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00:08

Great. Good morning and welcome everybody. It is now 10am and I am starting the sixth issue specific hearing for the application made by national highways for the a four to eight blackout to Caxton gibbet road improvement scheme. We will introduce ourselves fully in just a few minutes. Before we do that, please bear with me while I deal with a few housekeeping matters. Can I check with the case team that you can hear me, Mr. Williams?

00:35

I can confirm that I can hear and see you. Mrs Sahai

00:40

Can you also confirm that the meeting recording and live streams have started?

00:44

Yes, I can confirm that the recordings have started and that the live stream has started.

00:50

Okay. And were there any requests for resubmit adjustments or arrangements to enable participation? Know the winner taken during the arrangements conference. Okay. Thanks very much, Mr. Williams. On to introductions. My name is Menaka Sahai. I have been appointed by the Secretary of State for the department for levelling up Housing and Communities as the lead member of the examining authority to carry out an examination of the above application. Today, I'll be leading on much of the agenda. I'll hand over to other panel members to have the examining authority to introduce themselves. Mr. Parkin, if we could start with you, please.

01:30

Good morning. I'm Andrew Parkin. And I'm also appointed by the Secretary of State as members of examining authority. Can't see the other member of the governing authority in the virtual room at present though.

01:46

I'm here can you see me and hear me?

01:48

I can hear you Mr. Scriven on see okay.

01:55

Oh, that's right. Okay. I will carry on.

01:57

Carry on with the introduction. Well.

02:01

I'm Mr Scriven also appoints as member of this examining authority. Today, I'll be recording action points and asking any relevant question in response to points made throughout the hearing. Great.

02:14

Also present today are three members of our case team. You've met our case manager, Mr. Williams, Mr. Emre Williams, the case officers covering today, Mr. Edwin Mawdsley and Mr. Joe Saffer. I want to acknowledge and welcome those who are watching the live stream today. And finally, welcome to the attendees in this virtual room. Please Would you introduce yourselves. When I call out your name, please turn on your camera and microphone and introduce yourself. If I call out the name of your organisation, please get the entire team from the organisation and turn on their cameras and state your name and role within the organisation. We will remind you throughout this hearing to state your name and the organisation you represent before you start speaking. This is for the benefit of the recording and for parties viewing the recording later on. Can I start with introductions from the applicants team please?

03:15

Ma'am, good morning. My name is Scott Lyness Queen's counsel acting for the applicant in this case. Can I introduce to you please members of the team who will be addressing you this morning. First of all, can I introduce please Lorrae Hendry, he'll be dealing with the the bulk of the agenda items this morning.

03:38

Good morning, Lorrae Hendry managing Hello, managing associate Womble bond Dickinson instructed by the applicant national highways. Thank you.

03:50

Next please, Carol Hardingham.

03:53

Hi, good morning. I'm Carol Hardingham, a sustainability manager for Skanska instructed by the applicant national highways

04:00

as Harding will be dealing mainly with Agenda Item three a mom and can I ask for Julian See to introduce themselves as well please?

04:10

Good morning mom. Julian See, I'm an engineering manager for Skanska. And I'm appearing on behalf of the applicant.

04:18

Mr. See will be dealing with agenda items. Three a a and at 10 A man. That's our team for this morning.

04:30

Good morning and welcome to everyone. Could I hear from Central Bedfordshire Council Good morning Good morning, Mr. Punter

04:54

Good morning, gentlemen. Mr Punter from Central Bedfordshire council with regard to Progress and transport matters. Thank you.

05:02

Okay

05:06

is that everyone from Central Bedfordshire council thank you. And all attendees from Cambridgeshire county council Huntingdon Shire District Council and South Cambridgeshire District Council, please.

05:21

Ma'am, good morning, Francis Tyrrell at Pinsent, Masons. LLP, representing the three capture authorities just mentioned. I have with me today fewer people than previous days you'll probably be glad to know. Firstly, I have that Camilla Rhodes who will be assisting in relation to items seven and eight just ask him to introduce himself sorry.

05:50

Hello as Camilla Rhodes for the council's I thought it was only I can make but I might be mistaken.

05:58

Sorry. Yes. Just automate sorry, my apologies. Also we have David Allatt. David Allatt, Assistant Director for transport strategy and network management council. So I think probably not like to speak today but just in attendance as they have been throughout. We have Chenge Taruvinga and Claire Burton. I'll ask them to introduce themselves please. Good morning. I'm

06:24

Chenge Taruvinga lead from South cams District Council. Morning. Good morning. I'm

06:31

Claire Burton, from huntingdonshire District Council lead for the project as far as not anticipating speaking today. Morning.

06:43

And that completes. Sorry. I see gas popped up. So yeah, thanks, Francis. Good morning mom.

06:50

Gareth Blackett, representing the joint joint to authorities. consents team leader, Cambridgeshire county council.

06:57

Good morning, Mr Blackett instead of a little Mr.

07:02

Yes, that's all okay.

07:03

Okay. Thank you very much. If I can move on to Bethabara Council.

07:09

Good morning Alister Wren and principal planner Bedford Borough Council. Today I'll be joined shortly by Andrew Prigmore. Unfortunately, he's busy at the moment, and also by Melanie MacLeod.

07:22

Good morning, everyone. Melanie MacLeod Bedford Borough Council transport policy manager.

07:29

Morning rolling. Okay. Could I know go to National Farmers Union? I don't believe they're in attendance yet. But we'll come to them when when they are. Do we have I don't believe we do. But I'll just double check. I have any representatives from Brown and Company? No. Okay. And then representatives for church commissioners of England.

