works are carved out for the purposes of linking to the requirements and when they need to be discharged by and what they need to be approved in relation to.

36:45

So I don't consider that any amendments are required to the order of consequences the points made by Mr. Torre.

36:52

Sir, yes, sir, can I just give you one example because it's really for that event to make its case and scrutinise its own instrument. But if you look at for example, requirement to on page 47, to one the authorised resident must commence no later than the expiration of five years. What will How does commence as defined, then interact with section 155. And the time limits on the statute? It seems to ask that it pushes back in time, the relevant time limits rather than citing them from a baseline of the statute. And the carve out is essentially enabling a pushing back of the statue envelope and may raise problems in due course. Thank you.

37:33

Any final thoughts, Mr. Jobs, five years or six period, that consent would expire after five years if the developments not being conducted in that time period? It's clearly in the interest of the undertaker to commence within that time period. I don't really think the point made by Mr. Is what goes anywhere or have any adverse implications for his client.

37:54

So can I can I just take it from that, then that notwithstanding the definition of commence, that the statue time limit will run from five years from the execution of any material Operation howsoever, it may arise, regardless of the carve out, that's my that's my understanding, therefore, of how it operates in practice,

38:15

to service, the five years runs from the date on which disorder comes into force, as we declare wording in requirement to one.

38:25

Thank you.

38:27

Thank you, I think we do have our own understanding of this. And I think we are content at the moment, particularly at that point today, a call to the most recently made consent orders. But if there are any further points on that, please do put them into writing in your post hearing notes.

38:43

Is there anything else on item 3.3? Before we move on?

38:51

Just might you still have your hand up? Is that a legacy?

38:56

Thank you.

38:58

Okay, if I can just go home.

39:02

Sorry, I am I've got to get into better habit of putting my hand up clearly. So I'm taking it I don't want to take up more time than is necessary. But I'm taking it that again, the paper that was produced by Portsmouth, which went through in detail the comments we had on the definition section, there are additional issues that were raised, including for example,

39:29

the description of authorised development as a as an example. There are other issues raised within pages one through two for this one, yes. This is all in part one of the draft DCM? Yes, sir. This is item 3.5 on the agenda if you wouldn't mind waiting just a moment. Oh, I'm so sorry, sir. That's okay. No problem.

39:53

You happy with that?

39:56

Sorry. You're happy to do that. 3.5

40:00

So I'm sorry, we are at three pub. Any other matters under under Part one? Yes, sir.

40:06

I'm on your 3.40 Sorry, sir, I understand. I misheard. Okay, no problem. We'll come back to you very shortly.

40:16

If we stick with the agenda, and we're on to 3.4 and this is for the applicant to address the Winchester city council proposed changes in part one of the draft PCF

40:29

jobs. So the amendment that was requested was the insertion of a definition of commissioning. For the reasons I set out in my deadlines, seven C's submission will be I appreciate when referring those today. I don't think that's necessary. There is a definition of operational period, and that's sufficient to address this matter. Thank you, sir. Thank you. There's anything else Winchester city council wanted to say in relation to Part One?

41:03

comma,

41:06

steam comma, which city council? No, thank you, sir. Mr. Jarvis has clarified the position and we're proposing to amend our references to commissioning in the requirements accordingly. Thank you. Thank you very much, both. In which case, Mr. Jarvis. similar exercise, please for political City Council's proposed changes in part one.

41:32

Thank you, sir.

41:35

So the first change that I think it's necessary to comment on all the comments in relation to the definition of the authorised development. And I don't have any issue with following the wording nslp. I think both have the same effect. So that's absolutely fine. And just skipping through all the things that are acceptable,

41:59

the definition of maintain, again, it's avoidance of doubt wording, clearly schedule. One wouldn't authorise. And this DCA wouldn't authorise the complete removal and relaying of the debit development. But again, happy to clarify that that's not a problem.

42:14

And there are various comments in relation to how the fibre optic cables are referred to it will come as no surprise to the examining authority to note that the applicant doesn't agree with the comments of Portsmouth City Council in that regard and won't isn't proposing to make any changes in that respect.

