

TEXT_ISH1_A47NorthTud_03112021_Session 1

00:11

Good morning, everybody. Can I just confirm that somebody can hear me please? That'd be great morning from the Applicant . Yes, I can see and hear you, sir. Good morning, Mr. Fry. Thank you very much for that. And today's issue specific here and we'll consider the draft development consent order, which as we go through today are referred to as the draft dcr. And but just before I formally open this hearing and introduce myself, can I just check with Mr. Hanson that the live stream and the recording of this event has now commenced? So

00:47

I can confirm that the live stream is working and a recording have started, I can see hear you. And I'm just going to switch off on the live captions. So we have that.

01:00

That's great. Thank you very much for that. The time is just after 10 o'clock, and this issue specific hearing for the A47 North Tuddenham to Easton during project is now open. My name is Adrian Hunter and I'm a chartered town planner and are employed by the planning Inspectorate. And I've been appointed by the Secretary of State to examine this application and I constitute the examining authority for this application. There are three more colleagues from the planning Inspectorate here this morning, you've already spoken and heard from Mr. Hansen, who's the case manager for today's hearing. I'd also like to introduce Mr. Steven Parker and Mr. Max Baldwin, who are also from the case team. If you have any questions regarding the application process in general, could I ask in the first instance that you direct them to the case team, we'll be more than happy to help. No requests have been made very special hearings or arrangements to enable participation in this hearing. But Mr. Hanson just confirmed that that my understanding is correct on that before I proceed. I can confirm that. Thank you very much. Just before moving on to the items on the agenda, there's just a few sort of general housekeeping and introductory matters that I would I would like to run through if I could, please keep all audible notifications for electronic devices switched off Can I also can also help just to help reduce the background noise and disturbance. That unless you are speaking that you have both your microphone and your camera turned off. As this is a virtual hearing, or structured today's session in such a way that any questions or points that you may wish to raise can be done, sir, at the relevant point in the proceedings. When we get to those points. If you want to speak, please use the raise hand function. And please were to be invited to speak or asked to speak at the appropriate time. Please speak loudly and clearly. For the purpose of identification, ease of reference, could I also ask that at every point you speak, please get to give you a name. And if you're representing an organisation or an individual you stay to that is. And furthermore, if you use an abbreviation or an acronym, can you also please get the full title the first time that you use it? Is the maybe people here or people listening on the live stream or the audio who aren't necessarily familiar with all the documents. Also, the chat function in Microsoft Teams will not work. So please don't try to use this to post any questions or to make any comments. If

you don't make sure read your question, or make your point at the appropriate time, there will be an opportunity towards the end of the end of the agenda on Item eight for you to sort of raise any questions and under any other business item there. There's a digital recording being made at this hearing. This will be made available on the project page and national infrastructure website as soon as possible after the hearing is closed. If you take part in the hearing, it's important that you understand that your comments will be recorded, and that the digital recording will be published and retained, usually for a period of five years. From the Secretary of State's decision or search the planning inspector is subject to the general data protection regulations. It's very unlikely that you'll be asked to put sensitive information such as email addresses, and economic financial cultural health related matters since the public domain and indeed I would actively encourage you not to do so. However, if for some reason you feel that it is necessary to refer to sensitive information, encourage you to speak to the case team in the first instance. And we can explore whether that information could be provided in a written format and redacted prior to being published. Please bear in mind that the only official recording of it proceedings is the digital recording that we placed on the project page, the infrastructure website, tweets, blogs and similar communications arising out of the meeting after the meeting will not be accepted as evidence into the examination. Just before I come on to some other sort of housekeeping bits. Does anybody have any questions on what I've said so far? Okay, that's great. I'm not seeing any hands up. So I'll take those, everything's okay. As we're conducting the event virtually rather than as a physical face to face the dynamics may be different for those participating and observing. By this, I mean, you may see me looking away from the camera and appearing not to engage with speakers. This is because I may be making making notes or looking at materials on screen, I do have a second screen over to my side with documents on, but I can assure you that I will be paying close attention to what is happening. I will also likely to mute my microphone as well when you're speaking just to avoid disturbance. The purpose of this examination today is for me to examine the information submitted by the applicant interested parties and effective persons lottery issue that I'm familiar with all the documents that have been submitted to the examination so far. Therefore, when answering any questions, you don't need to repeat at length something that has already been submitted. If you want to refer to information already submitted, please do but I'd be grateful if you could give me the pins reference from the examination library, then at least I've got a note of those documents.

06:03

This is a public examination, and therefore you if you haven't indicated that you wish to speak, if there is a point that you wish to make, please feel free to indicate at the relevant time that you do wish to contribute. Today's hearing will be a structured discussion which will be led by myself based on the agenda which has already been published. The purpose of the hearing is for me to ask questions and seek answers to my questions that I may have and to ensure that I have all the information that I need to help make me my recommendation to the Secretary of State. As I've already said today's issue specific hearing is being held to explore a number of matters or relate in respect to the draft dcl. In particular, its purpose is to and the aim of today is really to clarify issues around the dcl how it is intended to work or be consented extended the powers and what requirements provisions and agreements are proposed. Identify any possible issues of prevention, mitigation or compensation, which are not quit about the dcl is currently drafted and establish or confirm the views of other interested parties as to the appropriate portion ality or efficiency of the DCO. This stage, it's important to highlight that I won't I will not be discussing any matters in relation to environmental issues or

matters of compulsory acquisition, said where there are specific articles or requirements in the draft DCR, which cover these topics. I am however, holding hearings later on this week, which will focus on these matters. The agenda for this issue specifically was published on the project page, the infrastructure website out on the 20th of October, and it'd be useful to have a copy of that to hand. Now, there's a general zone for guidance. And I may add other matters or issues for consideration as we progress. But I will seek to ensure that I allocate sufficient time to each issue to allow its proper consideration. I'll conclude the hearing as soon as all relevant contributions have been made. And all questions that I ask have been responded to. If the discussions can't be completed, and are likely to take longer than anticipated, may be necessary to prioritise matters, and refer others to further written questions or further issue specific hearings. It's important that I get the right answers to the questions that I'm going to ask however, I would remind you that the examination process is predominantly a written one. Therefore, if you can't answer the questions or require time to get the information requested, rather than giving a restricted or potentially wrong answer, in the interests of the smoother in the examination, please indicate that you will need to respond in writing and that I can then defer the questions the next round of written questions or later hearing give more appropriate just for information in terms of documents that I'm likely to be referring to are what we will be referring to as we as we go through the is the draft development consent order, which was submitted at deadline three, and probably the one that I think will be most helpful is that tract version. So at least we can see where it where changes and alterations have been made. And the reference for that is our EP 3010. Accompanying that also submitted at deadline three is document 9.4, which is the draft term and consent are a shedule of drafting changes, which is document our EP three dash 019. And then finally, the accompanying explanatory memorandum, which was submitted at deadline to and again, the track version, I think is useful because again, we can see where alterations have been made. And that reference is our EBT 2009. So just before I move on to deal with items on the agenda, are there any questions or comments at this stage about the procedural side of today's hearing and the agenda?