08:07

His Good morning, Lydia O'Hagan here from Charles Russell speechlys. For the church commissioners and not anticipating needing to speak today but if required. Looking at article sorry, agenda item five and six,

08:22

six. Okay. Good morning was taken. And thank you. I believe that concludes the introductions for this morning. But if there's anyone that I have missed and has not had an opportunity to introduce, could you please raise your hand? Okay, excellent. I will move on to agenda item to four points to make here. First, a few words to acknowledge the virtual event today. We the examining authority attending this meeting from planning Inspectorate office. We understand you might be attending from your homes and offices. Should there be any technical failures, please try to join back using the same link. Technology has been ever so slightly cranky last couple of days in terms of keys, but we have managed quite well. But in case of a complete technology failure, there is a date reserved for hearings on Tuesday, the seventh of December. And it's in the examination timetable, but in all likelihood, I don't think we will need the hat. The notification for the cancellation cancellation will be via banner update on the project webpage on the national infrastructure website. And like a physical event and today's virtual meeting you'll only be able to see your heads and shoulders. Equally we may be looking down taking notes or viewing a separate screen. Just want to assure everyone you do have our full attendance attention at at

at all times. Typically to avoid visual and noise distraction. Only the panel member leading on a particular agenda item will turn their camera on. We ask you to please keep your cameras and microphones off until you're invited to speak at a specific agenda item. We will also pause at various points and give you the opportunity to ask questions or make comments. Please do wait for those opportunities and raise your hand on the Microsoft Office teams. Please do not use the chat function this is not being monitored. virtual events cause fatigue. So we will ensure that each session of the meeting is approximately 90 minutes and no longer than two hours. Which means that the first break that we will take for 15 minutes will be approximately at 11am. We will resume session 211 15. And we do intend to go on to 1245. These timings are indicative. If you decide to leave the meeting during the break, then you can rejoin using the same link provided in your invitation email. And of course, if you're watching on live stream, then please refresh your browser to resume each subsequent session. The second point here is about General Data Protection Regulation and live streaming. Just to make you aware that this event is being both live streamed and recorded. The digital recording that we make are retained and published. They form a public record that can contain your personal information and to which the general data protection regulation or GDPR applies. The planning and spectrum PRAK practice is to retain and publish recordings for a period of five years from the Secretary of State's decision on the development consent order. Consequently, if you participate in today's issue specific hearing, it's important that you understand that you will be recorded and that you therefore consent to the retention and publication of the digital recording. It's very unlikely that the examining authority will ask you to put personal sensitive personal information into the public domain. And indeed, we strongly encourage you not to do that. However, if you for some reason do feel that it's necessary for you to refer to sensitive personal information. We would encourage you to speak to the case team in the first instance. We would then explore with you whether the information could be provided in written format, which might be redacted before being published. Does anyone have any questions on this matter or any other matter that I've read so far? Okay, moving on. Third matters about the substantive matter of today's issue specific hearing, which is titled matters relating to the draft development consent order, or the draft DCO. We will refer to it as the draft DCO. Through this hearing, all interested parties, which includes the applicant and anyone who made a relevant representation within the specified period and on the form provided any any effected persons in relation to compulsory acquisition. Other persons and statutory parties have been invited to this meeting. And agenda for this hearing was published on the planning Inspectorate national infrastructure project webpage on Monday, the 22nd of November 2021. The main purpose of the issue specific hearing six is to clarify and get views and matters relating to number one around what has to be consented the extent of the powers and what requirements provisions and agreements are proposed. Number two, identify any possible issues of prevention, mitigation or compensation, not yet covered by the draft DCO. And number three, established or confirmed the views of other parties as to the appropriateness, proportionality and efficacy of the provisions in the draft DCO. To be clear, it's not intended to discuss all matters relating to the draft DCO hear, some matters may be pursued through the next round of written questions, or at a future hearing, should we decide to send out a written question or hold a future hearing. We expect the representations at the hearing to provide we expect the representations at the hearing to provide further detail or clarification following the submissions received to date. We don't need you to repeat previously submitted material. This is particularly pertinent for those items that we have discussed previously. We read the material we have further specific questions or clarifications. Please focus on answering the question being asked if you don't we may ask you to instead or or move on. It is a full and ambitious

agenda. I will keep under review our progress and we may request certain aspects to be held over and addressed as part of your responses to the next round of frequent questions, which if issued will be issued on the 22nd of December 4 and final point is regarding post hearing actions should they arise during this hearing. The assumption is that the post hearing actions will be expected at the next deadline in this case deadline six which is the 14th of December, however acknowledging any resourcing constraints constraints at your end If you feel meeting that deadline will be difficult for you please do raise that at the hearing itself. So we can, if possible accommodate that in the deadline set out in the post hearing action list. But are there any questions please raise your hand.

15:19

Okay,

15:21

great. So we can swiftly move on to the subset of substantive matters for this hearing, which is agenda item three, pre commencement plan. I think here, what I would like to do is start from by asking the local authorities and applicant to join me and I will start this by asking the local authorities on the content of the pre commencement plan which was submitted by the applicant and it's rep four dash 038 is the reference in the examination library. We have had brief comments from Cambridgeshire authorities and rep five zero to zero so I will start with the other authorities, Bedford Borough Council and central Bedfordshire Council in that order, please.

16:13

Paul, apologies I'm pulling up the rep that's 4034 Is it?

16:20

That's rep four dash 038. If central bank if we have central Bedfordshire council would like to go first, then I'm happy to go in that order.