42:33

Our comments in relation to the definition of operational period?

42:38

I think the applicants content with its definition and again, that's fibre optic cable related, so there won't be any changes made. They're saying with regards to the definition of optical regeneration station,

there's a comment that the definition of provision of advanced authorization should refer to the Portsmouth permit scheme. It should not it should refer to the primary legislation as appropriate. And it's also noted that there are two payment schemes applicable. So making a definition from one of those wouldn't ensure consistency.

43:10

There's comments that public communications providers shouldn't be included in the definition of statutory undertakers. I'm sure all those public communications providers that benefit from protective provisions would not be grateful if I did remove that reference, which is what it's included for. So just skipping past that point, sir. Again, telecommunications building that won't be removed, sir for the reasons previously explained. There's a typo in relation to trenchless installation techniques, which I will pick up as a comment that trenchless installation technique compound is a defined term that's not used. It is used it's used in requirements six three in relation to the only trenchless installation technique crossing.

43:51

There are comments in relation to the undertaking again in relation to the fibre optic cable and no amendments will be made in that regard.

43:58

In relation to Article two two, there are comments in relation to plot 1014. In particular, the words except where the terms of this order and the book of reference stipulate expressly to the contrary, which is seeking to confirm that the book of reference has effect in relation to the compulsory acquisition powers. Effective the book of reference in relation to the compulsory acquisition powers is principally dealt with through the authorising powers, which are articles 2023 and 30. In that respect, so no amendments are made and in fact, would be quite confusing. And then there are a few typos in relation to Article two, three and article two six, which are noted and will be amended in the version of the decio to be submitted at headline eight, sir. Thank you.

44:39

Thank you, Mr. Jarvis. I'm hard to say you've picked up the same points as I have anything else Miss Cahoon that you wish to raise from that section one, part one sorry.

45:00

Thank you, sir. Thank you for telling me to turn my mic around. So the I think the easiest way to to respond to this is is indeed, in terms of those matters that Mr. Jarvis has said that aquent will not accept

45:18

is to is to deal with those as in note form. Because otherwise, we're just going to be saying we don't agree. It's far better, that we that we give you something in writing that actually sets out why it is that that matters that are that Mr. Jarvis has listed or not correct? We don't agree with that.

45:39

I

45:47

I think in terms of of

45:51

just a support point, sir, but the provisional advance authorization.

45:57

I accept that the oil is secondary legislation, the traffic management and permit scheme, regular regulation. So it's not doesn't come out of the TMA the Traffic Management Act,

46:12

it would be helpful because as to have reference to the permit scheme, definition of pa and all both permit schemes definition of pa simply because, as we say, in our comment on the use of that term, is it it's highly generic, and therefore, it's important when approaching the permit schemes that there isn't any confusion, there may well not be confusion, because the permit schemes obviously are incorporated into

46:46

part of the DCR itself. But it does help to make sure that we're not talking about some

46:56

that we're not talking in generic terms about what was required from PA. So I would like to reference to permit schemes definition, which takes forward to resignations.

47:09

Okay, thank you Miss Kuma. Mr. Jarvis has heard that.

47:12

Just to clarify, you've heard the various suggestions that you've made, that the applicant is willing to take on board, and those that remain in dispute between you you're going to give us a post hearing note. Is that correct? Yes, sir. That's very helpful. Thank you very much. Is there anything you wish to say Mr. Jarvis?

47:34

No, thank you, sir. Thank you. That's very helpful. Thank you all.

47:39

Is there anything else in relation to Part One of the draft event consented typical development consent order? The parties wish to raise?

47:50

I have 100. SWAT.

47:54

Thank you very much, sir. Yes, a number a number of matters.

47:59

In summary, and Firstly, you obviously have our case in relation to the definition of onshore HD HVDC cables. And you have the drafting refinements helpfully advanced by the applicants in the event that you agree with our case and how to sever that element and you have our previous submissions on how to navigate your way forwards, facilitated Li as best one can in the circumstances. So I'm not going to go any further into that. And secondly, we highlight a number of other drafting points. The first is in relation to the definition of converter station which includes provision for external landscaping in means of access and we are assuming from the scope of what you set out in schedule one that where converter station is it self defined that landscaping and means of access in the definition in Article two, one exclusively refer to such items within the Rochdale envelope as opposed to on any other wider land? and that therefore the landscaping that we see in shedule one is outside of the Rochdale envelope and inside the wider land, if that makes sense.

