

# TEXT\_M25J28\_ISH3\_Session4\_12052021

Wed, 5/12 4:45PM • 1:10:33

00:03

Thank you, everybody. 25 past three, let's resume this hearing place. And we'll pick up at item 4.3. on the agenda.

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in respect of design,

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I don't really have too much to say on this other than to say that the design of the bridges as as, of course of all the structures, as interested parties will be aware was discussed at issue specific hearing one.

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We asked a number of written questions at on

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written questions, two second round of questions, there will be 2.52 point 16.7. And we've noted the applicants response to those questions

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have I wanted to put to the applicant that if the examining authority remained concerned,

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or the secretary state remain concerned that the structures had not been subjected to sufficient independent design scrutiny? An option available would be to insert additional wording into requirement three

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on similar lines, as was done at the a 14 VCO,

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which

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could be wording that suggests that no unauthorised part of the development may commence until the scheme has been subjected. In that case, it was the design Council's Design Review Panel, but it could be an independent

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design panel or certainly appropriate wording to that effect. Mr. Charles, what what what's your take on that? If is, if the XA were to want to find themselves in this position.

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That wording could be could be inserted could net

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long challenge for every single word? Well, yes, it could. But

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our position is that it wouldn't be necessary or appropriate to do that. And if I can just explain why I say that. It's very interesting to see that reference in the A 14

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decio order. I use that against me, Mr. Chalice?

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Well, no, it's interesting, because that order is the first highways England development consent order back in 2016.

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Before In fact, highways England had even established its own design panel. And so we looked with interest at

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that decision and the documents around it. And

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that that scheme was different in some important ways to this one, I mean, it Firstly, it was a much bigger scheme.

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And it was in a much more environmentally sensitive area with the local authority.

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And one of the other parties whose name escapes me for a moment

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campaign for better transport. That's right, pressing for this design control.

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In a way there hasn't been

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stakeholders

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asking for that sort of design control, although of course, we understand that

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you have Mr. McArthur have raised these issues. So, you know, we say that the a 14 scheme is really different in character, and scale and sensitivity to this scheme. And as we explained in our written answers to you previously, the reason that this scheme did not go through highways, England's design panel

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was because the area was not considered sufficiently sensitive to warrant that.

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And had it been it would have done an indeed, worthy a 14 being promoted now, it almost certainly wouldn't have gone to the design Council. It would have gone through highways, England's own strategic design panel of which there are numerous members, one of which is actually the design Council. So we say they're different. We say the area is not a very sensitive in landscape terms.

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And as regards the bridges, and we had a very interesting discussion about the bridge design, at the first hearing to which you allude,

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I mean, these we're not saying the design of the bridges is not important, but of course, these are not publicly visible bridges in the main apart from the maylands Bridge, which is the one on the spelled off slip. And if one looks at the other bridges around the play, you'll see the top of them as you were driving around, see what's underneath and

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I don't believe there's any public access to the

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Duck Woodbridge or the grove farm underpass,

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or, indeed the alder wood bridge.

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The duck wood bridge, it's fair to say could possibly be seen by golfers on the golf course. But, you know, we are talking about bridges, which by and large the public

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won't see apart from the inside of vehicles as they cross them. So that that's really a point about the position of the bridges. But overall, you know, we say the scheme is is is not in a sensitive area, which is why I didn't go to the highways England internal design panel.

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I just just want to pick you up Mr. Charlie's on the point where you said it's not it wouldn't be appropriate for the examining authority to impose such or suggest such a an amendment to the requirement. Is that because you say that it can't that it's not in the not publicly visible? Is that is that the cards be clear why you're saying it's not appropriate for us to do that?

06:02

Well, I I'm saying that because it would be appropriate if the scheme were in a more sensitive area than it is, or if the bridges were more visible to the public when they are.

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But obviously, I understand that if if, as the examining authority, you think it is appropriate and disagree with my view, then obviously, that will be one way of dealing with it. I'm just wondering if the national policy statement,

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when it talks about good design,

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differentiate between whether an area is sensitive or not, or whether something is widely visible on?

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include? So I don't know the answer to that without the document in front of me.

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I don't know the answer in trees, but I'm giving you the reasons why it wasn't referred to the design panel. And I don't know if any of my colleagues can give me an instant answer to that. It. It looks like they can't.

07:01

Okay.

07:05

Thank you.

07:08

Mr. Allen. I can I can assist. Mr. Ross with he wanted to come in at this point. Mr. McCollum, particularly then if it's not to be controlled here is is whether there is some tie to the the design document that we talked about at the last hearing on bridges. But yes, Mr. McCarthy, I'll happily handed

to you at this point. Without without reading the entirety of the of this section of the of the MPs to Mr. Chalice, I will just point out that the very first section, section 4.28,

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notes that applicants should include design as an integral consideration from the outset of a proposal. And the next, the first sentence of the next section 4.29 begins that visual appearance should be a key factor, and then goes into further detail.

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4.32 picks up on aesthetic appearance 4.33 picks up on aesthetics as well.

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At no stage, is it? Does the NPS qualify the need for good design as being only a necessity in sensitive areas or in public areas? The need for good design is the need for good design.