09:51

Okay, great. Again, I'm not seeing any hands up. So what I'd now like to if I could do is move on to the names of people who are looking to speak at today's Hearing. If you could, like I said, please state your name when I asked you in sort of detail who you represent that would be helpful. And perhaps if I could start with the applicant, and I'm guessing that's Mr. Frey as previous hearings that we've had.

10:18

Good morning, Sir Michael Fry, the applicant? Would you like me to introduce my, my team? Or actually my team is one today, what I propose to do is introduce you to the lady who's responsible for the draft DCO. And should anyone else be required to answer a question? I'll ask them to introduce themselves at the time rather than go through the whole team now.

10:37

So I think that's fine. That's sensible. So yes, please. In which case, can I introduce Miss Kate Ashworth? Who will be speaking to the DCO.

10:46

Morning, sir. Okay, Tasha, for the applicant. I'll hopefully be taking you through the DCO and answering your questions on articles and requirements.

10:55

That's great. Thank you very much.

11:01

That that is it for from the

11:03

perfect. That's great. Thank you very much, Mr. Frey. And if I could not just go to the local authorities, if I could, please, starting with Norfolk County Council.

11:17

Good morning. So it's David coming on the strategic transport team manager at Norfolk County Council. And we have made a written representation. And I don't anticipate wanting to raise anything further during the day, but obviously, I'm happy to participate and answer any questions.

11:35

Okay, that's great. I do have one or two questions of clarification that may need you to come in on but that's fine. That's great. Thank you very much. And are you on your own today? Mr. Cummings? Are you supported by anybody else? So

11:46

I had one colleague, I believe I'm supporting me to Dan. I'll allow him to introduce himself if that's okay. Yeah, thank you. I'm John personal from senior Historic Environment officer and Norfolk County Council.

12:08

Good morning, Miss personal. Thank you. And then if I could go to Breckland. Council, I think Adams to Simon wood.

12:17

Yes. Good morning, sir. My name is Simon wood. I'm the director of planning and building control for Breckland. Counsel. I don't anticipate contributing significantly, but I may have one or two queries in respect of the DCO depending on how the day goes and what the applicant says. That's great.

12:38

Thank you very much, Mr. Wood. And then I have Mr. Johnson, who's looking I think at the two councils broadland and South Norfolk council as well.

12:51

Good morning, sir. Yeah, that's correct. Charles Jetson principal planner, representing both broadland and South Norfolk Council.

12:59

Good morning. Thank you very much that. And then in terms of interested parties, I have Mr. Hawker.

13:15

Good morning. Hope you can see me can Yes, sir. I'm Richard Hawker. I'm a private individual. I was a parish councillor, but I've recently left and I have I have a few queries really about the whole system rather than individual aspects of it. And perhaps that is to say that may be better for me to raise in any other matters.

13:46

Yeah, yes, it might well be maybe that as we go through some of those might get resolved or it may be that you find there's there's an appropriate point for you to to pursue your question. So by all means, use the hands up function if there's something or whatever or if you haven't felt you've got everything covered or the the item eight on the agenda where we do other any other business then by all means we can we can pick those up there needs to be Thank you. So in terms of attendees that everybody I have on my list, but just to clarify is anybody else who I have not read out who's here today who's looking to speak and like I said, not mentioned specifically.

14:34

Okay, that's great. Thank you for that. Okay, well, that brings to the end item one of the agenda. So the welcome introductions and just setting out the arrangements for for the hearing. I'd now like to move on to item two, which is articles and schedules of the dcl. And under this item, what I'd like to do is just go through the various items. Schools and schedules at the draft dcl. I do have a number of questions and points of clarification in relation to some of the some of the articles. But I think the best way probably is for the applicant to sort of take us through various articles, and I will ask my questions at the appropriate points. And so if that's okay, I think we'll we'll proceed on on that that basis. As I've mentioned, in terms of other representatives, there'll be an opportunity at the end for interested parties to raise any questions, but do feel free to pop up your hand as we're going through if there's anything good that we're discussing, that you'd like to make points on. And then we can sort of cover those off at the appropriate points. Apologies, typically, my doorbell is just going off. So hopefully somebody else is going to it's never for me, so somebody else will deal with that. Mr. Hawk, I can see your hand is just popped up. No, it hasn't gone down again.

15:55

Oh, sorry. I I've just opened myself up to just a brief question. Running through your agenda. I mentioned articles and schedules. I can see schedules in the draft DCO. Can I can't see any mention of articles. Exactly. What does the article mean? What does that refer to?

16:15

What are the then presses? When I hand over to Miss Ashworth? She can talk you through what each one means. And then whatever. But that's but that's a question that perhaps if you could pick up so I should have asked you? Is it miss Ashworth? or Mrs. Ashworth? How would you like to refer to you just to a I'm correct.

16:33

Miss Ashworth? That's great.

16:35

I just really, but yeah, if you could, if you could pick that one up and explain the Mr. Hawk. And that will be that'll be helpful. But just before we actually start going through the actual draft DC, I've got a couple of general questions about the whole thing if I could, please. So firstly, just if you could confirm that it's been drafted in accordance with the statutory instrument templates, and that it follows the guidance and best practice for drafting in accordance with the latest version, the guidance from the Office of parliamentary counsel, but also follows the best practice from the planning inspector and the advice note 15. And also, secondly, I wonder if it might just be worth giving a quick overview as well, of the changes that have been made since the original DCO was submitted. And where we are now in terms of sort of updates and why they changed as well. And also, you could pick up Mr. hawkers points as well, and just clarify for him different schedules and articles and that sort of thing. That'd be really helpful.

