

# ISH1\_BLOFIELD\_17082021\_SESSION1\_AUD IO

Tue, 8/17 2:31PM • 1:33:44

00:06

Good morning. The time is 10am. And I'd like to welcome everybody to this issue specific hearing in relation to the application made by highways England, who I'll refer to as the applicants for the a 47, blow fields North burning and project. Today's issue specific hearing, I'll be considering the draft development consent order, which I will refer to as the draft decio. Before I formally open this issue specific hearing and introduce myself, I would ask Miss Allen, the case manager for this project to confirm that you can see and hear me. Thank you, and the live stream is available as well. Okay, thank you. Thank you. So this issue specific hearing into the decio for the a four to seven Blofield North Burlingham project is now open. My name is Alex Hutson. I'm a chartered town planner and a chartered landscape planner and hold academic qualifications in these areas. I'm an examining inspector employed by the planning Inspectorate, and I've been appointed by the Secretary of State to be the examining authority to examine this application. I also have three colleagues from the planning spectrums here today, you will all have spoken to miss Allen, the case manager for the projects in the joint conference. I would also like to introduce how Harpriya Kuar and Joe Satter from the case team. If you have any questions regarding the application process in general, can I ask that you please email these to the case team who will be happy to help? I'd first like to deal with a few housekeeping matters which are specific to a virtual event, as some of you here today may not have attended one of the previous virtual hearings. Firstly, can I ask that all audible notifications for electronic devices be switched off. And remember to make sure your camera's switched off, and microphones are switched to mute unless you are speaking? No requests be made for any special measures or arrangements to enable participation in this hearing? I would just like to confirm that this is correct.

02:14

Yes, that's correct. Thank you.

02:17

Please note, the chat function in teams is not being used today. So please do not send any messages via it. If at any point in the meeting, you can't hear me or wish to speak. Candy, I'll see you turn your camera on and use the raise hand function in teams. That may sometimes be a delay before I can acknowledge this misalignment have explained what to do if you lose your connection. And I'm able to Agenda for short period. If there any more significant connection problems on the agenda for short breaks at convenient points, usually no more than every hour and a half or so. For the purpose of identification, and for the benefit of those who may listen to the digital recording later. Can I ask us at every point in which you speak? Could you please give your name and if you're representing an

organisation or individual who it is that you represent? Does anybody have any questions or concerns about the technology or the general management of today's event?

03:22

Okay, I'm seeing no raise hands. So I'll move on. There's a digital recording being made of this hearing. This will be made available on the project page of national infrastructure planning website. If you take part in the hearings, it is 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. That's such plenty of spectrum and subject to the general data protection regulations. It is very unlikely that I will ask you to put sensitive personal information, such as email addresses an economic financial, cultural or health related matters into the public domain. Indeed, or adaptively encourage you not to do that. However, if for some reason you feel it is necessary for you to refer to sensitive personal information. I would encourage you to speak to the case team in the first instance, the case they will then explore with you whether the information can be provided in a written format, which could then be appropriately redacted before being published. Please bear in mind that the only official recording of the proceedings today is a digital recording that will be placed on the project page of the website, tweets blogs and similar communications arising out of this hearing will not be accepted as evidence into the examination of this application. Thank you. Today's issue specific hearing is being held for me to explore a number of matters orally in respect to the draft decio. I'd also like to remind you that I The examination is predominantly a written process. I've already asked a number of questions on the draft decio in my written questions, which parties have responded to. Furthermore, as you've seen from the examination timetable, there are further rounds of written questions if required. The purpose of the examination is made to examine the information submitted by both the applicant and also by interested parties and affected persons. As a result, I'd like to reassure you that I'm familiar with the documents that are sent in so when answering a question you do not need to repeat a length something that has already been submitted. If you want to refer to information already submitted, I'd be grateful if you could, please use the appropriate pins examination Reference Library Reference. Furthermore, can I please ask the first time use the abbreviation or an acronym that you give the full title as the maybe people here today, or listening to the digital recording that may not be as familiar with the application or the documents as you are. Whilst I accept the majority of the discussions will be undertaken by those parties that are requested to speak. This is a public examination. And therefore, if there is a point that you want to make, please feel free to raise your hand and switch to your camera that the relevant time that you wish to contribute. The hearing today will be a structured discussion which I shall lead based on the agenda that has already been published. You may want to have that to hand. The purpose of this discussion is to me to ask questions and seek clarification on matters relating to the draft decio. To ensure that I have all the information that I need to make my report to the Secretary of State. The questions that I'm going to ask today will be focused on those areas where I need further information or where I think that the issues will benefit from examination orally. Or therefore, like take this opportunity to reassure you that whilst they may not be asking a specific question or covering a particular topic that you were expecting, it is not necessarily that I view this matter of satisfactory in many indicators, I consider that I have all the information I need on this topic. Finally, I'd like to remind everyone that this is not an inquiry, and therefore unless I've specifically requested or agreed to it, there'll be no formal presentation of cases or cross examination. As such, any questions you may have for other parties needs to be asked through myself. I'm

conducting this hearing in accordance with section 91 and 94 of the Planning Act 2008. And the infrastructure planning examination procedure rules 2010. Specifically rule 14 relating to procedural hearings, you're reminded that the Planning Act 2000 late allows the XA the examining authority may refuse to allow representations to be made at the hearing. If it is considered that the representations are irrelevant, vexatious or frivolous, relates to the merits of policy set out in the national policy statement. repeats are the representations already made or relate to compensation for compulsory acquisition of land or have an interest in or rights overland.