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And I think a lot of our

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a lot of the reasons for this this topic still being on the agenda is it stems from the responses that we got to our last written questions. We very pointedly asked to, to get an outline of the aesthetic design brief that the design team worked to and it was apparent that there there was not one

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that there has there hasn't been an aesthetic brief for the for the design team to work to. And without an aesthetic brief to begin with. The question remains how how do you demonstrate that a successful design process has been undertaken

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with which a visual appearance has been a key factor. And I think that's that's where our

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that's that's where we still find gaps in this in this situation, Mr. chalice. So I understand the point you make and it's not. And I'm not saying that no consideration has been given to the design. Either they have been designed with their

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function and where they sit in the landscape in mind as explained in our responses. And I believe that the NBS talks about not only design but fitness for purpose,

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sustainability, functionality and cost. So the design is one element. And I think the context is important and it does miss the 1000 Sorry, sorry to interrupt you but we've we've gone around this topic a number of times

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I've written questions on it hearings. And and that's very much the same responses we've had. And it's, there's no, there's no question that those aspects of design have have been, those boxes are ticked, if you like, we are focusing on the visual appearance, we ask some very direct questions to try and get a handle on how that aspects, how we how that test has been met. So the NPS test has been met. And we haven't we haven't had that response. We've had the response for the other aspects of design. But But really, are we at the stage where we report to the secretary of state that some of the design process has been gone through, but really not all of it?

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Well, so I don't think we have any more to say, Well, he's I don't have any more to say, than we have already said about the design. And I appreciate that doesn't allow us to move much further forward.

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You know, we can point to what we've already said about how the design was

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done.

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Although I don't think we made the point before about the visibility of the bridges to the public, which you may regard is important. But perhaps another point worth making is that of all the highways, England development consent orders, although the a 14. otter does, it doesn't leave this design review requirement, as you as you rightly say, the vast majority don't and so the Secretary of State has presumably not considered it necessary for

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that to be included in a requirement.

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I appreciate that you and Mr. Allen may take a different view.

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Thank you. I'll hand back up.

11:52

Thank you. So I think you've answered the question there. Just give any other party wants to say anything on the design of that. And I think it would be specifically the structures that we would be talking about the bridges and supports, etc, as opposed to the whole scheme.

12:11

But nonetheless, I'll does does anybody want to come in at this point before I move on?

12:20

No. Okay. I'll come back to you. We just

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I mean, insofar as you consider a qualification in the requirement, appropriately, notwithstanding what I've said, and obviously, you're you'll be considering that it will probably be more appropriate for it to go to highways, England's own design panel than the design council who are now assimilated as it were being one member of highways, England's design panel.

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Well, I just put that thought too.

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Obviously, you have your own iteration of the

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of the DTO. To come in the next deadline, I will

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leave it to you as to whether you want to perhaps once you've discussed or taken instructions, or whether you want to amend that requirement to the wording that you would want to see this make this also your your final opportunity to do that before before it becomes my wording. So I will, I will leave that with you, then I'll wait and see what comes into will consider in the light of this discussion. Thank you. So that's Yes, that's fine. Thank you.

13:34

So I'm being told by the Casey that there might be a hand up. But I don't see your hand up anywhere. Is it? My Van Allen?

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Not on my screen. But anyway, I'll take your word for it. Jay. Hello.

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It was something that I listened to at the last hearing. And, again, if you live in an area, I statics and you know,

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is an important thing. And if you've got any say for bridges, we're looking at I can't remember, for bridges are going to be involved in this construction, it would be certainly something that we we are sensitive to as residents that, you know, it would be nice to have something kind of aesthetically pleasing rather than just plain old bridges, you know, with no.

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You know, nothing to sort of look at and admire in a back garden.

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I think we might be able to see at least one or two of them possibly where we are.

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Yeah, understood, Jane, I think I think we you and the examining authority certainly made our points clear, certainly throughout this examination, but particularly today, no doubt Mr. Mr. chalice and his colleagues will be considering considering that and, and we'll see what response they come up with it, then on seven.

14:56

So I'm going to move on then to item four.

15:00

point four, which is a fairly quick one. I just would like a response please, for Mr. Charlie's whether you'll have read, transport for London's point, I think on the fencing 13. Two, or whether work number two should be added to work number six as well. What's your view on that?

15:24

The answer is yes. We're happy to add it. We were just trying to fix the deer fencing requirement to something appropriate.

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And we are happy to add that reference in as TfL have asked, in fact, we've, we've we've shared some wording with them. And I, I believe that they're happy with it, and they can confirm that. So that's fine with us.

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Thank you, I will give TfL an opportunity. They want to say anything more than that, or perhaps has nothing to say. But as we're here, I will give blockchain tea. Yes, Miss Weston. Thank you, sir. Tony Western TfL just to agree with Mr. chalice. We've seen the wording and we've approved it. So that's dealt with Thank you, that will be changed at the next deadline, presumably. Mr. Chan is that detail? We'll put that in our deadline seven one. Thank you very much.

16:19

Thank you.

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So the next item on the agenda then is

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outstanding matters. For

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interested parties. I don't want to go through every single one because I think we've discussed a quite a lot of them. Previously, and I think we've we there's nothing more to say. And I'm mainly looking to Transport for London, London borough paving here who have been the most

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vocal on the VCO.

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I'm going to read out some that I think are still outstanding, but I don't need to discuss today. As I said, because we you've made a comment, the applicant has responded to that. And I think it's just a decision now that the examining authority has to make when we issue our draft changes in two weeks time.

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But I understand that there is still issues on the time limits that are set out in articles 1811 9922 two and 35 two and article 13

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some for both transport London and London borough hiring. And in the case of Article 13 and article 35 for none of our hiring ntl. Separately,

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none of our hiring still have concerns with articles 13 two, excuse me an article 18 to CMS in respect of the power of any street to be used.

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Article 35, in which

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none of our paving, consider additional wording is needed to the restoration of highway land to the local authority satisfaction with the applicant not feeling that it's necessary. requirement for

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the all the plans set out in requirement for should be before the local authority that is the view of ranjbar hiring.