17:35

Yes, key Tatra for the applicant. So in relationship, first question, yes, I can confirm that the order has been drafted in accordance with the statutory instrument template and is in accordance with the latest guidance. And I've prepared a brief overview would it be best if I go through that now to talk everyone through it? And then we can go into your questions? Would that work for you?

18:00

Yeah, that's absolutely fine. Yes.

18:03

Okay. So and then thirdly, in response to Mr. hawkers questions, which hopefully, my summary will address as well. The DCO is made up of articles at the front end now appreciate when you look at the draft and actually say, articles. They are the content starting at one citation and Commencement that those are the articles of the DCO. They set out all the different powers, and then we move on to the shedule. So when we're referring to articles, it's those first I think we've got 54 I guess, you might see them more as clauses, but in a structured instrument, they're referred to as articles. So, the text from this 847, North Tottenham to Eastern draft DCO is based on previous VCOs, which have been made in respect of highway schemes by the applicant. Part one deals with preliminary issues and contains the definitions for the DCO. So where you see a term referred to the DCO, very often, it is defined at the front end of the document. Part two, sets out the principal powers. This is the key operational part of the order, particularly Article Five, which grants development consent for the scheme by reference to the 99 works, which are set out in schedule one, and they're also shown on the land. That's why the works plans that development consent is subject to the requirements in schedule two. And part three deals with streets. So article 11 provides for the works to be major highway works under the new roads and street Works Act 1990. One, and it supplies a number of requirements under that Act to allow works proceed. Article 12 provides for the construction and maintenance of highways and streets, which are not Trant words. Article 13 makes provision for the classification of roads. And that's by reference to

parts one, a two and two a of sheduled. Three and also relates to the classification of roads plans submitted. It deals with speed limits set out in part four of schedule three, and they are shown on the traffic regulation plans. It revokes a clearer way along the existing a 47 which is highway being stopped up as well. And that's dealt with in part five of schedule three and also shown on traffic regulation plans. It deals with the creation of footpaths, footways cycle tracks, and bridleways. Those are listed in part six of sheduled. Three and also shown on the rights of way and access plans. D trunking. of certain roads is then listed in Part Seven of schedule three. And those are shown on the D trunking. Plans. Article 17 then provides for the stopping up of streets, private means of access. These are all shown on the rights of way and access plans, and then listed out in sheduled. Four as well. Where a substitute is to be provided. There are also controls designed to ensure that the substitute is provided before the stopping up, or that a temporary alternative remains in place until the substitute is provided. Article 19 then provides a new clear way restriction for the new mainline a 47 and the slip roads. And that set out in part eight of schedule three, and then also shown on the traffic regulation plans. So moving on to part four. This sets out some supplemental powers. These are generally standard powers included in the DCO and include provisions such as the discharge of water into water courses, sewers and drains, protective works to buildings and authority to survey and investigate land. Part five deals with powers of acquisition. This allows the undertaker to acquire the land and rights acquired required for the scheme. That land is described in the book of reference, and also shown on the land plans.

22:56

It's divided into three categories. Pink land, which may be acquired permanently blue land in which new rights may be acquired permanently restrictive covenants imposed and which may also be used temporarily. And then we've got Greenland which may only be used temporarily. The land in which only new rights may be acquired or restrictive covenants imposed is listed in sheduled. Five to correspond with those blue plots on the land plans. And that also states the purpose for which they may be acquired or imposed and the works to which the rights and restrictive covenants relate. And then the land over which temporary possession can be taken only is listed out in sheduled. Seven of the DCO. And that's set out alongside the purpose for which temporary possession may be taken and the works to which that possession relates. Article 25 imposes the usual five year time limit applied for those powers to be exercised as well. So in terms of Part Six, that deals with operational provisions, there's a power to fail or lots of trees and shrubs and also to remove hedgerows. Those hedgerows are set out in schedule eight and also shown on the hedgerow plans. There is also an ability to remove other hedgerows if the concept of the local authority is given. And there's also a power to fail or lock any trees where a TPO has been made after the 24th of July 2020. That date is the date of the arborio cultural survey. So post that date, the applicant wouldn't be aware of any TPO is made and wouldn't have been able to integrate coorporate those into any designs or assessments. Part Seven deals with miscellaneous and general provisions. They're generally boilerplate articles, and deal with the non application of landlord and tenant law, operational land, defence to proceedings for statutory nuisance provisions relating to the compulsory purchase code, including prevent preventing double recovery and appeals for proceedings under the control of Pollution Act 1974. There is an article which gives effect to the protective provisions which are set out in schedule nine. And then there is also a power to use consecrated land, which has been included because we are aware of the presence of consecrated land within the order limits. And finally, that section deals with certification of documents. Those are all listed

out in sheduled 10 of the DCO and will be certified as part of the order. That's, that's my summary of the order. I don't know if you've got any questions.

26:16

Thank you very much research with that. That's very helpful. Thank you. And I do have some questions that I will I will run through, but perhaps I could just check with Mr. Hawker if that answered his sort of questions sufficiently in terms of the articles and things before I then proceed to my question. So, Mr. Hawk, are you satisfied that just gave you the information that that you needed at the start?

26:40

Regarding the articles? Yes. So in other words, we are to assume that just means something, a clause beneath either a schedule or part? Because there's two parts, those are the parts one to seven, and then schedules one to 10. Yes, anything underneath. One of those is considered an article.

27:05

Timely, only in the front end. So when we're talking about vegetables, we will refer to requirements or paragraphs. Apologies, I know that's slightly unusual. But yeah, that only up until the start of sheduled. One, our articles and then after that, we'll refer to them differently.

27:28

Thank you, I'm just surprised that there's not a little note in the top to explain that too. Yeah, it's because all women like me, you know, effected,

27:37

if approved, it becomes secondary legends. So it's got to be drafted in a particular way that it becomes secondary legislation. So there are particularly rules and regulations, which I do perhaps doesn't make it as easy to understand for but unfortunate that that's the nature of it. But hopefully, that sort of racing that you've got gives you an understanding of sort of how it's how it's set out, and how it will operate. Thank you. Great, thank you. We if I could just sort of briefly sort of run through sort of the questions and comments that I that I have. The first one is quite pedantic. Actually, I apologise. I don't normally pick up errors in grammar, grammar or spelling. So bits and pieces like that. But I think at the end of authorised development in the interpretation, desert, semicolon missing, but you'll be pleased. So that's the only bit of grammar or stuff like that, that I've picked up. So that's the last sort of red pen bit if you'd like. If we could then go on to Item also article number five, which is done with consent etc, which is the granting of the order. And thank you for your your explanation of that. What I just like to get an understanding is close to if I could, which refers to any enactment applying to land within or adjacent to, and if you could just explain to me what's meant by any enactment and the adjacent to as well. So how far away would these limits apply? And that'll be helpful to me.