08:18

Before I turn to the agenda, I should state for the avoidance of doubt that we will be using the most recent version of the draft decio. And this is the one submitted by the applicant the deadline three, which is the examination Library Reference rep three dash 004. The agenda for this hearing was placed on the project page of the website on the ninth of August 2021. The main items for discussion are article schedules requirements of the draft decio protective provisions, updates on progress with consents, licences and other agreements and updates on statements of common ground. Please note that the agenda is for guidance only and I may add other issues for consideration as we progress. I will seek to allocate sufficient time to each issue to allow proper consideration of them. Should the consideration of the issues take longer than anticipated it may be necessary, it's necessary to prioritise matters and for others to further written questions. As this is a virtual event, I will adjourn for short breaks are covered in your points. You can stay locked into teams throughout the break, but please ensure you switch your cameras off and mute your microphones. If you're watching the live stream, you'll need to refresh the live streaming web page to continue watching the live stream after any break. If you do lose connection use the same link that you use to log on and the case single endeavour to reconnect to as soon as possible. She has experienced any problems with live streaming, a digital recording of the events will be published on the national infrastructure web page as soon as practicable Practical after the event has ended. If for medical or other reasons anyone requires a break at a specific time, could you please let the case team know and I can hopefully adjust the programme to accommodate your needs. Finally, it's important that I get the right answers to the questions I'm going to ask arithmetic reiterate that this is predominantly a written process. Therefore, if you cannot answer the question that the Spirit asked or required times to get the information requested, then rather than giving us restricted or potentially incorrect answer, can you please indicate the need to respond in writing? I commend the further response into action points. ulcers are to be submitted by deadline for on the ninth of September 2021. Or to the next round of written questions or related points in time. So before we move on to deal with the items detailed in the agenda, are there any questions at this stage about the procedural side of today's hearing or the agenda?

11:04

Okay, I'm seeing no raised hands. So I'll take that as No, and I'll move on. I'd now like to say the names of those who wish to speak at this hearing. If you have a representative, please state who you represent. And I'll start Firstly, please with the applicant isn't highways England. And there will be some other members of the team speaking this morning and this afternoon as well, to introduce themselves. Okay, thank you. Mr. Robson. Do you do? Would you like the whole team to introduce themselves now while we're here? Certainly, Mr. Dagg, sir, who will be taking you through the draft decio.

11:58

Now, I'm Stephen Dagg, I'll be as props and just said I'll be taking you through the the decio and various parts of the agenda. There will be some of the people speaking. I suspect it will mostly be must be made this morning.

12:12

Okay, thank you, Mr. Dagg. Is there anybody else who, who wishes to speak today? Know that the Norfolk County Council, Mr. Cumming is here. It might be useful. It's coming if you just introduce yourself, please.

12:36

Hello, I'm David Cumming the strategic transport team manager representing Norfolk County Council.

12:43

Thank you Mr Cumming And I also understand that a representative from broadland District Council is here. It might be helpful if you also could introduce yourself.

12:54

Hello, yes. My name is Blanaid Skipper. I'm a senior planning Officer of broadland District Council.

13:00

Okay. Thank you very much. I'm really interested parties here today who wish to speak.

13:16

Like I'm saying they raise hands again. And I understand that there are no statutory parties here today, either. Okay, in that case, I'll move on. issues that arise out of applications. For development, consent often needs to be considered in multiple different ways. And the drafting of the DCA is an example of a cross cutting issue. For example, mitigation or controls proposed to the DTO may or may not address concerns raised in relation to matters such as biodiversity, design, flooding, or construction management, management matters. What's one to focus on today? It's not what mitigation may be required. But if it is required, how it has been secured, and what the decio as drafted deliver it. Can I confirm whether everyone has access to the most recent version of the draft decio? Again, which is the one submission deadline three. Do people have that to hand? Yes, I certainly don't. Okay, thank you, if not, is available on the project page of the national instructional website. So that concludes agenda item one. Moving on to agenda item two, which is articles and schedules including requirements of the draft decio. As per the agenda item, can I ask the applicant to please provide a brief walkthrough of each of the parts of the draft decio to provide understanding of the power source and the context for the discussions today. This can be a very light touch and high level walkthrough. Please, Mr. Dagg.

15:19

Thank you, sir. I wonder just briefly, sir, before I before I do that, if I might start by briefly setting out some amendments to the scheme which the applicant putting forward. These arise as a result of representations made by third parties during the examination, and also meetings of cadence. I appreciate that the amendments don't currently form part of the scheme which you're examining, and

then they would need to be accepted by you in due course. But I just thought it might assist you to know very briefly what these are meant that these amendments are coming

15:55

to ask that question after you're done the walkthrough of the decio. But if you feel that we helpful to do that beforehand, then I'm happy with that as well.

16:08

Yes, sir, it should should only take take a very, very short moment. So the first amendment, the first set of amendments, which we are proposing to make our amendments to the proposed public rights of way provision, and there are three, effectively three areas that we're looking to change. The first is to include an additional cycle track running between Dell corner lane and main road along the line of the existing a 47. The second is down at akel Road to the south of the new b1 for 40 overbridge. Where we are looking to extend the cycle track south of where it currently meets the the long East West footpath South woods and then into a call road to keep cyclists way from the traffic on the V one to 440. And the third amendment that we are going to be proposing is to change the status of the proposed East West footpath along its entire length from the blofield overbridge to be one for 40 overbridge. Also to cycletrack status. All three of these amendments would be submitted to deadline for the second amendment that we are going to be proposing which it may not be ready for deadline for but if not, it will be submitted very shortly afterwards relates to our discussions with cadence and the need to include what what it's described as a block valve site. And an extra length of access track leading to it so the cadence can gain access that will require a small area of land additional land to be taken permanently along the line of the cadent easement. And also additional rights to be taken on a north south axis leading up to the the long linear access track which is safe day 47. Where the footpath This was footpath runs. We have oral agreement from the landowner at the moment for those changes to be made. And we'll be obtaining written written agreement for submission with with application, but that application will be made very shortly.

19:01

Right. Okay. So when you say it won't be ready for deadline for when when do you expect that to be ready? sessions. So the examination is, is progressing at the time, sort of time constraints, I guess, around that?

19:23

Yes. What what what we obviously need need to do is to is to make sure that all of the documentation that you require is ready at the moment. I would. I would hope that it could be ready for deadline for but because I can't say that for certain. That's why I'm being a little kind of Copperhead about the precise time. I thought it would need no more than a couple of weeks after after deadline for serve, but I can confirm that in writing after the hearing if that would help.