16:36

Thank you. Jethro Punter from Central Bedfordshire Council,

16:40

Mr. Punter. You're you're you're coming across very softly so I can hear if I come very close to my computer. But if you could speak a bit louder, that'd be

16:49

apologies, man has just returned to a central Bedfordshire Council. With regard to the submitted proof management plan, I think that as an authority, we still have a query over the relationship between some of the activities detailed within that plan, and the timing of and agreement of any associated traffic management plan. That would apply to certainly some of some of those activities, which could have quite considerable traffic impacts. For example, I know delivery of plants, formation of temporary hard standing, slow clearance and diversion works all fall currently within those activities. So I think from a from a local authority position, we still have a query over how the traffic impacts of certain these elements will be covered. I note that the document makes reference to a specific traffic management

being agreed with a contractor in line with required permits only rather than any specific requirement for consultation with the local authority. So I think that's it remains an area where I think we believe that perhaps more control or confirmation is needed. Thank you. Okay, that's helpful, I

18:07

think misandry would you like to respond to that all Mr. See?

18:13

Thank you, Mrs Sahai pasta to Mr. See to answer that one.

18:19

Yes, I think we could. The the traffic management that we envisage for the pre commencement works is is very limited in terms of its its its only traffic management that will be put on sort of during during the day and then taken off at night, but we could sort of include reference to the local authorities in you know, sort of road space bookings and and permits in the pre commencement plan if if that would help in in resolving this issue.

19:03

One question from me. What about any indication of the quantum of that traffic that could be generated through these activities? Is there need for any reference to that or specification of that

19:24

sorry, is that is that for me?

19:27

Is that that is for humans okay. Right.

19:30

The the traffic, the traffic traffic and the access points that we would be using for this work would within central beds area, I think would be coming straight off the off the office strategic road network. We we could look to provide some information on the On the level of traffic that will be generated by, by those by by the pre commencement activities and include that in the pre commencement plan. So,

20:14

one other question to you, Mr. See, you said that the traffic that would come to Central beds would be straight off the strategic road network. What about the other boroughs? What about the Cambridgeshire boroughs in Bedford Borough Council?

20:27

Well, I think the the Bedfordshire Borough Council would be would be similar in the works are all in close proximity to the to the Black Cat roundabout with regard to the Cambridgeshire activities, they there, there would be there would be some access down the down the local authorities side roads, the level of traffic would be would be quite minimal. But we could provide some information on that.

21:02

So just before I go back to Mr. Punter, if that's adequate. Are you able at this point to tell us any more what this information could be? So you said you could provide two things. One is some information on the amount of traffic that's likely to be generated? I'll be it that youth you believe that that is quite minimal. And you said that it's possible to add consultation, well, engagement with local authority with respect to roads, Facebooking and etc. In the pre commencement plan. So just with respect to the first question, what kind of information do you think this could be?

21:43

I think this would be the the average of the average number of vehicles per week. Okay. For those works,

21:55

and timing with respect to the construction programme.

22:02

I think we could provide an indication of how long the act, the duration of those activities would likely to be, but not not exactly when they would be. Mr. Punter.

22:17

Thank you. I think that additional information would certainly help. I think we're seeking to get a bit more consistency in terms of how traffic management is dealt with. Okay. Within this document, corresponding to the kind of broader controls under the outline construction traffic management plan.

22:35

So additional information and broader controls. Well, actually initial controls over the pre commencement plan. Plus the broader controls in the traffic management plan.

22:48

App. Yes. Okay. Yeah. Okay.

22:51

That's, that seems reasonable to me. Mr. Wren, can I come back to you now.

22:58

Thank you for that additional time appreciated. We have no objections to the content of the document at all. We obviously know that in 1.21, it is provided on an indicative basis only and is only to give an impression of what may be used. So in terms of how much weight we can give to it, we if everything goes in accordance with the document, we're generally comfortable. But it's the mechanisms that we'll be securing how that happens, we'll be interested in.

23:32

So I understand that this is going to be a standalone document, which will be a certified document as part of the DCO. So in light of that, and perhaps is the question for Miss Hendry, do you believe that

section 1.2 could perhaps be strengthened in its wording given that the status of the document is, you know, that certified document,

23:55

I would just thank him inside the re entry for the applicant, I would just point to the following paragraphs, they kind of go on from paragraph one to one, because one to two it. Whilst it does at one to one It acknowledges that the scope and methodology are at this stage sort of indicative, but what it does then go on to say is in relation to any of the pre commencement works, the mitigation measures that are set out in this document would apply. So we've we've tried to provide that indicative scope of methodology, but also acknowledging that the mitigation that we have proposed would cover anything that would fit under a pre commencement work under the definition of the commencement work. And I think that by securing it as a standalone document that should complete the circle.

24:46

Okay, well given actually given that particular to kind of quite neatly leads to a question that I had about the content, which is that I understand I can see that you've done the scope and methodology personally cific activity, but the mitigation that's been proposed is across the board. And I just just wondered whether there was any value. And I actually, I would like to have on the local authorities if there's any value in this approach at all, whether it would perhaps make a stronger and more specific specific mitigation measures if mitigation was there was specific mitigation specified for each of those activities as well. Mr. See, I think that question might be for you.