29:12

Yes, sir. Can you touch with for the applicant, and so in relation to that section. Although a search of local documents, a high level search has been carried out, no search can be completely conclusive. So the provision is deemed necessary to ensure there are no other acts of a local nature that haven't yet been discovered. That would hinder the delivery of an end zip. So it is a cautious approach, but it

ensures delivery of the scheme is not jeopardised by incompatible statutes, some of which could be quite old. In terms of the proximity to the audit land, the example I sort of gave his Imagine if you had some. I mean, this doesn't necessarily apply to Tedman, some railway legislation, it can affect it applies to railway land, but then it also applies or restricts activities on land adjacent to that railway. So although the railway is not part of the order limits, it may actually have a wider reach. And so what this seeks to do is ensure that, although the land to which the local enactment relates is adjacent to the order limits, ie the railways outside, it could actually encroach into the order limits. So that's the intention of that drafting.

30:42

Okay, that's how it's only fair that the adjacent to it would share a common boundary with it wouldn't extend there wouldn't be a gap, it would extend beyond that it would have to share a common boundary or an overlap with the DCO. area. Okay, that's correct. Thank you. Okay, thank you for that one. And we could move on to Article Seven, which is, which is planning permission? And, and I appreciate this was a question that I asked that my first reading questions. But I think it would just be helpful to get a bit more justification in terms of what this is. And in particular, whether this by default could end up with changes to the DCO happening without actually going through the formal VCL process, if you like, because of of that that clause there.

31:33

Yes, sir. Kay, Tasha to the applicant. And so the purpose of this article is, is not intended to circumvent the material change provisions, it's provided to give clarity to subsequent chapters of the planning history. So I think the example we gave in our response to written questions was where land is taken temporarily, under this order, and then it is given back to a landowner, they may then want to do something else with that land or apply for planning permission. So this article has been included to make it very clear that development that would qualify as Town and Country planning, development is not secluded from coming forwards at a later date. But clearly, the rules around a change to a DCO. And the rules around what qualifies as an insert would still apply, just to make sure that was that that I think is the primary example of where we wouldn't want a TCPA application to be prevented.

32:48

Okay, that's great. Thank you very much for clarifying that. And so my next question is the next article down eight's limited deviation. And really, I think, from my perspective, it just be helpful to understand what the process is for sort of agreeing variations beyond the one metre that you've set out, and when this would be agreed. And in particular, the third line up from the bottom that refers to certifies accordingly, be helpful to know sort of what that means is that in writing, should it be amended to make sure that it is in writing from the secretary of state if that's the case, and then really, if you could just sort of demonstrate exactly why it is necessary to have this element that goes beyond that, that one metre of a deviation

33:46

okay tasked with for the applicant. So, the additional additional flexibility, which is it is subjected to separative state approval, as you stated, following consultation is provided in case additional deviation is necessary to ensure that the scheme can be constructed. So, I think the example given in our

response was to do with ground conditions. So allow for that additional flexibility, following more detailed surveys on the detailed design being developed. So, for example, drainage in a certain area means that there are small variations in excess of the stated limits. And that's where that would be necessary. And given the stage of design that we are at and the topography of the area in this sort of long linear scheme, then that flexibility is deemed appropriate and justified by the applicant. It does also have precedent in other orders. I set out in the expansion memorandum in terms of the detail around being certified by the Secretary of State That might be one that might be helpful for us to come back to you in writing. And then in terms of the exact procedure of how that would happen, if that's okay with you, sir.

35:14

Yes, that's that's absolutely fine. So yeah, we could be making that. That'll be that'll be helpful. I think from, from my point of view, it's just trying to understand how that process would work, and how the Secretary of State would certainly that and approve that if you'd like. So whether that's a written process, and whatever, but yeah, if you're able to make a note and compare it to me on that one, that would be, that'd be great. Thank you.

35:38

Yes, my understanding is it would be a written process that will confirm the procedure. And

35:43

then if you could review whether it needs to specifically say in writing as others do, that would be helpful as well. Okay, yes.

35:57

So my next question is article 10. Consent to transfer benefits of the order. And from my perspective here, it would just be helpful to sort of get a justification of why and what instances such a power might be needed to transfer to a person is appropriate. And particularly whether that would also include the transfer of compulsory acquisition powers as well, or whether it's just the authority to do the work? Yeah, my some supplementary questions depending on on the answers to those.

36:36

Okay. Yes, the key data for the applicant. The transfer of Benefit Provision is and the consent to transfer, the benefit of the audit is something that is included in most development consent orders, because as you know, The Undertaker is very narrowly defined, and the timescales involved for the delivery of this project. Although there is no anticipated change in the Undertaker, it is possible that that may happen. So I think it's very important that this provision is included. And in general, the consent of the Secretary of State is appropriate to be sought. However, we have identified in that article, certain circumstances where it's not appropriate, particularly in relation to the movement of apparatus held by statute, Undertaker's as they usually like what it is preferable that they deal with their own divergence, if at all possible. So that's the explanation for article 10. Pages 10, isn't it? And again, there is precedent for that in other orders. In terms of your question regarding compulsory acquisition powers, at the moment, my understanding is the way it is drafted. That would apply. However, I we are currently reviewing that wording, in light of some other questions that have been raised. So I don't know if it'd be

helpful for us to take that one away. Just to clarify, I know we've been asked a question about compensation. In relation to another, another piece of the drafting, so I think we need to take that one way and confirm, but the applicant has confirmed they would pay the compensation.

38:40

Okay, that's fine. Yeah. Well, again, happy for you to sort of take that one away. My supplementary question on the back of that it appears if it does include compulsory acquisition powers. It's sort of the idea of needing to demonstrate sufficient funds for the compensation. So I think, which I think is what you've you've just picked up on as well. So that's, yeah, yes.

39:01

And we have noticed a discrepancy in the drafting. So I think at deadline for hopefully we can propose some revise wording that might assist.