19:56

Okay. So I'm just looking at my notes Throughout this issue, so that the changes or the changes that you are considered to be material,

20:12

no, sir, we consider them to be non material. And we also, because we will be submitting the landowners consent, we don't think that they should trigger any additional requirements for consultations, obviously that, but that that's something that you will have to give consideration to on the applications made.

20:35

Okay. And so when you make the application, you'll you will be putting forward your your points of view as well as to why you think it is not material. Yes. And that includes the changes to the pulley Raceway cycle track, and that used to West footpath, as well. So right.

20:56

Yes, I mean, I, the, the, the, the cadence. The cadence change requires additional land and rights. And so I had seen that as as maybe slightly, one you might need to give slightly more consideration to and we weren't intending to deal with it in a more formal or more formal matter, because we did think it was it was necessary in that case, to set out precisely why we don't think it's a material change. The public rights of way changes. So they don't require any substantive change, really, to the scheme. They are just additional rights, which are being requested by third parties. Which, which, yeah, we think that we can we think that we can just deal with by by submitting amended plans? If you take a different view, sir, then we're happy to to guide you with our representations as you need.

22:09

Okay, well, I guess I will be considering it as part of the so the actual change requests will only relate to the cadent issue. Is that right? And the other, the other, the other as well. Just the changes to do with plans and updating any drama?

22:26

Yes, I think with Yeah, I think the the the rights of way changes will we were proposing to deal with simply by submitting amended plans, which we were hoping you could you could accept the Kayden gas change just because it involves the acquisition of additional land and rights, we thought that you might need an application kind of in writing, just setting out our reasoning as to why it isn't, why it will be a material change.

22:55

Okay, and just to make sure that you've had regard to the plenty of spectrum advice note 16 on all these matters. Yes, sir. Okay. And in terms of the applications for the draft decio what what would be the implications for that? Very mind, we're about to go through it without any lapse there be any updates to it in respect of this, the these points are just raised,

23:26

because I'm conscious that the application remains as it's as it is before you until we make these changes and you and you accept the changes to the to the rights of way would require the submission of new rights of way plans and would require require amendments to the shedule three possibly shadow for the order Okay, the amendment to Kayden gas and this this is why we were going to submit

kind of a written representation to to explain the changes because it will involve the acquisition of additional land will involve change, change to the book of reference and various in terms of the dcl itself changes to shedule five and shedule seven to reflect the changes that we're making, but again, in terms of those amendments, fairly fairly minor ones,

24:40

okay. And does it is it the red line boundary, which has changed or is it plot this changes to particular plots or parts plots

24:49

at all of the changes are within the red line boundary. So, so they will need to be an additional area of pink land for permanent acquisition. Just to replace the the block valve site and small sliver of land will also need to turn blue, just to provide the access track. But But all of all of it was is within the red line of the of the application.

25:17

Okay, so pink from blue and blue from green do me Yes, yes, that's right. Okay. And in the awesome in your submission, you you will be telling me why the SV compulsorily acquired rather than temporary possession.

25:43

Yes, sir, it very, very briefly, the the facility is an aboveground facility, I don't understand the engineering of a block off site myself, but the valve the the operators at that point comes to the surface, and therefore it's appropriate that it is a permanent an area of new permanent acquisition. And in terms of getting access, then to that it's appropriate that those rights are acquired permanently, because cadent will, in the in the medium to long term need access to that site to to carry out works of repair and maintenance.

26:26

Okay, I mean, maybe we can discuss this bit further tomorrow. Maybe you can just start to think about why it needs to be compulsory required rather than just the rights required in that case.

26:41

So we'll give a yes. So I'm happy to, to discuss that tomorrow.

26:49

Okay, and can you can you tell me now, which particular plots that is that you're you're referring you're talking about?

26:57

I can't tell you off answer. I'm sorry. Maybe it's maybe it's Maria. So let me know. So we'll we'll come with a with a list of plots that are

27:08

Have you undertaken any consultation?

27:13

We haven't. We haven't consulted more widely than then cadent and the landowner. So that is a landowner? There, obviously already the book of reference, London isn't in the book of reference, and has the changes have been explained and accepted orally, but of course, you'll need to see confirmation in writing, that they're happy for that change to be made.

27:41

Okay, maybe tomorrow, you can update me on where you are with that. We want so Yes, please. And would the infrastructure planning compulsory Acquisition Regulations 2010 be engaged or I guess if you have confirmation that the landowner is doesn't have any objections, then it wouldn't be but is that is that right? That's right. Yes. But we don't yet know, because you haven't got

28:11

caught? We haven't got it in writing. So So it's, you know, we're, we're, we're crystal ball gazing a little bit. But yes, the the we we are anticipating submitting a letter, a complimentary letter with our application just confirming that there isn't any objection to the proposed change.

28:31

Okay, and finally, will there be any new or different likely significant environmental effects arising from this second change? Or are the other changes that you're proposing to the footpath network?

28:47

No. So we're not anticipating any changes? So the conclusions of the environment statement?

28:56

Okay. Is anybody else here today? Just to also comment on that at all. Okay, and that the lambda is late here today. Do you know this?

29:17

So the landowner is Norfolk County farms, farms, okay. And they're not here today.

29:30

They can you just explain off account files, are they who are they are they somehow affiliated with the County Council?

29:40

But my understanding sir and I'm I'm Haven't I haven't spoken to them directly myself. My understanding is that they are that they have a connection to the county council. But I can't say for certain sorry.

29:56

Okay, Mr. Cumming, would you be able to shed any light on that

30:00

This is David Cumming Norfolk County Council. It is correct that they are affiliated to the county council onshore the precise arrangements in terms of that, but we can provide that affiliation and how, you know, it works to you, sir.

30:19

Okay. And would you be involved in any discussions with the applicant over the compulsory acquisition? I mean, does it affect your does affect you at all as a counter counsel?