25:37

Oh, apologies. Now, I thought you were directing it to the local authorities in the first instance, but I'm happy to, to address and explain the sort of the logic I guess, behind. Okay, yeah, the drafting sorry, the re entry for the applicant. Essentially, when we were pulling this document together, because of the the similarities or the kind of the broad application of some of the mitigation measures, it became quite duplicitous. It became quite repetitive to for each of the different activities to name the mitigation, because in some cases, it was the same same mitigation activity for each of the different works. If, if you would like say, if there were over and above specific mitigations for a particular work, then perhaps we could identify those that maybe only apply to one type of the pre commencement works, then then perhaps we could draw those out. But the idea was that we would list all of the mitigation works, and then any that applied to any of the works would be

26:40

hackable. Fine. Okay. Mr. Tyrrell, your hand is up, and perhaps you could answer a give us your comments on the content, but equally, maybe answer that question, which is that if you feel that there's specific mitigation that needs to apply to the pre commencement activities, is it possible to highlight those?

26:59

Ma'am, thank you. Francis Tyrrell on both came to authorities. I'll deal with your points in reverse order. I think maybe he's simpler for the moment. There is, I agree that the point you're referring to, I think that there is a concern about legal certainty in relation to this unconscious, under the orders now amended

to the current version of the order, which is before the panel, which is rep 4006. Requirement 20. Any pre commencement works must be carried out in accordance with the pre commencement plan. So that is a requirement on a TCO. And you'll be well aware of the consequences of the importance of requirements and also the consequences of not complying with requirements and the current criminal sanction. So we do need to be certain as to what must be complied with what is in that plan? Then if we do look at the wording of the plan itself? We see as I think it was Mr. Wrenn, referred to that there is a reference that says that it is it's emotion to the scope. It is indicative. So it's a one to one one, the scope and methods described in this document are provided on an indicative basis, need to give an impression of the type and magnitude of those operations. As misandry is pointed out one to two then says that all segments and works will be subject to the mitigation measures set out in this and other early control documents. Just two points on that. I'm not entirely sure what other early control document is, and we should probably be clear about that. But it's less important point I think the where we say it will be subjected to the mitigation measures set out in this document I think I very much agree we should be certain what is the mitigation measure and what is not. So for example, if we take section two, one of the document which has a relation to pre construction mitigation works, or we have there and then we have a heading of scope. So I'm told at one two that scope is indicative. So I therefore read all of 211219 is indicative only. So I see no mitigation that is therefore required necessarily for two one supreme construction mitigation works. Similarly, then if I look at two two, which is remedial works to adverse ground conditions, again, the heading is scope. I then have methodology. I know that scope and methodology are all considered indicative because I want point two, but again, I have nothing we just set out clearly as mitigation in relation to those works to either so I think it's a question of just restructuring, I think this document to provide that clarity of when we're talking about scope and methodology and that is indicative when we're talking about mitigation, which is required an obligatory

29:56

Okay, so that but that could potentially this could be addressed in two ways, one is if the mitigation is identified specific each specific activity, yes. But Alternatively, it could also be addressed if the paragraphs one point 2.1 And one point 2.2 are perhaps reworded in order to make them stronger and to give potentially more weight to the scope and methodology, alongside the general mitigation measures that have been identified all together.

30:28

I think Francis Tyrrell on behalf of the authorities, I think our preference would be to have in relation to each activity because we dealt with them all separately. And also, they are different things and they will have different mitigation measures that were quite clear in relation to each, which is the mitigation measure. That already brings me on to the wider point we were going to make your residence ma'am. The comments that we did set out, we'll see. Those shouldn't be taken to are any comments where the authorities will be looking at this document in more detail and apologies that we gave the impression that those were the only concerns we have, we may raise further issues. Generally, on on some of the content in the documents and plan is a bit thin, in some respects. Take a couple of examples. In terms of contaminated land, the first iteration emp, right? He has quite a comprehensive provision about contaminated land, that's apt 234. We know that this pre commencement plan is for example, dealing with a set out at 1.13 remedial work in respect of contamination and address ground conditions. But we don't have any section in this document, which really deals with contaminated land in the same way as

we set out in the first iteration EMP whether it's much more comprehensive provision. Similarly, and I think it was touched on earlier in relation to traffic management. The first situation EMP has quite comprehensive revision and traffic management activities. Whereas in this document, we just see that none of the free commencement works require long term traffic management. I mean, obviously, we wouldn't expect it to be long term because at some point, the main works will come in, but it's not, I wouldn't, I don't think it's correct to suggest a national national house necessarily suggesting this but the impression shouldn't be given that these are any very day jobs or very short jobs, which there only be slight traffic management. because 3126 does suggest to me, it's probably going to be the question of putting up some signs at the outside of the site in the morning and taking them down at the end. I'm not sure. Obviously, we'll look at this in more detail. And I suppose we'll have our experts look at it. But given the nature of what we're talking about, this is covering and again, I refer back to 113, the list of things that are happening. Some of these are quite major jobs as we as we've discussed before on the previous issue specific hearings. And I just doubt whether what's set out in the traffic management in here is sufficient particularly when when contrast it to what is set out in the first iteration EMP to deal with those sorts of issues. So obviously the applicants chosen to go down this route, it might have been easier just to select the relevant bits of the first the MP that would apply to these sorts of works and do it on that basis. But I think we do need to have given the nature of these works content in some respects and this goes back to my earlier point about let's be clear in relation to each type of work which mitigation measures apply. Some of those which are more major should have more major provision more akin to what's in the first EMP I've given a couple of examples just to illustrate that. Okay.

33:48

Can I bring the applicant in to respond?

33:53

Thanks, man, Lorrae Hendry for the applicant, as these are the first time that we're hearing some of the comments from Cambridgeshire, obviously, we would like to sort of take them away and consider how how best we can, you know, account for them or, you know, where they perhaps are already addressed in the in the pre commencement plan and I I wonder if perhaps we could benefit from the full comments from the authorities not just Cambridgeshire, but all authorities at the next deadline with the view to submitting a revised pre commencement plan if if needed in order to deal with those comments at deadlines seven.