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The applicant disagrees and the matters concerning whether the requirements should be in accordance or substantially in accordance.

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They again, I think the essays made its position pretty clear on that. And again, I don't think there's any any benefit in discussing that. Again,

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there are a couple of matters that I do want to just touch on.

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For TfL, please.

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in respect of Article Two, one,

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that's article two, paragraph one, Article 11, paragraph four, Article 16, one B and schedule. for part two, in respect of the division responsibility, the original responsibility, Miss West, and I know you I think you talked about this earlier. But I just wanted to be clear that these articles are tied up, if you like in the whole protected provisions signed agreements matter, or whether there is anything specific with those articles that you're you're not you're not happy with.

19:29

Thank you, sir. Tony Western, on behalf Transport for London, all of the articles that you've listed are effectively dealt with in the side, while the protective provisions which we have put forward and which are obviously the subject of discussion with a view to concluding a side agreement in due course, if that's possible. Thank you. Well, I think, I think Yeah, I've also made it clear that I think when this examination clothes there either needs to be that protected provisions in the decio or the side agreement and not

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Not a not none of them, if you like. So

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we'll go with the protective provisions for the moment. And then you can advise accordingly. So that's very helpful. Thank you.

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Yes, if I could now move to requirement nine.

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And this is this is directed to a hearing in respect of the archaeological works. Now,

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I have read certainly your answers. And regarding the archaeological management plan, and the programme of trial, trenching works. I don't wish to discuss those specifically. But, Mr. Douglas, I believe you You're still seeking wording within the requirement,

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which, which,

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which requires trial, trenching works inserted into the wording of requirement nine.

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Is this still the case? I'm assuming it is? And if it is, how could you perhaps explain to me either now, or certainly a deadline seven how you would amend this requirement.

21:09

Thank you, sir. Daniel, Douglas Lundberg, how you bring. So just to update the panel on on, on on where things are at with, with the discussions we have with the applicant on this particular matter. As we confirmed in in our deadline six submission, we're now satisfied with the the archaeological and archaeological management management plan was submitted by by the applicant. And we're also satisfied and have an agreed programme with the applicant on the archaeological troll trenching that was discussed at the in the march in the march hearings. So we no longer

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requesting a an additional requirement in relation to archaeological trail, trenching, that we submitted at deadline five, and we're no longer requiring

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a change to the wording in requirement nine. And I'm happy to confirm that at deadlines seven if that would assist.

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Yes, thank you.

22:16

That's that's that's a change from your deadline six submission, isn't it? Because then your deadline, six minutes submission, you say that those matters are still outstanding.

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But that that's that that's changed now? Yes, sir. It has yet in respect to that requirement, okay. So that you no longer need that requirement amending as as it set out. That is correct. Lovely. Thank you very much.

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And we've discussed the

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I know you also seek the additional requirement in respect of the dust noise nuisance management plan that we've discussed that. And we've also discussed the new potential new requirements for grow farm, and maidens golf course, as well.

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So taking into account what I've just discussed, and what I said, I acknowledge was still outstanding matters. But we didn't need to discuss Can I ask, Can I start perhaps with Miss Western and then move on to restart was is there any other matter in the DCI that you you want to raise here, which hasn't been discussed or doesn't need to be discussed, as I've outlined?

23:32

Miss Western if I could start with you.

23:36

Thank you, sir. Tony Weston, on behalf of the Transport for London. I'm just quickly skimming down my list, and I can't see that there's anything that we haven't already talked about. So obviously, the protective provisions, a lot turns on them or a side agreement. I think we've talked about requirements 13 and 14 already today. I think the only other thing, perhaps just to correct myself from earlier on is article two one we talked about including a definition of the 1973 Act within the decio.

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And I think that was going to be then supplemented by a new article 31 just to clarify that position with who would be responsible for part one claims under the 1973 Act.

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We have had discussion with highways England on that. And I think there is agreement between the parties that obviously the liability would sit with highways England, but I think you do have to stretch a little bit to get to the answer. So we did wonder whether it would be worth just putting that into the decio. Just as a point of clarification, obviously for anybody who potentially would wish to bring apart one claim against the acquiring authority.

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You know, it would it would assist them if that was made clear on the face of the order where that liability sits. But over and over and above that I don't believe we have any more issues and I'm checking with my colleagues and I

25:00

I don't think they have anything to raise either.

25:03

I think I've been fairly thorough down your list submitted that deadline for Miss Western. So hopefully, we've covered everything.

25:12

Mr. Charles, do you want to come back on that specific point that Miss Weston raised there in respect of Article two, one?

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This? Yes, Mr. Charles for highways England.

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This is really about the 1973 Act, part one claims and whose responsibility would rest with and actually argue with the definition of the responsible authority, which I think, from memories in Section 19, in the 1973 Act is, is very clear, it's whoever constructed it.

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And

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we don't think the DCR itself is really the best place to clarify, or signpost, something, which we think is sufficiently clear. Anyway,

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what we're proposing, and hopefully this will satisfy TfL is maybe to add a note to the explanatory memorandum. So it's clear that

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highways England accepts that if it has built the particular piece of infrastructure in question, then the liability under Part, one of the 1973 Act falls on it. But we just think as a matter of drafting, it's more appropriate to do it that way than to insert points of clarification in what is after all,

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you know, a statutory instrument

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is worse than you will to come back on that or at all. Thank you, sir. Tony, Western for Transport for London, I have to take instructions on that point. Of course, it does seem a sensible suggestion. But I will check with my client, and perhaps we can feed back on our response to that suggestion after the hearing.

26:54

Thank you.