39:11

Okay. Thank you very much. Yes. So happy for that wanted to be dealt with in writing. That's, that's okay.

39:25

So my next question, relate to article 13, which is classification of roads. And in particular, it's number seven of that. And it was really just to confirm in my own mind, initially, the cycle track whereabouts that that cycle track that's referred to is And then, in effect, what perhaps if you could just clarify with psychopaths first, then I can then follow on with with other questions that may come up on the back of that rolling over loaded media with lots of questions to begin with.

40:15

Yes, sir. Kay, Tasha for the applicant. From memory, it is on sheet 10 of the works plans. And I refer to don't have the reference number. But that, so it's there's a roundabout in the middle of the sheet and the cycletrack is to the left of that roundabout, which links in with the woods.

40:49

Okay, so it's the one that goes with it. Northwestern link road. Is that the one?

40:55

Yes. So it's the Yes, it's the one was just like her work number 26. A and then it, it terminates, you'll be able to see just at the end of that curve. And then from that point, that links into a restricted byway diversion.

41:14

Right. Okay. Yeah, that's fine. That's okay. Thank you. So it's really is where I thought it was because always, always helpful. And so my supplementary questions really are the way that the clause is written, does that mean that that footpath may never actually be provided, given it sort of open for use on such a days to be undertaken may determine, to really sort of clarification of how that will be delivered and also matter. Yeah, just just that point, actually, to begin with first.

41:43

Yes, sir. Okay, Tasha for the applicant. That is correct. And all the other rights of way, public rights of way have been deemed necessary mitigation, they they will be delivered, and they will be open when the scheme is open for use. But that particular route will not come forwards if the end WL has consent. Because it won't work as part of the scheme. So it's we did that particular element is an optional element. And that's why that work has been carved out from the rest of that route, which is necessary to ensure I think our be one restricted by one is continued. That link is an optional link. That may or may not conformance.

42:32

Okay, thank you. That's helpful. And what I would like to do is Mr. Coming from Norfolk County Council, I'm not sure whether you have any particular comments or thoughts on on these elements. This was the point that I said I may have for you later on. So this is the point.

42:51

Yes, thank you, says, David, coming Norfolk County Council. Yes, we remain in discussion with the applicant about the average Western link scheme, and the a 47 scheme, and the various places where they they do overlap. And I think it's fair to say that this is one of those areas where, you know, we remain in discussion.

43:16

Okay, that's fine. That's helpful. I'm pretty sure this may well come back up when we get to the environmental issues session in in a few days time. But that was, that's helpful for my perspective, just to clarify what that clause refers to.

43:35

Okay, so my next questions relates to article 14 power to alter, layout, etc, of streets. And it's under number two, where the The Undertaker must restore and it was just to seek some clarification on those sort words must restore sort of by when, and sort of how is all this secured into to what standard and all those sorts of things in terms of getting those to a level that that landowners will be will be happy when they've been handed back? I suspect.

44:17

Yes, sir, sorry, just reading the relevant part and key data for the applicant in relation to Article 14. Two, it does specify that it must be to the reasonable satisfaction of the street authority. And my and my understanding, is that something that will be agreed between the parties at the time so it's not currently possible to define what what reasonable satisfaction might be, but it is, it will be done in consultation with the street authority. That is very likely to be the local highway authority, that the street authority Has has been referred to. Because in certain circumstances if the road is not adopted, then the street authority may be different in terms of the timescales. At the moment that that isn't set out as it will be dealt with as part of the scheme and the detailed design, so it's not currently possible to give precise timescales of as and when streets will need to be altered. So it will all be dealt with as part of the detailed programme. But it's not deemed appropriate to have that restriction in the article.

45:53

Okay, so presumably would form the basis of some document or some agreement. Once the scheme is got to a particular sort of advanced stage, there would be a document that would list where these will be found and where they would and how and what what the timescale is for their reinstatement.

46:12

Yes, my understanding is that the the applicant is liaising with the local highway authority at the moment regarding the de trunking of roads and any alterations to those roads.

46:25

Okay, thank you. My next questions relate to article 16, which is temporary alteration, diversion provision and restriction of the use of streets. Again, this seems to be quite quite a wide power. So it'd be really helpful just to sort of get a an understanding of why the power is necessary. And whether consideration has been given to identifying which specific streets it applies to. And because I think the wording at the moment is sort of any any street. And just to provide that justification, the power is appropriate and proportionate, considering the impact that this would have on pedestrians and other road users. And no, that's fine. The other question, I think, if you've picked up on other things, so I thought I'd leave it on that one.

47:25

Okay, yes, the key touch with for the applicants. So, in relation to Article 16. It does allow for the temporary alteration, diversion or restriction of streets, and that is referred to as any streets within the order limits. At the moment, as I as I stated previously, because the detailed design has not yet been carried out, it is deemed necessary to maintain a sufficient degree of flexibility in this article to ensure the scheme can proceed. The powers in article 16 provide that flexibility. And I would also add that the article broadly reflects the powers of a highway authority to make temporary traffic regulation orders under the road traffic Regulation Act 1984. In terms of the right to exercise these powers, it's not unfettered, the changes must be for the purposes of carrying out the authorised development and where the undertaking is not the street or authority, the content of the street or thority is required. And that's article 16. Four.

48:47

It also requires that reasonable access is provided for pedestrian access to affected premises, and there's also a compensation provision to provide additional protection for any person who may suffer a loss particularly in relation to a private right of way. In light of all of those things on the stage of design, that the scheme is at the power is is considered necessary reasonable and proportionate by the applicant.

49:25

Okay, thank you very much for that. Thank you. Next one relates to article 18, which is access to works. And again, similar sort of question of which I think the answer may well be the similar sort of answer, but just to sort of provide some explanation of the purpose and the power and whether it's appropriate.

49:56

And again, the remediation of the Access works if needs be as well.

50:06

Yeah. Yes, Kate Ashworth for the athletes. So we've set out a brief explanation in the expansion memorandum. But it allows accesses to be created within the order limits. It's anticipated that the article will be relied on by the applicant to provide temporary accesses during the construction period. And as I've stated, this stage of design means that they're not capable of being specifically defined at this stage. It does, it is based on a model provision, but it does depart slightly and provides a general power to to provide a means of access. And the the attention of that is that it's similar to the powers available under the Highways Act 1980. In terms of I'm not sure if that answered your question, sir. Or is there something else I could?