34:30

Okay. Here's what I'm thinking. There is. So maybe I'll just put this question out back out there. The points that have been raised is is maybe the structuring of the document regarding mitigation being more specific and this is in light of this. Let's say the what's been said in paragraphs 1.1 1.21 and one point two to the second point was about traffic management. And that's a point that's been raised by central Cambridgeshire but also the Cambridge authorities. The third point is about the content of the document potentially in some areas being slim, and perhaps needing to be more needing to be closer to the first EMP. And I think these are pretty fundamental comments. And I do wonder if in the interest of time, the examination is in the interest of time. Do you still have me? I'm sorry? Yes, you just glitched for a second, but I've got you back here. Okay, good. So in the interest of time, I do wonder if either

response to those comments are indeed attract, change version of the document from from the applicant of deadline six would be helpful, alongside any further comments from the authorities. So So I think we might need to twin track some of the things now in order to keep pace. And I just think that I think, given that this is a certified document, you know, we would like to get it in in a decent shape. You know, just like the conversation yesterday around the design principles document, which we learned yesterday was going to be a certified document. And in terms of the comments, I would, I would request the local authorities, perhaps it would be if it's helpful to the the applicant, it would definitely be helpful to the examining authority. If the comments can come more with respect to you know, what what you see the issue is and how it can be addressed. Both those things.

36:49

Man, thank you that that's noted Bronston. On behalf the capital authorities,

36:54

also noted by Bedford Thank you. Okay.

36:58

That question Central.

37:01

Thank you. So Miss Henry, is that okay, do you think? Do you think I can address some of the comments that have been raised with the hearing and either submit a revised version of the document or responses, or both?

37:12

Thank you, ma'am. The re entry for the applicant, I think that we can take this sort of interim step, if you will, so that we can try to address some of the comments that we've received to date. The only other thing I would just guess reiterate is that you know, given given where we are keeping that, making sure that if we are to go down the route of specific mitigation measures for particular activities, try not I guess, to limit just to the scope of methodology, because recognising that that will change as we get sort of further down the line and understanding how things will be carried out, but ensuring that they still apply to the sort of broader definition of of a pre commencement work, which I think is probably the intention in any event, but I just wanted to

37:55

make that clear. Yeah, I think that's fine. And you know, that explanation in the document itself or on a covering note would be helpful. And, and yeah, you know, so I think this interim step will help will, will, will help aid to take this forward at pace, but also without written questions. So, so that's good. I did have one other point on pre commencement, which is that, yes, so given the the, this is going to be a standalone certified document just just explained to me clarify for me, what would trigger the controls within it?

38:35

So any, any steps taken underneath the order? Okay, would fall within that definition that we have included in the most recent version of the order as a pre commencement work? So the way that requirement, the new requirement, or redrafted requirement 20 works is that it says that any pre commencement work that's carried out must be done in accordance with the pre commencement plan.

38:59

Okay, fine. So requirement 20 is fine, but then, then just clarify for me, then there, it almost seems to me like a definition of pre commencement would become essential. Are you still saying that the definition of pre commencement you don't think is necessary?

39:18

So, ma'am, the re entry for the applicant, in the latest version of this submitted order rep four, Dash 006. We did include a definition of pre commencement work in Article Two, which effectively as we had previously discussed, pulls out those excluded activities from commence

39:40

but the opposite. Okay, so that's absolutely fine. Apologies that we're looking at your responses to written questions. I was under the impression that you still think that the definition of pre commencement is not essential, but but, you know, so So that's cleared it up. There are some changes to wordings that have been proposed by Cambridgeshire authorities. Did you have a view on that?

40:06

I think that we we welcome the comments from Cambridge authorities in a way to sort of simplify the drafting. We're just considering whether there are any knock on effects to any other use of that term in the order. But it seems like a neat simplification provided it it doesn't cause any effects.

40:24

Okay, good. I just request Mr.Wren, Mr. Punter. When you submit your comments on the content of pre commencement plan. If you have any comments on the definition, or indeed on requirement 20, then do so alongside.

40:39

We will do Thank you. Okay, thanks.

40:41

I'm contented move on. Any other questions from anyone? No. Okay. Great. I'm going to deal with agenda item five first, if that's okay with everyone. So the agenda item five is article 23 authority to survey and investigate land. Now, applicant. My question is that notwithstanding the lead in conversations notice period and the compensation, I am still concerned that there is a possibility that the undertaker would have the power to force someone to give access to their land for the authority to survey and investigate without consulting with them. That's, you know, that that was what I put down and written questions to as well. So we, while the examining authority is not contesting that this provision could be needed. The question is around fairness of it affecting landowners who are not

involved in the consultation, and have not had a say on something that they don't even know could affect them. So do you have? Do you have a response to that aspect?

41:52

Thank you, ma'am. The re entry for the applicant. Ma'am, as as you've acknowledged already, this was something that was raised in in previous questions. And you know, that we had responded to on the basis that whilst there isn't a formal consultation requirement built into article 23, the usual way that this power would be applied by the applicant is to seek to, to, to make these arrangements voluntarily, so that we wouldn't be in a position where we were effectively as you say, forcing a landowner to sort of accept our presence on on their land, what we would be looking to do is agree the terms with of that voluntary arrangement with the landowner so that it did causes least disruption.

42:41

Yeah, your response makes that very clear. And which is why when I started speaking, I said, not withstanding some of those leading conversations. So if there is a particular landowner says, I know nothing about this, you've not consulted with me, and I don't want to give you access, you could still force him to give him access to give you access based on the provision based on this provision. So and I'm just saying that it's the fairness of that it's not that you the lead in conversations and voluntary agreements. You know, all that is, is well and dandy, but it's, it's when don't have a voluntary agreement.