30:33

I understand that it's a separate issue, it doesn't affect us as the highways authority. Right, okay. Okay, thank you for coming.

30:49

So, if it helps, my understanding is that they are they are a separate legal entity, but that that or some or all of the the entity is is owned or managed by the Council. So, I would see them as being connected but very much separate and you know, needing to give their own their own agreement consent.

31:12

Okay, but you will necessarily agree with from both them and the accounts cancel. No, sir. Right. Okay, well, yeah, that was all there all the questions I had on that. So, perhaps we could go back to bearing all bearing in mind the changes which may happen. Yeah, it will still be useful, obviously, provide a brief walkthrough of each parts of the D, the draftees, decio Yes. And of course, when I say brief, I mean, it can be okay. as brief as you like,

31:49

Okay, stop me if I'm giving too much detail. So. So broadly speaking, the text of the decio is based on dsos, which had previously been made in relation to highway schemes. Part one is the preliminary section, which contains most of the main definitions which apply throughout the order. Part Two contains the principal powers and is the key operational part of the order particularly article five which grants or would grant development consent for the scheme by reference to the 44 works, which is set out in shadow one, and shown on the works plans. And developed consent is subject to the requirements set out in schedule two. Article eight sets out the limits of deviation for the works from that positions are shown in the works plans. And the works planned through two different categories of works. The first are linear highway works which is shown by a centerline and the limits of deviation apply to that centerline. The second category is for nonhighway works, and that shows the limit of deviation as an envelope in which those works can be carried out. Article 10 provides a standard mechanism for the transfer of the benefit of the order with the consent of the Secretary of State, and also provides that no consent is required in relation to certain works which are being included in the order for the benefit of others. Thinking here, specifically for Anglian water caned and Eastern power networks Who are you KPN where the works are relate to their to section to take this equipment. Apart three relates to streets and street works. It applies the new roads and street Works Act to the works but disapply sort of the requirements of that act to allow the works to proceed.

34:04

Article 12 provides for the construction and maintenance of highways and streets which are not trunk roads. An example is paragraph six which provides for the relationship on the two over bridges which are included in the scheme. Essentially that the bridge must be maintained by the Undertaker and the surfacing by the local Highway Authority. Article 13 makes provision for certain roads to be trunk roads and for the classification of other roads by references to parts one to two a and three of schedule three. An article also provides for the speed limits to be applied, which is set out in Part Four shanty will three and shown on the traffic regulation plans for the revocation of an existing clearway order over the highway which has been stopped up That revocations set out in Part Five shedule three, and as shown on the traffic regulation plans, it provides for the creation of footpaths, footways cycle tracks and bridle ways. And that's in Part Six of federal three. And that is shown on the rights of way and access plans. And it also provides the de trunking a certain roads which are shown on the D trunking plans, and that will pass ownership and responsibility of those roads from highways England to the local Highway Authority. And those lines of road are contained in Part Seven of shedule three. Part Three also contains streetwork powers and power in Article 16. to temporarily temporarily alter, divert and prevent the use of a street. And there are protections for pedestrian access where the undertaker is not three protections for pedestrian access as well, where the undertaker is not the throught authority for the road, the consent of the street authority is required. Article 17 is another important article, which provides for the stopping of streets and private means of accesses are shown on the rights of way and access plans and set out in Shadi all four of the order. Where a substitute is to be provided, there are controls in the order, which are designed to ensure that the substitute or temporary alternative would be in place until the replacement is provided. Part Four details a number of supplemental powers. These include the power to discharge water, the power to carry out protective works to buildings, and also authority to survey and investigate land. Vol five details powers of acquisition. And this is a number another key part of the draft order, which allows the undertaker to acquire land acquired the land and the rights which are needed for the scheme. The land is of course described and set out in the book of reference, and as shown on the land plans and the plots on the land plans and divides into three categories some of which we were very briefly discussing it at the start of the hearing. So you have pink land in which land which may be acquired permanently, Greenland which may be used temporarily, and blue land which may be used temporarily and in which new rights may be acquired permanently. The land in which new rights new rights only may be acquired is listed in shedule five of the order and that also sets out the purpose for which the land may be acquired and the works to which those new rights relate. And similarly shedule seven contains the land which can only be acquired temporarily, along with the purposes for which that temporary acquisition temporary possession may be taken and the works to which that temporary possession may relate. Article 25 imposes the usual five year time limit for these powers to be exercised. Article 27 relates to the stopping of public rights of way which the ones which are specified in parts one and two of shadie will fall and provides for site notices to be erected getting notice that that is going to happen when it's going to happen. Article 28 extinguishes private rights over land which is acquired under the order and where those rights are required any third party rights which are inconsistent with the rights which have been taken are extinguished.

38:54

And similarly, similarly rights which are inconsistent are suspended when temporary possession is taken for the duration of that possession. Rights relating to statutory undertakers are excluded from this. There is a parent article 34 for temporary possession to allow maintenance of the authorised development during the five years after that part of the authorised development is open for use. And article 35 allows the undertaker to acquire the land and right to Saturday Undertaker's and to remove their operators, although that power is subject to the protective provisions contained in schedule, nine of the order and article 36 Finally, in this part protect strategy Undertaker's who have operated in the street, which is going to be stopped up, and it preserves the powers and rights. The Undertaker may then ask the statutory Undertaker to remove and divert their operators and the claws off provides standard battement provisions and deferment of renewal provisions in terms of the cost of those works. Part Six relates to operations. It contains an article, providing a power to fall and lock trees and shrubs to light the authorised development to be constructed and operated, and to prevent danger to those using it. And it also allows the removal of hedgerows which are set out in schedule eight that I chose which are set out in shadow eight of the order and which is shown on the hydro plants and the other hedge rows can be removed with the consent of the local authority as long as they are within the order limits. Part Seven contains a number of miscellaneous and general powers, which might be viewed as boilerplate articles. They include articles relating to the non application of landlord and tenant law, operational land, defence to proceedings for statutory nuisance provisions relating to the compulsory purchase compensation code, including preventing double recovery. Article 46 provides for the making of traffic regulation provisions on non trunk roads with the consent of the traffic authority. And article 4648 is the article which provides for the certification of documents, which are included in the application. those documents are listed in sheduled 10 of the order. Article 50 provides the arbitration clause which applies for disputes under the order and for an expert to be appointed if the parties can't agree by the president of the institution of civil engineers. Finally, Article 51 provides standard protection for crown rights. So that covers most of the provisions of the order, with the exception of the requirements contained in sheduled. Two. I don't know whether you'd like me to very briefly list the requirements as well at this stage or if we, if you're content to to discuss those later in the session. I