51:13

No, I think I think that has answered the bulk of my question. The only sort of follow on question to that is what it doesn't say within there is the word temporary. Okay. Now, whether, again, that's something that it should make specific that this actually only does relate to temporary accesses, I suppose, because it just sort of says loud means of access or improve existing means of access. So perhaps I can leave that with you to, to think about whether the wording needs to reflect that it is actually only for that temporary means of access?

51:47

Yes, certainly. I mean, there are permanent means of access, as you know, sets out on the right server and access plans. So I'll take that one away. And we'll work out whether it is appropriate to include temporary.

51:59

Thank you. My next question is on Article 21, which is discharge of water. However, it may not be a question that that's for you, I was wanting to look at Article Five, or it says, And this article is as free as maybe practicable, from gravel, etc. And it carries on that. And I was really going to ask whether it'd be natural in the event agency, if they were here, whether they were happy with the wording of that. So it may be that's something I will pose as a in my next set of written questions for them just to pick up that wording and to make sure that that's something that they they're happy that that goes far enough and is of sufficient strength to protect what what they need to protect, and suppress this, there's no need to pick up article 21. And if we could go on to article 22, which is protective work to buildings. And again, it would be helpful to sort of explain and justify this, but also perhaps just sort of give me an indication of sort of what is classed as protective works. And how far beyond the order limits? Could this extend? Or is it just limited to within the order limits? And if it does, sort of sort of how far and also whether the five years period is sufficient and or why the five years has been identified in particular.

53:38

Yes, sir, key data for the applicant. So article 22, has been included as a power to give the applicant the ability to carry out protective works to buildings. And that's if they're deemed necessary. So in the response to the written questions, I explained that although at the moment, no, no Xpress mitigation is

required. The works are relatively close to St. Andrew's church and St. Peter's Church. So the applicant thought it was prudent to include these powers, there is no Express requirement to use them but it's there in the event that any unforeseen effects become apparent. It does have precedent in other orders, as we've set out in our explanatory memorandum. In terms of your question regarding the location of the building, my understanding is that is sort of limited by 20 to one so it's it is any building, which may be affected by the authorised development as the undertaker considers necessary. expedience so. So I can't give you an exact spatial definition. I think it needs to be wide in case impacts are becoming apparent, with a building that that isn't directly adjacent to the scheme. In impacts, you know, we'll have a limitation as set out in the environmental statement, in terms of vibration particularly is what I'm thinking of. But I think it needs to be wide to allow the The Undertaker to carry out protective works

55:46

that's fine. Thank you for that, sorry, just scribbling back down. That's great.

55:51

Oh, sorry, Said you asked for a definition of protective works as well. So that is article 2211.

56:06

Thank you very much for clarifying that. Thank you. Okay, so my next one relates to article 26, which is time limit for exercise more authority to acquire land compulsory. And I know you're answered in I think this is one of my written questions again, but it might be just helpful if you could just sort of explain and justify in more detail why this provision is needed. And just clarify whether as a result of how it how it's written, could it could it result in temporary land being retained indefinitely? What are the sort of protections and clauses to sort of prevent that from from happening?

56:56

Yes, okay. Tasha was the the applicant. So it was this article 3426 But

57:03

I think 2634 got some largest Yeah. 26 Mainly please.

57:08

Okay, so the time limits for exercisable thorty to acquire. Sure. So, this, this power yet, so the two the two questions, so 34 Awesome. Article 34. And article 36 were linked. So the exercise of the powers under Article 34 is subject to the same five year period as mentioned in article 26. However, the length of possession is then dictated by article 34. So, in terms of the we talked about earlier, the pink land and the blue land, that five year limit applies, and permanent acquisition of land or rights must be exercised either by way of general vesting declaration or notice to treat in relation to those plots in relation to the green plots, which is temporary possession, that is not a type of acquisition, it is just a temporary possession. So therefore, in relation to that article 34 does set out the timescales. So it's 34 Three, which deals with the timescales. So the undertaking is not without the agreement of the owners remain in possession of that land. And that's, that's the land set out in shedule. Seven. Until So, it's one year beginning with the date of completion of the part of the authorised development specified in

shedule. Seven. So once that work is completed, it's one year post that date and then in relation to any other land, because temporary possession may be taken over pink land or blue land as well, then that is the same timescale unless a Notice of Entry, or general vesting declaration has then subsequently been executed, which would change the parameters of that possession. Does that answer your question? So?

59:39

It does because it follows up my next question, which is presumably 26 and 34 work hand in hand and together and need to be sort of seen in that light. So actually, you'd sort of answered the next question that I was going to ask which which was that very much sort of pointed sort of how the two would work together. So yeah, that's that's how helpful on 26? Thank you

1:00:15

Yes, my next one is article 35, which is temporary use of land for maintaining the authorised development which appears to allow temporary possession of any land within the order limits regardless of whether it's listed in the in the DCR schedules. So really, again, a question of sort of justifying why you may need these these wide powers within necessary and appropriate and also sort of what steps have been taken to landowners occupiers, etc, within the order limits that this may well be a possibility.

1:00:48

Yes, sir. Kay Tasha for the applicant. And so this article 35 relates to maintenance. So rather than carrying out the development, This article provides powers, once the works are complete, it is based on a model provision. And in terms of the land to which it relates the landowners have been consulted in relation to the scheme coming forwards. This particular article applies to a maintenance period of five years from the completion date as well. So it is time limited, and it may only be exercised if access is reasonably required. And that is on 28 days. Notice. I think that's. Does that answer your question, sir, or

1:02:03

that's fine.

1:02:03

When you say consultation, is that the consultation on the scheme that's been carried out? Or is that specific consultation to let landowners know that their land may at some point, we did not find it may be required for maintenance purposes. So is there a specific exercise been carried out with regard to that? Or is it just been wrapped up in the wider consultation on the scheme itself?

1:02:29

I may need to take instructions on that point. So if I could come back to you in writing on that particular point,

1:02:33

yeah, that's fine. Yeah, that that'll be helpful to sort of clarify that. That'd be that'd be great. Thank you very much for that. And mine, next one is relate to an array. Take these together if I could articles, 40 and 41, which is the felling of lopping of trees in rural hedgerows at 40 Trees subject to tree preservation orders, which is number 41. In terms of, certainly in 40, in the opening line, there refers to going to take a federal law any tree or shrub. And so my question is sort of how does the included the word any that relate to the agriculture impact assessment that's been done their environmental management plan, and then the trees that are identified in the environmental statement to be retained?