26:57

Mr. Douglas. Is there any

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anything else on the decio that you want to raise? That I haven't discussed previously?

27:09

Thank you, sir. Dan, Douglas London borough pay rent. The only other matter on our list that you haven't covered there. And I'm aware that that it's been it's been discussed previously, but is is is part

two, the procedure for discharge of requirements were, as it currently is set out in the decio. It would be for the the Secretary of State rather than a local planning authority to discharge requirements and think havens position is

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for requirements that we would be responsible for, we would be we would want we would want to be responsible for for discharging those requirements, rather than the Secretary of State.

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I'll get Mr. Chinese just to confirm that it's my understanding that for transport schemes, it's it is the secretary of state that discharges these as opposed to local authority as opposed to an energy scheme where it would be the responsibility of the local authority. Mr. Charles, do you want to just yesterday Mark Ellis for highways England, in in all highways, England DCs, the Secretary of State, has the position of approving submissions under the requirements this scheme is no different. And highways England is firmly of the view that that is how it should work in this case, like all the other cases.

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Thank you. But I think this is overdue to make your point. I do take the point you're raising

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any other matters on the DCI before I move on to the protective provisions side of things.

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So I do have one more, if I may interject, and I think you may have ticked it off on your list actually. But just to raise it again, requirement. 14 deals with what we've called, in shorthand the integration phase on the circulatory to protect brookstreet there will be

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an amended version of that not not

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hugely, substantially amended, but we've agreed some adjusted wording both with TfL. And I believe that Hadrian are also happy with it

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to make it more effective

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in their eyes, but we've you know, we've adjusted this and agree wording for you, Mr. McArthur to consider deadlines. Thank you very much. I'm not going to plan to bring TfL hearing in at that point because they didn't mention it but

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I do. I'm being informed again. I think my screen is getting slightly slow here because there are hands raised that I just can't say Oh, okay. I've been notified Miss West that you had your hand up but you may have it may have been an old hand up. I don't know. Was there something you wanted to say or? Thank you, sir. Anyway,

30:00

Stand for TfL I was raising my hand just to make the same point that Mr. Chair listed, which is obviously requirement for has been amended but agreed between the parties. That's fine. You mean 1414? Yeah. Okay. Yeah. That's not a requirement for we might be here for a while. Thank you.

30:21

Okay. So if I could move on then to

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four six then. And, Mr. Charles, if you could just update me please on where we are with protected provisions. We've dealt with transport for London's Of course we don't need to discuss that. But I'm particularly obviously interested in cadent gas, given their representations submitted as well. But yes, if you could just perhaps, give us an update. That would be very helpful. Thank you. So you'll recall that Caden gas put forward their form of protective provisions and we put forward our set of protective provisions.

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And there are still two or three points outstanding.

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And they are to do with the breadth of the indemnity

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cost sharing. And and I think one other issue that is betterment, it's betterment forum, equipment we put in in replacing old equipment.

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those points are are still under discussion with Kayden gas, and we very much hope they will be resolved. But I suppose as for all parties, we can't make people agree things but we hope that those matters can be can be settled.

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If not, then so I suppose you will have two lots of protective provisions to consider when ideally you'd like one agreed set and so will we but

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let's hope we get there

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as regards Network Rail, and you will have seen, sir, from our letter to you flagging up our perspective, change aid that work seven has been adjusted in the sense that they now it was it was intended to start the other side of the viaduct and not the network rail bridge. poplars bridge side of the viaduct. So Network Rail, and air assets are not and have actually never been affected by this scheme. And therefore we don't think there's any need for any protective provisions whatsoever. And I hope that they will confirm that, but I'm not sure that they have as at today, but I think it's just a matter of plain fact that the scheme is now quite some distance from the railway bridge, which anyway, we weren't affecting

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at any time for this scheme.

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noted, yes, noted. Please do. We will hope that Network Rail do respond, but we we know the changes and we know your response on that. So thank you. Thank you.

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Any other matters on protected provisions?

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not seeing any hands good. Okay, well, that

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that that topic deals with all the

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DCI matters, and no one's got any final thing on the decio they want to say. Then I'll move on to master clarification.

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capex and we'll move on to item five. I'm hopeful that these will be fairly self explanatory from

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from the agenda. So again, I'll start with

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any interested party that wants to say anything about the outline ecological habitats and species plan and outline invasive species management plan and practice to learn about hiring or any any Essex or branwen if they want to come in at this point. This was submitted deadline six appreciate you may not have had too long to look at it.

34:09

But we have noted it, particularly chapter two of the ecological habitats and species plan or the it isn't very long. Let's Let's literally put it like that. I just wanted to firstly ask whether any interested party want to make any comments on those documents here and now. And secondly, to ask the applicant, whether

they will be added to the next iteration of the camp at deadlines seven. So if I start with the local authorities, is there anything any any one or the other local authorities want to say on these documents?

34:55

No. Okay. So none of the local authorities want to want to make it

35:00

The Mr. reinberg Sorry, I'm not sure if I'm TfL classes, the local authority welltex. But your colleagues as well, can we please? Thank you, Matthew Rhinebeck Transport for London. So yes, TfL has reviewed both of the plans, ecological habitats and species plan and B outline invasive species management plan.

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We aren't actually too concerned about chapter two of the ecological habitats and species plan, not having much substantive information on the basis that we recognise it is covered in the environmental statement. But obviously, that information will be needed in the future.