43:22

And and I think there's sort of two elements to that. The first is that there is that compensation limb within the article. So if, if we were in a situation where a landowner was unhappy and suffered sort of loss, then then there would be that recourse. The other thing to, to note is that, you know, this is also, as I said, in my response, so in our response to the last round of written questions, I won't go into it in detail, but there is a similar power already in the it already a legislation that allows, you know, surveys to be undertaken in relation to compulsory acquisition. And as such, that, you know, that's an accepted proposition. We also have to, you know, balance the, you know, and I said you, you've said, you've already accepted that there's a, you can see that there's this power would be useful and is needed. And so being able to, to use the power in the way that it is currently drafted, would enable us to kind of, you know, complete the efficient delivery of the authorised development and the surveys required. I mean, the other thing I would know, and again, I won't go into detail, because we've set it out quite clearly, within the examination already, is just the the scope of this power is is limited to surveys is limited, and we've provided the examination with an indication of what those surveys might might be supported by what they might look like. So it's just I guess, considering it in the round with all of those aspects, okay.

44:57

Okay, that that is actually helpful. What I will go into now is that if you did have to, and again, this has been raised, but I don't think we have had a very clear response, obviously, because of the position you've taken. If you have to define a scope, in terms of, for instance, as suggested by National Farmers Union certain metres outside the red line boundary, how would How would you define that scope? And what would that scope be?

45:26

Well, I think, as we have said previously, it's not possible at this stage to define a scope that would be that would probably be reasonable or acceptable, because in order to ensure that we don't unnecessarily limit ourselves, it may be that that scope is quite broad, but in practice, we may not need that. So, which is why the use of the adjacent land which again, you know, is intended to provide that clarity. So, it has to be you know, in in the area of the authorised development, it has to be necessary we have it has to be necessary for us to go on there, it has to be necessary in order to carry out these surveys. Putting a metre limit on it, at this stage is is very difficult,

46:14

maybe not a metre limit. But is there another way that you can define that scope? And give some kind of an indication of where this might apply?

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Do you mean geographically? Well, I think that whether you use a county boundary or whether you use a local authority boundary, or you know, a metre, you still end up with the same problem, the survey, some of the surveys that we're talking about are environmental surveys. So we're needing to understand where species might go, for example. And so we were sort of can't be limited because a species won't be limited. So if we need to follow follow the trail as it were, then, you know, having that having that flexibility in the order is essential so that we can complete those surveys.

47:04

Okay. Right, um, I think that kind of covers the first point for both article four, agenda item four and five points a in under both of them. I just wanted to see if any of the other interested parties have comments to make on this. I understand National Farmers Union has joined us after introduction. So if you'd like to introduce yourself, and then if you had any comment on this very fact, Ms Staples

47:41

Thank you. It's Louise Staples from the National Farmers Union. Morning. Can I can I make a comment now? Or?

47:48

Yeah, please? Absolutely.

47:53

Thank you to national highways, for what they've just clarified. Just to confirm, National Farmers Union had a meeting with national highways. On just looking Sorry, I'm just going to give you the date of the meeting. On Wednesday, the 24th of November. Yeah, we did discuss again about the surveys that might take place outside or adjacent to. Again, it was was mentioned about so those for newts, surveys for badges and then surveys for water bowls. And it does seem to me that the it's the surveys for the water bowls that seemed to be the furthest away. It was mentioned in our meeting about 500 metres again. So I don't see why national highways if that's the furthest one away, why they can't put a distance of how many metres away, because then they would be able to carry out new surveys because they're saying those can be up to 250 metres away. The badges or survey is actually quite

close. That's within 30 metres is my understanding. And then as I've just said, water bowls was 500. So I haven't been they haven't given me another example of anything further away than five. So I don't know whether there is something else. And we haven't discussed that in our meeting.

49:30

Ms Hendry, but it does.

49:32

Just sorry.

49:33

Sorry, mistake was I thought you'd finish speaking, carry on.

49:37

Do you know how Thank you,

49:40

Ms Hendry. I didn't know that seems,

49:41

first of all this meeting on the 24th. If you have a note for that meeting, it'd be really helpful to have because if you had such a useful discussion, I'd love to see it. But equally, that seems sensible. You know that you've mentioned some surveys. How Why couldn't you identify clearly what the survey's might be? How far you might need to go for them, and then define the scope for article 23. On that basis

50:14

of Thank you, ma'am, the re entry for for the applicant. You know, and I take the points from from MS staples, and, you know, those figures reflect the information that we provided in our response to I think was actions from issue specific hearing three, where we provided a, you know, an indication as to the types and scope of surveys as to whether or not there are other species that may have a broader range, then, than those listed by Ms staples, I will have to sort of take instructions on that from the from the EIA team, and perhaps investigate whether or not they would be sufficiently certain so that they could be incorporated. But, again, I would reiterate that, you know, when I'm not an AI expert, and I don't profess to be but, you know, allowing us to allowing us a degree of flexibility, without drawing a line that perhaps a species may not follow, does seem sensible, sensible to me, particularly when we're talking about the drafting of a, of an order of this sort, which, if we go outside of the the extent of the order, there are criminal sanctions for that, or were prevented from doing so because our powers don't extend that far. And that may limit our ability to properly carry out the surveys and properly understand. So if it was, you know, not wanting to use an extreme example, but if it was 510 metres, we wouldn't be able to leave the survey fair, because we had put that 500 metre cap in the in the order. So I think it's just trying to understand what is needed. But then keeping that in mind that by drafting it into the order, that is setting something in stone, that that may not in practice, be that easy to control? Yeah,

52:07

I think I have I have a thought on that. But I want to come to Mr. Parkin first. Because I think he has a more relevant point to make.