1:03:26

Yes, sir. Kay, Tasha for the applicant, and in relation to Article 41. My that particular power it is limited by a and b. So it isn't just a blanket any any tree or shrub, it is only where that particular tree or shrub is obstructing or interfering with the construction, maintenance or operation of the authorised development. So that that sort of deals with any unforeseen circumstances whereby, and you can imagine it would be quite limited circumstances. And then B deals with constituting a danger to persons using the authorised development. So, again, you can imagine this applying in an operational sense, the applicant needs to make sure the strategic road network is safe for users. So, again, that that the justification for including this power

1:04:31

Okay, thank you. I think what I'm trying to sort of get clear in my mind is, of course, there's a significant mitigation, and I don't want to sort of get too much into the environmental side of things, but there's mitigation that the scheme relies upon including trees, some of which are to be retained. Are you telling me that the A's and B's in 1441 are sufficient to ensure that actually what it's saying that the only trees that could be taken down or likely to have already been identified as trees to be removed within those supporting documents.

1:05:09

My understanding is yes, I'm just trying to get the wording of Article, Article Five up, again because Article Five, five yet, specifically states, so it's the subject to the provisions of this order, including the requirements in schedule two. So all development would still be subject to the requirements. And there is then a provision in the environmental master plan in the in the table of commitments, that deals with the retention and removal of trees.

1:05:58

Okay, so let's go through other articles, and then the requirements that that provides the protection that's been identified through the environmental work that's associated the scheme. Right. Okay. Okay, thank you that that clarifies that and, and then just still on 40s? Yes, on 40. And on C, which is open to two and then C. It refers to the wildlife and countryside x and the habitats and species regulations. The only sort of couple of words there is take steps to. And my question there is, is that sufficiently strong enough? But also that same wording doesn't appear in number 41? And is there a reason for whites not included in 41?

1:06:56

Thank you, sir. I'm Kate Ashworth, the applicant so I'm just having a look at the wording now. Think in terms of that particular wording? My understanding is based on precedent. But I think it might be useful if we take that one away. And again, come back to in writing on the nuances of the wording used if that's okay.

1:07:22

That would be helpful. If it is based on precedent to give me the indications of where it's come from that will be that'll be helpful to me as well. Yeah, thank you very much.

1:07:36

And then my final question relates to article 53, which is arbitration. And again, it's just a justification as to why that's needed. Because I'm aware that I think there's been a couple of recent DCS videos to a couple of wind farms where the Secretary of State has struck out the arbitration clause. And so if you could sort of explain justify why that's needed in this instance.

1:08:05

Yes, sir. I did. Take a look at this, the wind farm orders were granted by the Secretary of State for business energy and industrial strategy. Whereas these articles are being granted by the Department for Transport. My understanding is that this article has been in place in the last six DCO is granted by Detective State for Transport. And therefore, I'm not aware of any problems with the drafting, per se, although I am aware of the issues raised in the wind farm orders. On that basis, the applicant sees no reason to remove the arbitration clause, it is important to have a dispute resolution provision in a development consent order. And that that is the the applicants prefer drafting.

1:09:10

Okay, that's great. Thank you that that's helpful. Thank you very much. And that is the extent of my questions in terms of all the various articles. I wonder if it's now worth rather than sort of just moving on to the Central's just seeing if anybody else has got any comments before we sort of move on to any shedule. So if I can just ask if anybody has any comments on or anything that we've discussed, or is there any questions or anything at this stage with specific regard to the articles that we've been through? Mr. Word, I see your hands up surprised if I could, I could continue.

1:09:53

Thank you very much, sir. That's appreciated. You dealt with probably most of the points that I had to through your questions, sir. But I do just have a couple of specific questions in relation to a couple of the the articles, you asked questions in relation to Article 22. I'll just scroll up trip myself. But that is in relation to I think emergency works of repair just died

1:10:36

within just a second. Yeah, see the protective works to two buildings, I just wondered, who actually deems the work necessary and who ensures that the work is carried out to reasonable satisfaction, there seems to be a lot of power invested in the undertake in relation to this to identify works to identify mitigation and to ensure that those works are carried out to a satisfactory conclusion. And I wondered whether there was a role for a another party to be able to draw matters to attention and that could be

some form of of arbitration within within that. joint trust, my question is typically, or I've only got, I've only got a couple and then that they're most Ashworth can can come back on them.

1:11:28

I was gonna I was gonna say, if you want to ask them, you know, in agree,

1:11:32

the other ones Thank you. So the only other one is in in relation to Article 41. And you touched on it briefly, paragraph two B, and it's the removal of the duty to replace requirement. And I will just say that, whilst I have I'm aware of the the mitigation and the environmental plans, I'm making the assumption, rightly or wrongly that this is to ensure that trees that they haven't been able to identify as potentially causing issues around the operation, etc, the construction of the of the road can be can be removed, in consultation with the local planning authority. But I feel that the duty replace is something that should also be discussed with the local planning authority. And when trees are identified to be removed, the The Undertaker has requirement to also discuss mitigation and replacement of those trees with the local planning authority as well. Those are my two questions.

1:12:42

Thank you very much, Mr. Wood. Thank you, Miss Ashworth. If I could come to you to provide a response on those. That'd be great.

1:12:48

Yes, sir. Okay, Tasha for the applicant. In relation to the first question, so that was article 22. For detective work to buildings. The power does sit with The Undertaker, because this order confers powers on the Undertaker, it is very likely that these buildings will be privately owned. And therefore it is not deemed it is not possible to list another party who could be an arbiter per se or console T in this particular circumstance. But article 22 Six does deal with the notice provision whereby the owner or occupier of the building or land may serve a counter notice within 10 days. And then that that requires the question whether it is necessary or expedient to carry out those protective works to be referred to arbitration, again, linking to the article we talked about, and that sort of demonstrates the need for that article. So there is a provision which does, I guess, limit the power.

1:14:08

And then in relation to Article 41. In terms of 41, two, B, as we talked about in 14, one, one, A, that deals with a situation

1:14:24

where it's, it's dealing with interference with operation of a strategic highway network or a danger to passengers, and therefore, it seems quite unlikely a replacement would be appropriate. And it's also not appropriate for another party to determine whether that's appropriate when it deals with the safety of on the strategic road network. That is for the applicant to determine

1:15:01

Okay, thank you, Mr. Mr. Boyd, does that answer your question sufficiently?