49:21

Could you explain in what context you're using the phrase Rochdale envelope to me please? Yes, you remember that the applicant is seeking to constructing a vertice station building and structures inside of a century notional shoe box. And therefore, when one is looking at the definition of converter station as meaning the converter station containing etc, etc. Our assumption is that all of that defined development in Article to one is exclusively inside the parameter of the shell envelope box, not outside it. And therefore, where we see the phrase with external aspect

50:00

It means of access that exclusively means inside the notional parameter of the Russia envelope, as opposed to on land outside of the rock shell envelope box if that exists.

50:12

I'm going to ask Mr. Jarvis in a second. But Josh, perhaps you can clarify my understanding in terms of the Rochdale number converstation building would be the maximum parameters for the building itself. You have to clarify?

50:27

Yes, correct.

50:29

query.

50:31

In what instance this defined term is used misters

50:36

arises as a consequence of the use of a Rochdale envelope for the purposes of the environmental assessment. Yes, of course. Well, Mr. Jarvis will recall from his own drafting, that if you go to schedule one, page 39 work number two works to construct the converter station. Well, that's a defined term. So therefore, the converter station itself contains the items in Article two one in addition to the list works number two, a through to web. So hence the question do external landscaping means of access exclusively related to the depth defined term covered station. And if not, presumably, external landscaping means of access should be excluded from the defined term. That's the point look at work number two, which is defined work area on the works plant showing the full area of where works and to maybe including all the areas where all landscaping may be. And if you then look at work number two, a soft and hard landscaping, including Bentonville road,

51:43

access, teaching, landscaping and access works. They're all in the area identified for working with two and they are all part of what is termed as the converstation which is the wider what area? Is there a query with Glasgow appropriateness of the environment assessment, given you're focusing on the envelope?

52:03

Mr. Joe is I'm simply using the Russian envelope as a shorthand we're doing a draft exercise here and the draw your draft of converted station is a defined term. We see in works number two, the phrase the converter station. And we see then essentially a shopping list of specified items which are additional to on the face of your own draft definition converter station to the phrase with external landscaping means means of access. So I'm simply asking, Are is the reference in the defined term you've used converter station to quote with external landscaping means of access unquote, exclusively confined to the Rochdale envelope as opposed to in any way overlapping with works number two items a to double B, which are outside the defined term. They're not outside the defined term works to conduct the converse station and associated equipment consisting of a provide further clarity as to what the converse station is, I don't consider there to be any issue with the definition that gives rise to any particular issues. So I'm not sure what the effect of deleting those words would be that you think would make those drafting amendments to be necessary.

53:19

I'm sorry.

53:21

I just interrupt. Sorry, I remind you that most of these are supposed to be coming through the examining authority. Sorry.

53:29

Can I also say that it may help. I don't know when it's going to help them if Mr. Jarvis could give us a very brief definition of what the applicant can consider the Rochdale envelope, which I suspect is to do the environmental impact assessment. For one just to the moment certainly I'm a little bit confused about how that is involved in the definitions that we're talking about. Mr. Jobs, use of Rochdale envelope in terms of the applicants documentation.

53:54

No, sir.

53:56

Could you give us a brief? I don't think I don't think referring to the Rochdale envelope is in any way relevant to the definition.

54:05

Could you tell us how he uses that term? What for? So the Rochdale envelope sets out the parameters within which the converter station buildings must be constructed. And they are secured for compliance with those secured through the requirements in relation to the approval of the detailed design. So

54:26

they refer to the extent of the environmental impact assessment in terms of the maximum parameters that we used.

54:33

Yes,

54:35

this is could you clarify how you believe the Rochdale envelope is involved with these definitions? Because I'm afraid I'm still a little bit confused about it.