52:15

Thank you, Mrs Sahai. It's just a comment, really. I noticed what Ms Staples has been saying about vocals and badges and various species. It just just occurred to me that that's potentially maybe one of the species that you might need to be considering. And they have a significantly larger range than then that's then has been mentioned. So again, it's just it's just something that perhaps you want to consider when you when you contact your colleagues misandry in terms of that.

52:50

Thank you, Mr. Parkin, and the very 100 for the applicant. That's, that's very helpful. And, again, illustrates the point that it's it's difficult to, to pin this town birds may also require a further period, it is not something that I I know about or profess to speak to. But yeah, there are there are difficulties in trying to lock it down is is my point. Thank you. I'm just looking at article

53:18

23. Now. And if there was a way to perhaps, identify what these surveys might be, are you able to define a scope that way? So it's not geographical, but identified by but limited? By the kind of survey you might need to do which is relevant to land, which is adjacent but outside the order limits? Could you do it that way?

53:51

Oh, so you're so essentially, this, the scope would apply as far as the adjacent to element of the order and not the land within the within the order limits? I mean, I can certainly take instructions on that as a as a concept. And I guess, just keeping in mind, the degree of certainty that the odour provides and the practicalities of that. But I think it's something that the applicant can consider further. Fine. Thank you, Miss staples.

54:23

Thank you, Louise Staples from the National Farmers Union. I just wanted to make a final comment that I think from a landowners point of view, it needs to be remembered that they will be seeing that the surveys are supposed to be taking place adjacent to it outside the order limit. I suppose once you start to get further away than 500 metres, you're it's starting to not actually be adjacent to the scheme, I would say and I think that needs to be considered as well. Thank you, Miss Staples. I

54:54

I take your point that I think what you're saying is that even if as a concept We applied a limit in terms of the type of survey that might take place on adjacent land. What you're saying is that actually even even in that kind of a concept, there has to be some kind of a figure in terms of when it goes anywhere beyond 500 metres, you don't really consider it to be adjacent land.

55:22

Well, I think sorry, yes. Do we say for some National Farmers Union, I think we have to remember that it did stated in the article that it's adjacent to. So I think we always have to keep that in mind that those surveys are supposed to be adjacent to thank you. Yeah. Yeah.

55:41

So I mean, you know, that's a good point, actually Ms Hendry. And it's just worth just looking into this as well. So for instance, if you've got the order limit here, and you've got one, say, ownership boundary next to it, is it possible that adjacent to land could be a couple of boundaries away? I mean, you know, no matter what the distance is, you know, that that's, and it just kind of, you know, at what point does it stop being adjacent land?

56:12

Thank you. This was either re entry for the for the applicant. I take I take the point, but I think it's an accepted principle that adjacent to doesn't mean immediately next to so we're not talking about land that necessarily shares an immediate border with the with the order limits adjacent to has a broader definition, then that was intended to have a broader definition than that. I, I understand the challenge in how far can you take the definition of adjacent to but I also come back to the point that the power that we're seeking hear, in some cases, we won't have to enter onto private land to carry out the surveys, if we're talking about a public water course, or we're talking about Avenue, areas that might be accessible by footpaths, public footpaths, those sorts of things will be utilised by the applicant, because as I said, right at the beginning, we would always try to seek voluntary access first. And if there's a way that we don't have to disrupt the landowner or seek that Voluntary Arrangement, by using public rights of way, by using local highway access, that's what we would do. And then we would look to the landowners if we needed to cross their land voluntarily. And then we would if If necessary, use this power. So whilst getting into the sort of the very detail of how far we we may be able to use it, I think it is always important to kind of come back to the actual application of this power. And and how it might play out in in practice. Whilst I appreciate the questions and the challenges. Yeah,

57:50

yeah. But equally the challenge before us is that that's not something that the examining authority can secure. It, the only thing the examining authority has before it is the scenario, which is in the draft definition and the draft development consent order. So you have to assume that if that's happening, what are the implication and effects of that, and if that those have been tested thoroughly? Okay, I think I'm happy to move on here. I'll get on to notice period, and apologies that this, you know, slightly overlapping some agenda items. But we'll cover notice period for both article 23 and article 40. And I do understand that article 40. The, the point about notice period, is possibly more crucial for for interested parties. I have two questions, and you set out very clearly again, in your response. So just take all of that as read. But in terms of notice period, you've set out that increasing that in practice, 14 days is not really going to be 14 days, you've told us that and it could have a knock on effect. What I'm not clear about is what is the knock on effect of increasing the notice period to 28 days. And if we can look at that in two ways. So would increasing the notice period to 28 days have an impact in being able to deliver any other provisions in the draft development consent order or its certified documents, including the construction period. So if you were to increase the notice period for article 40, let's just take article 40 For now, to 28 days, would that have a knock on effect for the construction period or any other

provision in the DC area? And the second thing is that that would have an effect on viability, you know your aspects of your funding statement or any other aspects relating to project costs. That the ESA assessment and conclusions are based on and can you substantiate that