42:24

think it might be useful just to run through them briefly,

42:28

please, thank you. So, Shadow of shadow to have the order contains the requirements which apply to the development consent for the benefit of those not perhaps familiar with the process requirements are the equivalent of what would be planning conditions attached to normal Planning Commission. And very briefly, they include the following they include a five year time limit, in which the authorised development must be commenced, beginning on the date when the order comes into force. They provide for detailed design to be submitted which accords with the preliminary design set out in the works plans and on the engineering drawings. They provide for the works to be carried out in accordance with the environmental management plan. And by association, the the the reactor record of environmental actions and commitments, which is contained in there. We've been asked to address this requirement in detail later on. So I'll move on from that now. There is a requirement for the preparation and approval of the landscaping scheme and its implementation. Another requirement for the remediation of contaminated land and groundwater. a requirement for the pre consent of pre

construction surveys for protected species to be carried out and to cease works where they were found until a scheme for that protection and for mitigation measures has been approved. As a requirement relating to surface and foul water drainage strategy must be submitted to and approved by the Secretary of State and implemented. There is a requirement relating to archaeological remains, which requires that a written scheme of investigations must be submitted to and approved by the Secretary of State.

44:40

Another requirement provides that work to the new a 47 that is working on one may not commence until traffic management plan has been approved by the Secretary of State. Fencing must be constructed and installed in accordance with the manual of contract documents for highway works. And finally requirement 12 provides for the provision of a new pond comprised in work number 13, to ensure that is that those works are carried out. Part Two of shedule two sets out the procedure for approval of requirements by the Secretary of State. It makes provisions for the Secretary of State to be able to request further information and also provides consultation under the requirements who will work. It confirms highways England must give 28 days for consultees to respond. That's an amendment which we'll come on to in the next in the next item agenda. That there's 28 days for council to respond. After which highways England must report to the Secretary of State setting out what consultation is undertaken. And the responses and also high was England's response to my consultation. Soon enough, chartered.

46:05

Okay, thank you. Thank you for that. So I've on the Next on the agenda, I thought it might just be useful to very briefly highlight changes from the submission version of the draft decio. To what we have in front of us now, and just any sort of key changes that's occurred.

46:28

Of course, I mean, there are a number of minor changes, such as you know, the cut the capitalization of book of reference being put in all in lowercase. So I would intend to take those as read but the changes to the draft decio set out in detail on the in the shedule of changes to the draft decio, which was submitted at deadline, six, which is document our EP three, dash zero to one, deadline three, yes, yes. The more substantial changes are the following. So firstly, in article three, that article disappplied certain provisions in relation to flood risk activity and water discharge activity. Those provisions have been removed at the request of the Environment Agency. In shedule, one, work number five, the pressure of the gas main has been amended from the word medium, to intermediate. And that meant it's a factual amendment. And it's been carried through into the descriptions which are contained in shadows five, which is said that the new rights land in shedule seven, which is the temporary possession land,

47:55

but they have no material impact on the application. For mediums intermediate, even though it's a slightly higher pressure gas pipeline, as far as,

48:09

as far as I understand it, so you know, in requirement four, which relates to the approval of the environmental management plan, and in requirement eight as well, which relates to surface and fall water drainage, we've included a requirement to consult the Environment Agency at their request. A new private means of access has also been added to schedule. for part three, that that is a private means of access, which appears on sheet six of the rights of way access plans, and that's at the request of the landowner. A number of additional documents have been included in the list of documents to be certified. The the commencement of development in Article two has been amended to delete reference to the diversion and laying of underground operators. So in response to a question that you raised in your questions. In requirement nine, an additional requirement has been included to consult the historic buildings Monuments Commission for England, that is historic England at their request. The length of time allowed two stakeholders to respond to consultation on the requirements contained in requirement 18 as I mentioned before, has been extended from 10 business days to 28 days at the request of stakeholders. And finally, some minor adjustments have been made to the termination points for footway, f nine to F 10 and cycletrack su seven to su eight That's at the eastern end of main road. And that the order has been amended to change the description in schedule three, Part Six, that that's drawn the cycle, what Earth cycle track a very short distance to the west just to make sure that it's coterminous with main road. Because, unfortunately, it was originally shown that there was a short kind of barrier, in the sense that some footway was provided which cycle cyclists would need to need to get over so that short area footwear is being upgraded to cycletrack enlist amendments.

50:42

Okay, thank you. And I think it also be useful just to explain the relationship between the draft the CEO and the environmental management plan. Just to explain why certain perhaps certain documents or requirements specify as specified in the draft decio whereas others as specified in the environmental management plan, and sort of the reasons for that, and how they relate to each other, of course,

51:11

so, for ease of reference, we tend to refer to the EMP which is the environmental management plan, and to the riak, which is the record of environmental actions and commitments. So, the EMP is the document which records how mitigation and management of environmental effects will be delivered and maintained. The react is part of the EMP is contained within it. And as the name suggests, it records the environmental commitments given in the environmental statement. requirement for provides for the development to be constructed and operated in accordance with the EMP. And because the React is part of the EMP, it follows the requirement for secures the implementation of the environmental commitments given in the environmental statement. The EMP and its re arc as submitted with the application provide the basis on which a second and third iteration of the document will be prepared. The second iteration of the EMP will govern the construction of the authorised development, and the third iteration will govern its operation and its maintenance. These future iterations must be substantially in accordance with current EMP, as submitted with the application must be approved in writing by the Secretary of State following consultation by the undertaker with the relevant planning authority, the Environment Agency and the local Highway Authority where it relates to their functions. So the applicant recognises that this detailed design of the scheme progresses and further surveys are carried out the necessary to review and update the EMP to take into account this new information.

requirement for the approval of the second and third iteration of the EMP takes this into account was providing comfort that they must be substantially in accordance with NP first iteration. That is part of the application.