54:44

Yes, I'm using the ruptured envelope as a as a as a summary

54:52

geographical location

54:54

to understand where the converter station is situated in three dimensions.

55:00

The converter station, I'm assuming here is a building as defined. And it means a converter station containing. So it's going to be a three dimensional building like a shed with equipment and so forth. And it's going to have external landscaping and means of access. Now, in shedule, one works number two says works to construct the converter station.

55:26

So the simple question was, where the converter station is a building and where we know that we have a Rochdale envelope, which defines a geographical area, which is slightly broader than the conversation building itself, because it includes, for example, electricity structures, and transformers and so forth. And we see the phrase in the Define meaning with external landscaping a means of access, is it taken



to mean that the landscaping and means of access are inside the rock, shallow envelope geographical area, or wider? And if wider? How does that then fit with works number two, which gives a whole list of other things.

56:12

And waits for the applicant to try and explain it and with more clarity rather than us. As we said at the outset, the onus is on the applicant, not the affected party. We made the point so the applicant either understands it or not, and will put it into our submissions in due course, if it's frankly lost on them. I think that would be useful. But I think I'd like to understand it to just to clarify Finally, Mr. Jarvis, I think you've given the answer to this. And you're probably gives the same answer. Again,

56:39

everything that's being talked about would be within the area shown within the land plan. Is that correct? That's correct, sir.

56:47

Thank you.

56:49

So the next point is in relation to the definition of marine HVDC cable, which mirrors that of onshore HVDC cable.

57:00

As I've said, you already have our case in relation to that. Can I just highlight though? Well, it's been picked up that in the

57:10

sheduled 15, the DEA marine licence, there is a another definition of marine h V DC cable, which doesn't

57:19

appear on the face of it to mirror the

57:23

definition article Two, one, I'm not going to ask whether that's deliberate, but it seems to me that they're out of kilter one way or the other, but covering the same physical cable. And we highlight in passing, sir, you will recall the vanguard DCI that was granted last year for a project in the food of electricity, sorry, in the field of energy, which also used fibre optic cables. And we refer to that drafting as a precedent as to how to approach this matter. And similarly direct the applicant to the same.

57:59

Yeah, we have received that thank you very much, Mr. suave for that. Anything on that and particularly difference between the two definitions? Mr. Jarvis?

58:09

No need to review sir, but I'm sure they're consistent in the notion of the DCA submitted a deadline, if you could let us know in the post hearing that will be useful. Thanks. So, the last last point you want to raise is in relation to order limits.

58:23

Again, just as as documents seem to be

58:28

assumed taken as read and then most recent changes are put in

58:34

we understand for example, the current position notwithstanding land plans may show otherwise is that the order limits do not actually encompass donated crops.

58:46

So, the red line currently does not extend to include that area of land as at today, so, when we go to the order limits definition in Article Two, one, that means

59:02

the limit shown on the works plans for example, and similarly order land, are we understand that currently to exclude stanica cops

59:13

period, and are submissions in due course, which we understand other parties may well agree with is that the

59:23

whereas the reduction in the red line area may be

59:26

considered the the extension of the order limits, and particularly so late in the day is going to be very problematic, if not impossible, for the applicant to secure

59:37

and we're going to make more submissions on that in due course, but just to flag up the order limits, and the land plans need to be tied back to the relevant order limit redline that accompany the application. Thank you, Jarvis.

59:54

The order limits refers to the work plans be the work plans are satisfied when the order is made that will comply with the law.

1:00:00

That is within water limits.

1:00:06

Anything else? Mr. Swag? Yeah, just for

1:00:11

completeness under the definition just to avoid any doubt from our perspective in the applicants minds I telecommunication, telecommunications is also defined and you have our submissions in relation to that.

1:00:24

And so to any related parking which may be picked up in the same order, thank you. Thank you We didn't have those Thank you very much.

1:00:34

Is there anything else anybody in relation to Part One of the draft determine consent order before we move on to part two?

1:00:44

I don't hear any see any hands or hear anything which case we will take a short break because some people have been on the call for some time now. So can we

1:00:54

get back together again, please attend past 1110 past 11