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But I was wanting to see if we did want to raise which it relates back to the deer again, and we do have, we do consider that the plan, this plan needs to consider impacts on the movements of deer, and we need to ensure that mitigation is put in place. So we've discussed already the requirements in terms of deer fencing going in place, which is for the operational phase of the scheme. But we are also concerned about the construction phase, when you've got a very large construction site, we know there's a lot of deer in the area, they do already cross the a 12 and move along ba 12 sometimes, so we see there's a substantial risk of movement patterns changing as a result of the construction of a scheme. So we feel that the ecological habitats and species plan and potentially the camp and overreact, do need to make sure that measures are put in place during construction to ensure there's not a safety risk for both traffic on va 12 and other roads. And also obviously the deer the deer themselves. So that was the only substantive point we wish to make on that. As a fair one. I think Mr. Mr. Eisenberg is at the ecological habitats and species plan you're referring to? That's right. Yes. Thank you.

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Mr. Davis. Any any Do you want to add anything or?

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See your hand up? You see, I've obviously got some issues here. I'm not seeing hands. So

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I have to rely on my colleagues to tell me Mr. Douglas, Douglas Lundberg have a ring

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with regards just to Mr. Ryan Berg's point just now, in relation to, to when to do fencing and the concern of the impact during construction. That that's that's that's a concern that we that we do share, obviously, as well as the 812. You You do have Woodstock Avenue.

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And, and other roads, that hirings responsible for within within the vicinity. So we share the concern or the the potential impact of the

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roaming onto those roads. In terms of the the two documents themselves

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are we've we've reviewed both both documents and RM R are satisfied that they're they they're adequate in terms of managing the risk to, to biodiversity resources.

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And, and in terms of dealing with any invasive species, particularly

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that that may, that may be found, during during the the works. We have. We have met with the applicant to discuss

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those particular matters. And we've confirmed that we are we are satisfied with with them with the two documents. Thank you. Thank you very much indeed.

38:35

Just want to before I bring Mr. Chalice or one of these colleagues back in, I will give a chance via the Brentwood or Essex if they want to come in at this point. And if not, that's absolutely fine. We will move on to miss chalice.

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Nope, okay, that's fine. Mr. Charles, do you or do you want to come back? Or do you want to pass it down? particularly on deer fencing or, or or deer management during construction? I think it's a fair point to make

39:05

markers for every single so yes, we think is a fair point to make too. And we want to ensure that deer don't cause a problem for motorists or, of course, hurt themselves. So we're happy to put forward a form of commitment, which I'm afraid we haven't yet formulated. But perhaps we could do that in the next deadline. And where that we will also need to consider where it said something whether it would be appropriate in the ecological habitats and species plan. I'm just not sure. But I think we accept that there ought to be some provision requiring

39:39

deer fencing or other appropriate steps to be taken to deal with the points that

39:45

Mr. Ryan bourbon Mr. Douglas has raised. So we will think about how best to do that.

39:52

Thank you, buddy. That two action points for the deadline seven. Thank you very much. I think we'll all look forward to that. Thank you.

40:00

Any other matters on the biodiversity before I move on?

40:09

No. Okay.

40:11

Oh, I'm sorry. Mr. Chan is will you be sorry that the second point? Will you be adding both these documents to the next iteration of the camp? Yes. The second point, the answer is yes. Yes. Thank you.

40:26

Thank you.

40:28

So if I can move on to the next point on geology and soils, and again, I think it's already set out there. This is a matter of, of clarification, really, I don't want necessarily want to read it out.

40:41

But there were changes to the riak, a deadline five,

40:46

regarding excavations in certain areas, but we would like some clarification on the extent of gas generated material, what material is likely to be? And what would happen, this material is breached by the probes developed during any works. So

41:04

again, Mr. Charles, are you able to just provide that clarification for me, please? Yes, we are. I'm going to ask Miss white from Atkins, who can give a bit more detail and some responses to your interesting questions. Thank you very much. Good afternoon. miswired. Definitely.

41:25

To that might for Harry's and then. So in regards to what the material is the response zone of the monitoring Well, at ATP 92, which is where the elevated concentrations of methane and carbon dioxide

were recorded, was within the clay that contains decomposed wood fragments and black organic matter, between 1.5 and 5.35 metres below ground level. And this is what we consider to be the likely source of the ground gas at that location provided. Sorry to repeat that, again. I'm trying to write this down. So if you could, yes.

42:00

Again, please for me. You said

42:04

yes. You said the black ones here. And then if you could pick up from there, that'd be great place. Yep. So back organic matter between 1.5 and 5.35 metres below ground level.

42:18

Okay.

42:23

Yeah, and that's what we consider to be the likely source of the baton gas at that location.

42:29

In terms of the extent of the material, significant concentrations and flows of ground gas weren't recorded at the other three monitoring wells located within the historical landfill.

42:42

So that suggests to us that the source of the ground gas at 80k 92 is localised and not widespread across the area.

42:52

And in terms of what would happen if the material is disturbed, so the preliminary design includes a proposed access road to infiltration pond to at the location of ADK 92. So, it's considered unlikely that the excavations in relation to that would extend the depth of the clay material, which is considered to be the potential source of gas.

43:19

However, if the material was disturbed, this could introduce some potential risks to construction workers, and any proposed enclosed spaces in the area.

43:31

Now, we've already set out mitigation measures to

43:36

to deal with those in the React. So they would include things like incorporation of hazard signage or round vest, protection measures, measures and enclosed spaces. So like ducts or chambers, ventilation of any construction phase temporary structures and adoption of appropriate working practices and PPA by construction workers.

44:03

And just because it might be helpful just to give him context to why that change was introduced, added into the React a deadline five. So the London Borough of Hadrian requested some reassurance that the low likelihood of the excavation works disturbing the material would be checked during the works, and that if that risk materialised, it would be appropriately mitigated. So we agreed the wording of that additional point

44:32

that was added into the reactor to cover it. So that's why the change was introduced.