53:26

Okay, thank you for that. So anybody have any questions? So far on anything that's been said? Or which comments on anything?

53:42

Okay, I'm saying no raise hands. So I've got a few questions, basically, picking up on some of the written questions that I asked. So in terms of my written question 1.8 point two, which I asked whether working hours should be specified in the draft the CEO. And the applicants answer that working out restrictions not necessary that unrestricted working hours are needed. Because disruption would be significant if works were to be carried out during normal working hours. However, I know that gee one of the riak say is the works will mainly be during the daytime hours. So I was hoping you could just explain your answer to the question because there seems to be a slight contradiction there. Or alternatively, you could have a think about it and come back to me during the noise session. So I think I would say it's a one you'll say the workout workout restrictions are not necessary. Because disruption would be significant if works were carried out during working hours non working hours. Been the re reacted says that most works wouldn't be carried out in the normal working hours. So I was hoping just explain to me the thinking behind that. So it

55:32

the precedent of orders that we've based our order on, don't don't contain provisions which relate to, to working hours. We don't think that there are, we don't think that it's appropriate to include a requirement in this in this instance, in terms of the specific request question that you're raising, I think it's one that we will have to come back to you answer in writing.

56:02

Okay, or maybe because they released I suppose, related noise in a way, maybe you can, you can think about it and come back to me on. I think it's Friday, where we're addressing noise. Yes. Okay. In my recent question 1.8 point four, I asked whether a piling risk risk assessment should be secured as a requires of the DDC to the draft DCA and you undo respond that it was feared under requirement for? Could you please explain how it is secured by requirement for? And just also explain why I suppose some plans and strategies are specifically listed under requirement for whereas others, such as a piling risk assessment are specified only in the React. So what's the difference between those listed and other specified in the React white? Why is there? Why are they not all either specified in the rear or all specified under the requirements?

57:17

So I'm not I'm not sure if that's something that my one of my team can can help on. It may be something that we need to come back to you on, I think we will have to come back to you and come back to you on that. So,

57:38

okay, okay, I think things are either covered, specifically under the requirement or in the rear. I'm just, I just like to understand why that is the case. Rather than all being in one place, if you notice me.

57:59

Yeah. So why Why are Why are we relying on why we're relying on kind of requirement for and the react in relation to the majority of things, but then we have separate requirements in relation to two other things.

58:15

Yes. So in terms of coming back to me on that, when

58:24

will you? Would you What would you do put that in writing? Or will you? And can you tell me as part of any other hearings we have scheduled or later today? Um,

58:47

I think it's something we can we can probably pick up in one of the one of the mark environmental sessions on Thursday or Friday, sir.

58:56

Okay. Okay. All right. Thank you for that. So moving on to articles, so I'm going to go through the decio.

59:16

In order, there are some typos, etc, which I'm going to go through in order even though rather than just doing typos separately, I'm just going to roll through the DTO and just ask you some questions about it in the order that it appears in the DCR.

59:37

So article 1011 C. You did actually mention this earlier when you were talking about the VCO. But it mentions Eastern power networks PLC, whereas in all the other documentation and the book of reference Sweet, it refers to UK power networks. I was just hoping to understand why it refers to Eastern power networks here, whereas all the other documents referred to UK power networks, and whether that's an error or or not.

1:00:22

So my understanding is that that you KPN split itself into three into three sections, depending on its geographical operations. One of those, one of those companies, which operates in the area of this scheme is Eastern power networks.

1:00:55

The if the, that you that UK power networks is listed in the book of reference, means that the the rights in that not in the book of reference are registered to UK power networks, but it may well be that Eastern power networks is the operator of those of the operators. And that, that, that that the I suspect, and I it's

something we can try to come back to you on vices fact that that the disparity between the rights which are listed in the book of reference and in this article simply relates to kind of the operation and the way that that company is set up.

1:01:54

Right. Okay. Perhaps if you could just confirm that, however. Thank you. So, Article 20. So I asked a written question 1.8 point two two to justify this article. Given that as chapter 13 states there'll be no direct discharges to watercourses during construction or operation and that there are no proposed connections to public sewers. The response provided so limited justification. So maybe you could just explain further why it is needed.

1:03:16

So it says that you The Undertaker may use any watercourse for any public sewer or drain for the drainage of water in connection with carry out maintenance or use of the authorised development however, that yes, Chapter 13 says that there will be no discharge or use of any watercourse really public so so.

1:03:42

Yeah.

1:03:45

Yeah, I think I think so, we need to need to look at the the article in light of that response that we gave. And again, come back and writing so.

1:03:59

Okay. Article 26. So, this relates to my recent question 1.8 point two, five. So, Article six, Article 26. One would give the power for compulsory acquisition of rights over the order land, or to impose receipt restrictive covenants affecting the land. So that that's the whole of the within the red line boundary. It's like a general power. Article 26 two sets limitations for this in respect of land specified in shedule five Now, on this basis, does that mean that powers for compulsory acquisition of rights over the auto land or to impose restrictive covenants? Will these be unlimited? For all the other lands not specified in Article 26? To so in federal five? And if so, would this be reasonable? And what is the reason for needing unlimited powers in this regard? And I suppose if that is the case, following on from that have all affected persons been made aware of this power? Because as far as like say, it doesn't say this only applies, though it doesn't say only applies to federal five land, because article 26 one is a general power over the whole of land is only 26 to which limits seems to limit the power sheduled five land so that means all the land has unlimited power to restaurant to take rights and impose covenants.