1:15:09

I think not wholly, sir. Sorry, Simon would reckon Breckland. Council. I think just going back to article 22, I think my concern was more about an ability of third parties to raise specific issues in relation to the condition of buildings, to the Undertaker, to identify those works that may be, may be done, and and a process by which those works would be done and would be monitored and will be condemned to be satisfactory. I appreciate that. odours can prevent works been done by having it by serving a counter notice. But it's the ability of an owner or another interested groups, such as civic community group to say, well, actually, we think the works being done to the church are such that they're causing a danger to it. What is the process of going to the Undertaker and saying the there needs to be remedial work done there? So sorry, if I didn't make myself clear. And just in terms of article 41, to be, again, I understand completely, that there are often operational and safety issues around the the removal of trees, and I have no issue fundamentally with that. I think there's a there's a requirement or suggested in the order that there would be consultation with a local planning authority in order to remove trees. It's just having that consultation not determinative, but that consultation with a local planning authority about the possibilities of being able to seek replacements where it's appropriate and possible to, to do so. So thank you, sir.

1:16:46

Thank you very much. Miss Ashworth. Is there anything that you want to add? I'm thinking in terms of that process. For article 22. Just sort of clarify how, how that would work. And I can see sort of where it's coming from in terms of how to party say, we've got an issue yet. Can you come in have a look at it, I presume and resolve it and deal?

1:17:08

Yes, MK Tatra for the applicant? I'm not not. My understanding is that that process wouldn't necessarily be appropriate to put in an article because the article confers a power on the applicant. Those sort of consultations and management processes are much better placed in the environmental management plan. And we'll need to go we'll take that one away and have a look what is set out at the moment, but there are controls in there to deal with the mechanisms, the appropriate mechanisms, but it wouldn't be included in the drafting of an article.

1:17:44

That's, that's fine. I appreciate that. But yeah, I think having that somewhere, and if you can't measure it is the most appropriate place that would be that'd be great. If you could take that one away. That'd be helpful. Thank you. Mr. Johnson, I see you've got your hand up as well, if I could come to you next.

1:18:05

Thank you very much. Yeah, this is on Article 41, as well, and specifically to see where it states the undertaking was consult the relevant planning authority prior to that activity taking place. And I was just after a bit of clarity about what that consultation means and whether that's an opportunity for the authority to object to it? Or is it more notification that these works are going to take place?

1:18:34

Thank you very much. Miss Ashford. Just to write some clarity on that. Yes,

1:18:39

Kate Ashworth for the applicant. I am just taking a look at so there is part two in sheduled. Two, but that deals with the procedure for discharge of requirements.

1:19:05

I think that might be something we could have a look at whether we could link that article up to those provisions who they do deal with how that consultation process would work. But again, I need to take instructions on that point and come back to you.

1:19:23

Happy for that. Yes, that that's fine. Mr. Johnson, you're happy for that to sort of be taken away and we get a response in writing on that one.

1:19:32

Yes. Yeah, that's absolutely fine. Thank you so much.

1:19:34

Right. Thank you Does anybody else have any questions? With regards to the articles at this stage before I sort of move move on?

1:19:57

No, okay, I'm not seeing any hands or anything. So I I'd like to move on if I could. And it's very briefly just to look at the the sheduled. And we'll come, we'll pick up the schedules in terms of requirements at the next data. And I suspect a number of the schedules will pick up as part of the compulsory acquisition side of things. So I only have one question on the show schedules, which relates to the final shedule, sheduled 10, which is the documents etc, to be certified? And it's just a sort of question just to confirm that all the documents are in there, because one of the documents I couldn't see was, I can see the environmental master plan, but I can see the Environmental Management Plan listed within those documents.

1:20:51

I will take that one away, it should be listed. So we will have a look. And if it is not, we can revise the list.

1:21:02

That would be great. Thank you very much. So in terms of my questions on that, on the number two, that deals with everything that I want to ask. So just before I move on to to item number three, it's actually I thought I could see you trying to get my attention. Yes.

1:21:21

Apologies. I was missing my back page. But I've just been told it's the very first document in that list. The EMP it's defiantly soon

1:21:31

as the MP i There it is. Thank you very much to the scurries. There we go. Thank you. That's one question dealt with today. Don't get good. Take off my list. Thank you very much for that. Well, that brings sort of the end to everything sort of I have to ask on it and to have the agenda. Is it before I move to Item three is anybody have got any more questions? Mr. Hawker. Mr. Hawker if I could come to you?

1:22:12

I'm very sorry. So I didn't bother to put my mute my microphone on Richard Hawker from occurring. The last point? I could see, yes, the EMP. The document that first iteration. And I noticed that the it's the second iteration, which crops up in most of the requirements. Should that be listed separately? Just a final question.

1:22:41

Thank you. Yeah, I'm sure we'll get on to discussing the process for the MP as part of the requirements. That's certainly the couple of questions that I have the press if I could just ask Miss Ashworth just to clarify the position on that one.

1:22:55

Yes. Okay, Tasha for the applicant. And so the list of certified documents or documents that have been prepared and then submitted with the application at submission point, and they will sort of form part of the order, the second iteration has not yet been prepared. So it isn't possible to submit it with the order and certify it is something that will be prepared and has to be prepared under requirement for but it has not yet been prepared. And it will be based on the first iteration. But it isn't yet available. So cannot be included. Hopefully that helps.

1:23:39

Mr. Awkward does the house like I said, I have some questions with regards to the requirements. Were the MPD is listed under the requirements that I'm sure pick up under the under the next one. But does that help in the in the first instance,

1:23:51

that was the situation Thank you very much. Thank you.

1:24:00

So that from my perspective brings us to the end of item two on the agenda. I'm just conscious that we've been going for a reason amount of time you grew up about sort of an hour and 25 minutes or so which is a reasonable time to be sort of staring at the screen and that sort of thing. So if it's okay, what I'm going to suggest is the perhaps we take a short break here, just a bit of a comfort break and a cup of tea or a glass of water or whatever it may be. So what I suggest if that's okay with the parties that we adjourn now till we take 15 minutes 1140 Is that okay with everybody? Okay, brilliant. Well, if everybody's happy with that, we'll come back at 1140 So This hearing is adjourned until 1140