59:58

Thank you, ma'am. Lorrae Hendry For the applicant, as as we have said, well, the first thing I probably should deal with is the is the viability point that you have made. I don't think that there is any intention on the applicants part to indicate that this might call into question any of the funding arrangements or viability of the scheme as a whole. But what I would sort of say alongside that, is that, as you've heard, sort of throughout the previous days of the hearing this week, the the intention of the applicant in relation to this scheme is to commence activities under the under this order, if granted as quickly as possible, the construction programme on this scheme is extremely ambitious. And the intention is to have it done as quickly as possible. So the looking at the addition of a 14 day, an additional 14 days on top of the 14 days that's already there in order to get your 28 days is difficult to say that that that's not going to, you know, potentially Scarpa, the the scheme, I don't think anybody's indicating that what we're saying is that every, every incremental increase in notice period is going to have a knock on effect on our construction period. And also that the fact that that this notice period, is a consistent approach across development consent orders with with with highways and elsewhere, but also, that the parties who are affected by this notice period, have been warned about the fact that it would be 14 days they have been consulted and taken through this journey the entire time, they're in the book of reference, they will be informed of the making of the order. And so it's, it's just I guess, trying not to focus only on an additional two weeks, because it's it's difficult to say that on a scheme of this scale, that will have a an effect that would bring bring the scheme sort of to its knees, essentially it's not going to do that. But what it will do is have multiple effects all over the place, because it's the idea and the intention with this scheme is to hit the ground running as quickly as possible and to deliver and bring about the opening of this scheme as quickly as we can. Okay,

1:02:29

so just going back to my question misandry, would it have an effect on construction programme, or any other ies effects that have been assessed in the ies so would increasing it to 28 days fully understand will have knock on effect you've set that also understand that and practically, practically, it will not work as 14 days and you intend to be as fair as possible. But if it were to be increased to 28 days, would, can you tell me if it will have an effect on you not being able to deliver the programme?

1:03:05

But Lorrae Hendry for for the applicant? I'm probably not in a position to answer that at the moment, and I would probably need to refer back to my construction and delivery partners. Okay, in order to provide that that confirmation or otherwise,

1:03:22

that's fine. We'll put this as a hearing action. And it's just, it's on two matters. And I'm what am I do is even though you've actually answered the question about viability very clearly, I'll put that in the hearing action as well. I think this just needs to be a very brief response. And it's just it's actually a very similar question to what I put in the written questions, but I do want a very specific response on this. And this is

with respect to both notice period in article 40, and article 23. But I do have a bigger concern about article 40. So I might in the hearing action, I might actually unpack these two. If that's okay. Yeah. Now, I know that we've had concerns from National Farmers Union and judge commissioners of England. If there's anything further you'd like to add, that you haven't said before, then now would be the time.

1:04:29

It's Louise Staples from the National Farmers Union. Please. May I make a comment? Yes. Thank you. I've been listening to Lorrae Hendry. And my only comment would be that I completely understand about, you know, they're saying that their construction and the timing for the whole project is very ambitious, I think. And she even said it herself that it's only an extra two weeks that we're really asking for to give the 28 days. From from, I think the NFU point of view, it is just meaning that their land and property team who will be serving the statutory notices really just have to be a bit more organised and to be able to give the 28 days rather than 14 days, and it would make a massive difference to the landowners.

1:05:20

So I think that's the point that would be really helpful is just the way I've asked the applicant to specify how it would affect their construction programme, the four week notice period, what would be really helpful to understand from you is how it would affect your land or your members, you know, benefit, how it would benefit them to have the additional two weeks or indeed, Howard, you've already said how it disadvantages them, particularly with respect to article 40, to not have any more than two weeks notice. So, so how it benefits them to have the additional two weeks specifically would be helpful. Can you do that now?

1:06:00

Well, I think the timings is, is important, just so they still have some if they need to change anything, you know, anything operations wise, within their businesses, that that does allow them a little bit more time to plan specifically that, you know, we have to definitely have moved that livestock, you know, from those fields within 28 days time. Again, I've mentioned about getting derogations that will make that much more possible, easier to obtain because you can't obtain a derogation in 14 days. So I think it's though sort of slightly

1:06:42

within eight to 10 derogation for

1:06:45

so the derogation as I've mentioned before is in if they're in a countryside stewardship, so an environmental site, okay. Yep. So normally, you have to obviously go to the rural payments agency to ask for this derogation, it's very difficult to do it within 14 days.

1:07:03

And I'm assuming that there are members who will be affected by this proposed development who would need you know, who are in countryside stewardship schemes?

1:07:14

Yeah, there'll be they weren't, some of them will be in on it. But there definitely are environmental schemes.

1:07:21

Okay, Miss Staples, I will include you in this action, because I think you I know that there are a lot of these you have given us before, but as we've previously said to you that if you can give us anything specific that always help makes your case stronger, and obviously helps the applicant to respond to perhaps more specifically to that.

1:07:42

That's fine, thank you very much. Okay. Mrs. O'Hagan, did

1:07:45

you have anything to add?

1:07:49

Good. My name is Lydia O'Hagan for the church commission. It's the England nothing further, aside from what is already set out and our deadline for submissions. And I note that we did sit out on the specific kind of impacts and benefits of having the additional 14 days notice and those submissions. Okay, thank you. Mrs

1:08:09

O'Hagan. Thank you, any other parties do you have any other further points to make on both the notice period specified under agenda item five and six. Okay,

1:08:23

so,

1:08:24

I am in the vicinity of a break quite nearly on time. So, we it is now 11 or 9am. And we'll take a short break of 15 minutes if we can all come back at 11:25am. If you decide to leave the meeting during the break, you can rejoin using the same link provided in your invitation email and if you're watching the live stream then please refresh your browser to resume each subsequent session. Thank you very much misandry and thank you to everyone.