1:06:19

I think that's right. So, I think article 26 two deals with land where where specific, specific rights will be taken. So that that that is kind of the rights land and the rights which can be taken there are are set out with regard to Article 26 one effectively that relates to the pink land the permanent acquisition and and allows the The Undertaker to deal with the the rights and restrictive covenants which affect that land.

1:07:28

Is that right? So article 23 says The Undertaker may require compulsorily so much of the old land as is required for the authorised development. I mean, there was no there was no specific sheduled showing what land is to be compulsorily acquired as a like a like, love to be subject to temporary possession, possession or rights.

1:08:08

That's, that's right. So I mean, you, you you affect you effectively, then look, look at the reference in the in the land plans. But what

1:08:28

it's actually so article 26, two, that restricts the rights for certain plots. But in not restricting that for the plots. Is that is that reasonable? And does it not suggest that it's unrestricted? And is that the right thing to be doing?

1:08:59

I think I think the question you're asking is, is article 26, one to wider power when a reasonable an unreasonably wide power? So I'm not sure I'm not sure if you're asking whether it circumvents to.

1:09:17

So I mean, why have one and two if you're only referring if, if the power you're seeking is in respect of just sheduled, five, land such lands specified on federal five, why include one why they're just either widens federal five, so all the ones you need, or only include the compulsory actions for right of rights and imposition of restrictive covenants, only to schedule five rather than all the land I think I

1:10:05

think it is something that we're gonna have to come come back to you on. So I I understand the question that you're asking. And I think it's it's one that we were gonna have to respond to, to you in writing on.

1:10:21

The

1:10:27

it is it is entirely intentional that paragraph two limits, limits the perils of acquisition and effectively effectively provides the that, that only certain rights can be acquired over the blue land, because we know what those rights are likely to be. No, we're not we know what they are. So we're stating them in the shadow wall, in relation to in relation to 26, one ratio 26 one. As I say, we will come to come back to your writing, but but the the, the provision allows, allows us to, to impose restrictive covenants and to obtain rights over over effectively the the land that we're acquiring permanently, where we might need to impose our restrictive covenants on right, which is being retained in that land. In order for the development to proceed, so we'll come back to writing on it.

1:11:51

Right, okay. Thank you. In terms of Article 28 Yeah, this was in one of my written questions 1.8 point two six. I think it's just some type Well, probably a typo. Should there be a comma between the words agent contractors which sub article or which paragraph is this since 20 1010

1:12:46

on the third line, should be a comma between a word agents and contractors that should be okay and should we say is old and it says old land twice as the old order should have a capsule though, as it does elsewhere in the ddca they used in response to my request and you suggested that had already been changed, but it there

1:13:22

must have been an admission deadline one I expect okay. We when we submit the deadline for draft decio will correct will correct that

1:13:36

provision.

1:13:37

Okay. Thank you. Moving on to Article 33, eight, a. So, Article 33, relates to the temporary use of land for carrying out the authorised development in 33 eight it says The Undertaker may not come Paul sorely acquire. Under this order the land referred to in paragraph one a II except that the undertaker is not precluded from acquiring new rights over any parts of that land. This is also specified in column one of shedule five Can you this this article relates to shedule seven. So can you just go further there is crossover of land within sheduled seven and shedule five. First of all,

1:14:49

yes, so the the decio kind of divide up in The Incredibles five and seven. It divides up, land where you can only take Temporary possession and land where you can take rights. So what paragraph eight is doing is the it's saying that it's saying that where you have temporary land, you can't you can't acquire it. But if it's also rights land, if it's also in that category, then you that doesn't stop you from acquiring the rights in the land.

1:15:25

Okay, and are there crossovers of plots? Are there some plots in federal five? That's also pay your federal seven? Yes. Right. Okay, and also allows the undertaker is not precluded from acquiring any parts of the subsoil or airspace over that land. So if Is there any land which where the acquisition of subsoil airspace might occur? Which is not in either? Well, which is not intangible five? And if so. What the landowners be aware of that potential power? And have they been consulted? accordingly?

1:16:21

Um, I guess that's an engineer. It's an engineering question as to whether whether work, whether there are works, which could just be in sub soil or the airspace, I couldn't say today, what those works are. But, so, it might might be one where we need to give you some examples of plots where that may or may potentially occur.

1:16:52

Okay, and words? What, what, like affected persons? If you're not take if there are certain plots where you're saying you're not take any rights, it's just temporary possession. Does this article allow for the acquiring of parts of the subsoil or airspace where you've identified it's only for temporary possession? rather than taking any rights? And therefore, have they been adequately consulted? Or would they be aware of the power that you're seeking? So the land side?

1:17:34

I think so. So the land the land would be green on the on the land plants as land? Which temporary possession?

1:17:49

So might there be any green land where this article would allow for the acquisition of the subsoil or airspace over it? I guess is what I'm asking.

1:18:04

I need I will need to come back to you on on that. But in principle, that could be

1:18:13

okay. And if they could be, is that they would that then, because it's just showing as Greenland effects people may not be aware of that power. Potentially. Yeah. Well lopped off to come back to you on on that I'm afraid. But, but, you know, sorry. Okay. So I'll put that as an action. Because action for us. Yes.

1:19:10

Just a general question. Is there any provision which limits the period of temporary possession? So what I'm asking is how long is temporary and where where is that limited in the decio. recollection is that that temporary possession is limited to period. It is limited but it's limited by reference to Sure, I was looking at the article. And she was, I think, I think there's a limited time where you can take temporary possession together when you start the development by wondering if there's anything that limits how long you can be in temporary possession of that land for once you take temporary possession,

1:20:31

that's certainly certainly should be by reference to the order. And, and so by reference to the the time when the works are, are complete, it may be a short time after that, so that I will, I'll have a look at the look at the order and come back to you either with what the time limits are, or include a time limit in the next iteration.