44:40

Is that certainly in the case? Excuse me, my voice is going

44:45

is that are set out in the in either or we'll be setting in either camp documents as well. Yep, so it was it was agreed in discussions with London biohaven that the matter could be addressed further in the contaminated land management plan.

45:00

And that's going to be prepared by the principal contractor. And it's referenced in the outline camp.

45:06

So yeah, it's not it's not currently intended to address the point any further in the future revised riak. Because it, everything else would be included in the contaminated land management plan.

45:17

Just to clarify that documents not before this examination at the moment, is it that that's, that's a document that will be submitted when the when the camp is being sought to be discharged?

45:28

that's created?

45:30

Yes, it's part of them detailed design. Yeah. Okay.

45:37

That's great. thing I want to say.

45:41

I know, it's just also worth noting that the Environment Agency have reviewed the changes to the react as submitted deadline five, and they had no further comments, either.

45:54

Okay.

45:56

Thank you very much. Indeed. I will just ask, I don't know whether Mr. Douglas, you you want to

46:03

respond to what you've heard of, if there's a colleague of yours who you want to bring in at this point?  
Are you

46:09

aware of this? And if you are, do you want to say anything you want to add?

46:17

This lumber pay ring? No, there's nothing that I want to add. At this stage. I'll refer back to two colleagues who are more gifted than me in this area and responding deadline seven, if necessary.

46:32

Thank you very much indeed.

46:39

So if I could move on to item 5.3. Again, again, Mr. Douglas, you might as well remain where you are.  
Because

46:50

in respect of

46:55

the lamp,

46:57

I believe that you have talked about changes to paragraph

47:02

or some number of the paragraphs within it. And I just wanted to do want to just very quickly say, some of the concerns you have and then I'll give the applicant an opportunity to respond say where they're going to accept your suggested changes.

47:19

Thank you, sir. Daniel, Thomas linbro. Pay you bring? Um, yes, we, we, we love our PI, we did have concerns in relation to paragraph 5.1 point 10

47:30

which was concerning the initial thinning of new woodland. And we advise that thinning is undertaken in the third year following woodland planting.

47:39

And we also had had particular concerns in relation to the

47:45

species mix, Bertha hydro planting, which had been provided in Table Table 5.7.

47:54

And we had suggested a series of, of species mix, to be to be to be included.

48:03

Since that submission, sir, we've had further discussions with the with the applicant. And

48:11

earlier this week, I believe the applicant met with or had a virtual meeting with our biodiversity specialists. And

48:18

we are now satisfied with the changes that the applicant is making to the updated outline length, which I believe will be submitted at deadline seven. Providing that to submitted at deadline seven, we will formally confirm that we are satisfied with them with the changes that have been made.

48:37

Thank you. Thank you very much.

48:42

Mr. Charles, do you want to come in and just respond to just just you probably just want to confirm that. You might as well also just pick up I want to just hear it from your own lips, so to speak.

48:56

The matters regarding tree loss the second point on 5.3.

49:02

The the numbers set out in the abora cultural methods statement regarding the tree, approximate numbers of trees to be removed and the numbers to be replanted as set out in paragraphs 5.2 point six and 5.06 point 1.2.

49:23

I think just just for those who may not have read the document. Could you just confirm that please? Yeah. So what can I do with the first one first is the changes that we've been discussing with hearing and there's been some good constructive discussions there. We do intend to update the outline

49:44

version of the lamp, the lamp.

49:48

And although we could do it at

49:52

deadlines seven, we were wondering and this was something I was going to raise with you Mr. McArthur and of AIB. How we actually sequence the

50:00

submission of further iterations of documents bearing in mind the scheme changes.

50:06

What we don't want to do is overburden anybody with too many versions of things. But yes, that will be included in the next iteration of the outline. As regards confirmation about the tree numbers, may I refer to miss Maya, who I think can give the confirmation that you asked for?

50:25

Thank you.

50:28

I should say sorry, just before benchmark comes in. I have frozen screen again. So I'm asking that All I've got is Miss white and Mr. Douglas in front of me, but the screen is frozen, complete.

50:41

Gather everybody can hear me so I'll happily carry on as we are. So what's Mikey sir? Hi, I'm Nina Meyer on behalf of highways England.

50:53

Yeah, with regards to the number of trees which we have presented in the outline of horticultural methods segment, which is rep 540.

51:04

We just wanted to probably give you some

51:11

explanation about

51:14

how we derived this

51:17

number and obviously, the tree loss. So, the tree loss was determined by doing the tree survey. And

51:29

following that, we have had to purchase some further information, which we explained in paragraph 2.1 point three of the document

51:43

and that was used to determine the tree loss, then we have

51:49

identified that 3.8 Hectors of woodland

51:57

would be

51:59

planted by the scheme.

52:02

And our

52:05

assumption is that there will be

52:08

two threes per square metres, and they will be planted, staggered at every two metre spacing. So, that's how we arrived 9500 plants or trees shrubs.

52:27

We note that the paragraph 6.1 point two is not very clear on how we arrive to this

52:36

figure. And we intend to amend that to make it clear on how we

52:44

come to this number.

52:47

But of course, this this outline or body culture management plan would have to take into consideration further changes if the examining authority would accept changes seven, eight.

53:01

And we would

53:03

propose that

53:05

we would hear from you on you know whether changes seven and eight would be accepted before we submit a further iteration of the outline arboricultural method statement.

53:22

Well, we can only do that for change seven, obviously because change eight is before us at all. Yes at the moment.

53:30

So, okay.