1:21:12

So in terms of like the compact strap position hearings, that might be that's probably going to be a question I'll ask you again, you know, as to whether there is a limit to temporary possession, period, and whether it if it's not limited, might that have implications on human rights, etc. So, we'll we'll be

ready with an answer. tomorrow. Okay, thank you. Article 37. There's just a gap in the page there so that the text needs pulling together page numbers throughout the content.

1:21:59

So I'm not not sure whether that's a glitch with the site template or whether it's at our end, but we'll we'll endeavour to fix that.

1:22:07

Okay, thank you. I'll score 45. So it's one of my recent questions 1.8 point three three related to this. It's unclear to me why this article is needed. Given that the control of Pollution Act 1974 already makes provisions for appeals.

1:22:40

I ask that you further justify the reasons for its inclusion within the DDC to draft the CEO given this it's basically seems to me to be creating another another pathway when there is already one available. So therefore, is it is it justified?

1:23:17

Thank the provision this provision clearly brings the brings the pail mechanism into the hands of the Secretary of State

1:23:34

and sets out sets out time limits, which which are there to assist the the expeditious completion of the scheme. So the the reason why why this article is included is to kind of aid with with that process.

1:23:58

Okay, but if there's already a mechanism for dealing with appeals under that act, why do you think that would not be that would not be achieved within a certain time limit? Why do you think the Secretary of State would do it quicker than the that the courts

1:24:31

think I think in terms of that, that degree of, of specificity, we will need to come back to you I'm afraid this is something we can come back to are in one of the environment sessions.

1:24:47

Okay, I mean, I suppose my my main point is that there is already a mechanism for appeals. Why should that then be transferred to the Secretary of State to deal with that? Yes, well, there's already mechanism And I understand that has been taken out in previous DCs as well. Whether the secretary of state has, has granted them

1:25:16

it's a baby, some of you will think about what I make when I if I, you know, when I come to put together my recommender decio You know, I think you need a good reason to have this included. So, I could always recommend that it's not, yes, we need you need to be.

1:25:43

Okay, thank you. For that, can I is 25 past 11? I was going to move on to requirements, but I think we'll take a 15 minute break. But before we do so, can I just ask if anybody else here today listening and watching wishes to comment on any of the articles of the DCS or decio? Either ones we've talked about or any others that we haven't?

1:26:21

Okay, I'm not saying any hands raise though every Mr. Cumming Yes, please. Yes, thank you. So, I have two parts of the draft DCA that I would like to make comment on, if you're coming to the requirements, later on, I can leave that comment till later. The the other point that I wanted to make was about the D trunking. So, the draft decio in I think 12.5 sets out where a highway is the trunked transfer will will go to the local authority and the local authority will maintain those sections of road or other assets. I would reiterate the point that we have made to highways England and in our representations on the matter. And I accept that we are working with the applicant on a statement of common ground, which might well resolve some of these issues. But it's just to reiterate that we have not made any agreement in in in relation to taking on that asset. And we would like to be reassured about the exact extent of it, what it comprises, and, and also the condition of the asset. And as you'll be aware, so we have said that that should be transferred, you know, to Norfolk County Council brought up to a good condition. And and we would also be seeking a commuted some for for maintenance. Okay, sorry, which which ask are you referring to them? Sorry, that would that was 12.5 12. Five, okay.

1:28:37

So you're effectively talking about all the parts of the completed scheme, which would, which would not be under the control of highways England, they would then be transferred to Norfolk County Council. And you want to know, exactly what what those parts of the scheme are, what condition they're in. And whether you'd be you'd receive payment for the keep or have constant upkeep for the For how long?

1:29:20

We are seeking a committed thumb for future maintenance, which I think you know, would be a matter for agreement between the parties.

1:29:34

Okay, this attack, do you want to respond to that? I did actually have this question for later. But would you like to respond to that now?

1:29:47

Yes, I mean, it's very simplest obviously the the extent of the proposed de trunking is shown on the on the D trunking. Plans. The applicant has been meeting me Getting with the County Council. And we have quite recently received a request for the kind of schedule of condition information, which Mr. Cummings was, was just just requesting. And we are currently, the applicant is currently in the process of preparing plans, showing the assets, which will be transferred. And, you know, what, what, what, what, what assets, that exit is already saying kind of a stretch of road, I think I kind of asked him for a little bit more information about street furniture and the condition of the road and that sort of thing.

Those plants have been requested they've been prepared. And discussions are ongoing with the County Council.

1:30:51

Okay, and how are those discussions going? that's occurring? Are you happy with the discussion so far?

1:31:00

Yes, so far, we are happy that those discussions are ongoing, clearly, that the outcome will determine an act of happiness.

1:31:08

Do you see these discussions being completed during the examination?

1:31:16

That is perhaps a matter for the applicant? Because as as Mr. Dagg has stated, We are awaiting some information from from the applicant, but I would hope that they should be. Okay, I left a lot. I think that's your in your discretion, is it not? Sir.

1:31:44

This is that do you envisage these discussions be completed? soon?

1:31:51

So I think the I think that the preparation of the of the plans and schedules will lead to will lead to lead to a discussion where it becomes apparent What did what the differences are between the parties. At which point, at which point it will relatively quickly become apparent, you know, whether we can reach agreement and and and find find the those inevitable compromises. Or if the county council needs to make further representations, I'd certainly anticipate that happening within the within the examination period of the examination.

1:32:32

Okay. And is this a formal legal agreement between the parties that would need to be submitted into the examination? Or how's it dealt with?

1:32:44

But the most at the moment? So my my understanding is that the the, the discussions are around points of principle, and ultimately, it will be up to the county council as to how that is done as to how they require that to be documented.

1:33:02

Right. Okay, maybe we can return to this later in that case. So I'm going to move on to the schedules next, but we'll take a break until 1150. Just to remind those watching the live stream, you'll need to refresh the live stream page to get back in. Everybody else can just turn the cameras off or the

microphones off, or leave or rejoin the meeting. So the hearings adjourned until 1150. Thank you very much.