53:33

But just to confirm, again, just so that's it's in the public domain, everybody can hear it. Paragraph 5.2. point six I think sets out that there would be approximately some 900 trees lost with 9000 to go back and now know that the comprising trees and shrubs, I think it is 7030 ratio. Yes, yeah, that's what we assumed. But this would be refined and confirmed during the detailed design.

54:06

Once the principal contractor is, you know, firming up the

54:11

replanting programme. Yes. But your your the point I'm trying to make is, is that when we report to the Secretary of State, the strategy is is that there would be you're proposing more tree replanting, than then trees coming out? Yes, we are. Because we have to take into consideration the success rate

54:34

of replanting, and

54:38

I'm not expert but I'm sure we are following some standards, best practices

54:45

which we we we want to make sure that you know appropriate.

54:53

replanting is implemented by the scheme. Yes.

54:58

Thank you very much. Thank you.

55:01

Any elements is all landscaping visual.

55:06

No. Okay. Can we move on to then item 5.4. And I'll deal with the first bit very quickly. interested parties won't be aware of this yet, because the these only arrived I think either yesterday or day before. But both Ludington Golf and Cleveland State have made representations which will be published the deadlines seven, which is when we asked for them, effectively agreeing to change request seven. And in Ludington case, they have withdrawn any concerns that they had with the application in respect of effect on the golf course. And as I said, those those will be published deadline seven next week.

55:56

So there's no I don't think we need to deal with that any any further.

56:01

I do just want to cat just to come on to the gardens of peace, Muslim cemetery, Mr. Chalice, you have,

56:10

throughout the examination, have updated information on them, including changes to plot one eight and confirmation that there would be no effect on the burial plots. There, of course, gardens of peace, still have some outstanding concerns. But I think you're looking to deal with those as part of a tri party agreement. My question to you is whether that tri party agreement, you intend to submit that into the examination,

56:39

or whether you intend to have some form of statement common ground, if that agreement is private and confidential, whether there has to be some form of joint statement that matters with garnes, a piece has been resolved.

56:55

Thank you. So as you say, I don't think I'm in a position to confirm we will submit the actual agreement. It's a side agreement, and then, you know, to some extent, it does sit outside the process. But we, of course, understand that you have Mr. McArthur need to understand that things have been settled in an appropriate way. So we will either submit a redacted version,

57:18

or probably just a summary of the main points giving you the comfort that you'll be looking for, but we probably wouldn't necessarily just submit the whole thing. No. Okay. And when when do you? When do you think you'll be able to do that by?

57:35

Well, again, we we, you know, we are having some constructive discussions, and we hope to put that in before the end of the examination. But obviously, things are not

57:48

obviously, under our control. So

57:52

we no doubt you'll want to be kept updated as to as to where we are. But I think the position is what's I think the position the position is that how these works are to be done in order to minimise the effects upon the gardens a peace

58:09

programme, which they're developing that that really been worked out,

58:13

in some detail is now a question of documenting it. So

58:17

I do think it's, there shouldn't be any particular difficulty in concluding it. Obviously, I can't, I can't control that completely. Okay. I mean, no doubt, towards any examination that if there were any even with with Transport for London or others, if there were still outstanding concerns, you'd be setting that out to the assignment of summary position before the examination closes anyway. So yeah. Okay. Yeah. Thank you.

58:47

I can see that we do have Mr. Church here from representing guards apiece, do you want to? Is there anything you want to say at this point, I have no idea if you've got your hand up at all, because my screen is completely frozen. So I'm going to I'm going to give you the opportunity to come back at this point if you want to. Thank you, Mr. Allen Quinn church on behalf of gardens a piece. I just wanted to echo what Mr. Charles was saying in respect of a summary or a joint summary to confirm that the tri party agreement has been entered into when that time comes. And it's very much God has a peace.

59:29

desire to have that completed well in advance of the closure of the examination period. And we very much hope that that's done in the next

59:39

matter of weeks. We have added to the draft tri party agreement and that should be back with highways England to the applicant today. I know Mr. Chad has had a brief telephone call with the legal representative on behalf Gordon's a piece yesterday. So we're have been good progress. very constructive.

1:00:00

Discussions has been good progress made.

1:00:05

There are a number of concerns we have with the scheme. And we've highlighted version previous submissions. And I don't wish to go over those now, because you're fully up to speed with what the concerns are.

1:00:18

But what we want to ensure is that God has a piece can operate as a cemetery during a pre during and post scheme construction. And that's absolutely fundamental, and we hope to be operational by February 2022. And that's going to be an advance of the applicant and Caden gas taking occupation of plot one eight.

1:00:45

Just a couple of points. I do wish to highlight Actually, yes, Ron was regarding additional planning matters and I know London Borough of haven have picked up on this. And Mr. Charles is aware on behalf of the applicant, but is as part of plot one eight gardens a piece carpark on a cemetery is being

1:01:07

temporarily occupied and therefore a temporary car park is to be provided. Now as that falls outside the decio boundary planning application is required to be submitted to London Borough of Hebrew for their consideration. Enough deadlines six, the applicant suggested that God had peace could submit that planning application. We are not reviews or we are review but we shouldn't be submitting birth and actually should be the applicant, as it's a direct consequence of plot one eight, and then take an occupation of our car park or gardens a piece carpark.

1:01:46

And that's something which will refer to further and minnaar submission deadlines seven, but I wanted to raise that with London Borough of hearing on this in this hearing, as well as Mr. Charles on behalf of the applicant. Secondly, aside on that point, it's absolutely imperative that planning application is submitted and approved prior to

1:02:09

Caden cast and how it can take an occupation of plot one eight, because without that carpark provision within the cemetery

1:02:17

guards piece will not be able to operate the cemetery for daily burial. So it's imperative that's happened that is apply for unapproved, and the car park constructed prior to plot where they'd been occupied. Otherwise, we're going to be without a car park, for our daily burials.

1:02:37

So it's a very sort of important point. And we're going to be in discussions with Mr. Travis on that in regards to tripartite agreement.

1:02:45

And the third, the last point I wish to make was, I have this opportunity and that is the existing tree belt between the a 12. And northern boundary of gardens a piece of cemetery, which falls under the management of TfL.

1:03:05

were quite loose, it is important to the guard to guard as a piece and the future daily burials at that tree belt is not subject to palardy

1:03:16

during construction works, or Vm 25 Junction 28 scheme, because that will open up the visual and sound effects of the construction on to the cemetery, and would cause disruption to the daily burials. we've highlighted this in previous submissions. And the applicant has come back and said it should be gardens of peace seeking assurance of TfL, that that will not be piloted during a construction period.

1:03:45

But given the relevant tree belt falls within the boundary of, of a decio specifically plots one oblique one B and what what TfL on Monday, we've been hearing, I wanted to read it again and sort of reiterate that it's fundamental to Gardner's a piece of that tree belt is not piloted during the construction period. So therefore, not additional noise and visual

1:04:14

implications on the daily burials of the Guardians of the cemetery. And we reiterate that actually rubbishy applicant to seek that assurance and to incorporate that with into the tri party agreement, so we can be sure that other than safety matters, that prebuilt will remain during a construction window, and then thereafter, following construction work sets, it's up to TfL how they manage that tree belt.

1:04:40

Thank you.

1:04:42

Thank you very much, Mr. Church. I understand that Mr. Douglas, you've got your hand up as well.

1:04:51

Thank you, sir. Don't miss London borough pay ring. Really Just to follow on from Mr. Churches point with with regards to the temple

1:05:00

carpark that that will need to be provided we did, we did make the panel aware in deadline six response that because the temporary car but those were outside of the the the the redline boundary scheme would would would require planning permission. And just just just further on from that

1:05:24

we note the the applicants response

1:05:29

to to rep a six dash 014 which is the guns are pieces responses to the examining panels we're seeing questions specifically point to rep five dash 066 dash one six, where the applicant has suggested that because the carpark will be temporary in nature, the lumbar paving are likely to look upon the planning application favourably. And it's really just to make the panel aware that we're not in a position to say at

this stage, whether or not planning permission for a temporary carpark would be granted when we haven't got a planning application to assess at this stage.

1:06:11

it's it's it's something that we're obviously now aware of. And we the applicant has provided us with a with a location map for where the the car park would be. But in until we have a formal planning application submitted whether that be the gardens of peace or or the applicant themselves, we're not in a position at this state to suddenly say how that would be determined. And the other point I would make

1:06:36

is the timescale involved. Clearly there are there are there are less than eight weeks until the the examination is concluded. So if an application was submitted haven today, it's not going to be determined by the seventh of July.

1:06:53

A decision wouldn't be taken until until after the examination period is, is concluded. So we just wanted to make the panel aware of that. Thank you. Thank you very much indeed, Mr. Douglas. Mr. Charles, do you want to respond? Sort of as a catch all to what you just heard? Thank you, sir. Yes, there are various points there on the temporary car parking, we do recognise that that is outside the order limit. So that is a complication. But we hope a minor one. And I fully understand the Mr. Douglas counter,

1:07:25

as it were give his endorsement to any proposed development in a forum such as this or before there's an application, but

1:07:33

it seems to us anyway, that there's no real controversy about providing some temporary car parking, which I think it will be to just part and parcel of us delivering the works in a responsible way. Nor actually do we feel very strongly about who applies for planning permission.

1:07:51

We thought it might be more appropriate for samples to do that given there.

1:07:56

They have a planning function. But

1:07:59

if highways England has to do their deliveries England can do it.

1:08:05

And as regards the trees,

1:08:09

again, they are

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TfL trees. We're not doing anything to them.

1:08:17

But we you know, we can't

1:08:19

we can't speak for TfL. So they're not under our control. They're TfL streets, but we don't intend to do anything to them. Okay, thank you very much.

1:08:33

Okay.

1:08:34

Before we are coming to the end of the agenda, I'm

1:08:38

aware people will probably want us to want to wrap this up fairly quickly.

1:08:45

Mr. reinberg, I believe you got your hand up.

1:08:49

Thank you, sir. My view I beg Transport for London. Yes, it was just a quick point on the arbitrary bout. So we recognise garden of pieces concerns about screening. So the trees are within the decio boundary. And TfL is not a promoter of a scheme or delivering the work so we feel it is appreciate Mr. Celestia just saver has no intention of highways, the applicant making any undertaking any works to those trees, but

1:09:21

for during the construction phase.

1:09:24

It's probably a relevant undertaking requires to to make that clear.

1:09:34

Okay,

1:09:36

thank you. So Mr. Chavez has heard that more will

1:09:40

consider response

1:09:43

accordingly.

1:09:45

Right.

1:09:47

I do want to take it just a very short break because I'm going to try and reboot this, this, this meeting so I can start to see people again because the screen is completely frozen. So I would I

1:10:00

I think also we've been going a little while. So it may be.

1:10:03

Maybe we just take a very short comfort break

1:10:07

and resume at say, can we can we take sort of no more than

1:10:14

people haven't we just sort of five or 10 minutes just to stretch legs and when I say quarter to five, if we resume the hearing, please and hopefully, our screens will be working a bit better. So let's let's resume a quarter to five place