

TEXT_A1iN_ISH1_Session1_23022021

Tue, 2/23 11:45AM • 1:28:16

00:03

Good morning, everyone.

00:06

Can I just go find it? Everybody can hear me clearly please.

00:11

Yeah, we can hear you.

00:14

Thank you very much. Can I also confirm with Miss pattern that the live streaming of this event has commenced? Please?

00:23

I can confirm that live streaming has commenced.

00:26

Thank you very much. And for those people watching the live stream, can I also advise you that should we at any point adjourn proceedings this morning, we'll have to stop the live stream in order to give us clear recording files. As a result, it pointed to which we recommend to meeting and we start the live stream, you will need to refresh your browser page to view the restarted stream. I will remind you of this again, should we need to return

00:55

the time is now 10 or 1am. And it's time for this meeting. To begin. I would like to welcome you all to this issue specific hearing on the draft development consent order in relation to the application made by how is England for the air one in Northumberland. More to elton john.

01:15

The development proposed comprise two parts with Part A being the widening of the existing single carriageway to a dual carriageway for approximately 12.6 kilometres of the existing one between more Perth and Felton. It includes approximately 6.5 kilometres of online widening in 6.1 kilometres of new offline highway.

01:39

Part B involves the widening of the existing single carriageway to a dual carriageway for approximately eight kilometres of the existing Awan between Alnwick and Ellen Jim,

01:51

thank you for attending this virtual meeting. My name is Andrew Pinto. I am a chartered planner in planning inspector employed by the planning Inspectorate. I have been appointed by the Secretary of State to be a member of the panel for the examination of this application.

02:09

I am now going to ask my fellow panel members to introduce himself.

02:14

Good morning. My name is Kevin Gleason. I'm also a chartered town planner. I'm a planning inspector employed by the planning Inspectorate and has been appointed by the Secretary of State's for housing Communities and Local governments to be the lead member of the panel to examine this application.

02:32

Thank you, Mr. Gleason.

02:36

Together we constitute the examining authority for this application. And we will be reporting to the Secretary of State for Transport with a recommendation as to whether development consent order should be made.

02:51

You will have you will have all already spoken to and heard from Candice Patton, who is the case manager for this project. Miss Patton is being supported today by James Bunton in judge Harold who are members of the case team who you are likely to come into contact with during the course of the examination. If you have any questions or queries about the examination process or technology we are used, that we are using for virtual events, this should be your first part, your first point of contact.

03:25

The contact details can be found at the top of any letter you have received from us, or onto project page of the national infrastructure website. We appreciate that conducting an event in this way isn't ideal, and can be challenging for those who are unfamiliar with the technology. But please don't hesitate to contact a member of the case team if you need help with the technology.

03:49

This meeting is being held on the Microsoft team's platform and is being live streamed. In order to minimise background noise. Can you please make sure your phone is switched off or turned to silent in there to stay muted unless you are speaking?

04:06

As this is a virtual meeting, we have structured it in such a way that questions or points that you may wish to raise can be done. So it's relevant point into proceedings. When we get to those points. I would ask if you want to speak in you need to use Microsoft Teams hands up function.

04:30

They'll be advised that there may be delays before seeing it and please wait to be invited to speak or asked to speak at an appropriate time.

04:41

Can I also remind people that chat function in Microsoft Teams will not work so please don't try and use this to ask any questions or post any comments.

04:55

Please speak loudly and clearly. If you don't, if you don't

05:00

To manage to ask a question or raise your point, it's relevant point in this time, there will be time in an opportunity at the end of the meeting for you to raise this and so forth the agenda and the any other matters.

05:14

Because the digital recordings that we make are retained and published, they form public records that can contain your personal information, and to which the general data protection regulation GDPR applies. The planning inspectors practice is to retain and publish recordings for a period of five years from Secretary of State's decision. Consequently, if you participate in today's meeting, it's important that you understand that you will be live streamed and recorded in that digital recording will be published. If you don't want your image to be recorded, you can switch off the camera.

05:53

If you feel that personal information is necessary, please provide this in a written document that we can redact before publication.

06:04

We will only ever ask you for information to be placed into public credit that is important and relevant to the planning decision. Therefore, to avoid the need to edit digital recordings, what we would like to ask is for you to try your best not to add information to the public credit record that you would wish to be kept private or that is confidential.

06:27

Does anyone have any questions with regard to this matter?

06:35

I'll continue then.

06:38

Throughout this week hearings, hearings, certain issues will reoccur as we examine them from different angles or in relation to different elements of the scheme. We therefore ask you to bear this in mind

today, when you give your evidence in ask you to focus on answering the questions that have that have that have been asked.

07:00

Today's issue specific hearing is being held at the request of the examining authority, who wish to explore a number of metals oral in respect of the draft development consent order. We would also like to remind you that the examining that examination is predominantly a written process. The examining authority have already asked some nearly 80 questions on the draft development consent order in our written questions.

07:27

As you'll have seen from the examination timetable, there are further rounds of questions and other opportunities for hearings.

07:35

Therefore, we would like to take this opportunity to reassure you that whilst you might think that we haven't examined two subject is fully is you may wish at this hearing. This may be because we tend to consider it again from a different perspective at another day or throughout additional written questions. The purpose of this examination is for the examining authority to examine deformation submitted both by the applicant and by interested parties in affected persons.

08:05

As a result, we would like to reassure you that we are familiar with the documents that you have seen that you have sent in. So when answering a question, you don't need to repeat at length, something that has already been submitted. If you want to refer to information already submitted, we would be very grateful if you could give the appropriate examination library that reference.

08:29

Additionally, the first time you use an abbreviation or an acronym, can you give the full title is there will be people here today that are or listening on the audio that may not be as familiar with the application or documents as you are

08:46

asked I accept that majority of the discussions will be undertaken by those parts that have requests to speak. This is a public examination in default, even if you haven't indicated that you wish to speak. If there there is a point that you would like to intervene, please do feel free to indicate that at a relevant time for that you wish to contribute.

09:11

The hearing today will be a structured discussion, which will be led by the examining authority based on the agenda that has already been published.

09:20

The purpose of the hearing is to enable you to answer any questions and to to answer any questions that we may have to ensure that we have all of the information that we need in order to make our recommendation to the Secretary of State's

09:44

I would now like to turn on to the agenda and I will attempt to share this with you on screen.

10:00

Just bear with me I'll try to

10:06

share this on screen will be few

10:26

can ask me spare to please confirm if my screen is being shared at the moment.

10:34

Yep, I can confirm that we can see the agenda.

10:37

Thank you very much.

10:44

The examination procedure rules require that at the start of the hearing, the examining authority shall identify the matters to be considered at hearing. The agenda for these hearings was placed onto the project page of the planning spected website on the 16th of February 2021.

11:02

The substantive items on the agenda are as follows. item two addresses the majority of the articles and schedules often development after consent order. And item three, we'll consider article 16. In schedule four of the DCM development consent order to permanent stopping at off streets public right of way in private means of access. item four will cover schedule two requirements while item five will cover scheduled 10 protective provisions. Scheduled 12. documents to be certified will form item six and item seven relates to consents licences in other agreements. Finally, item eight will review statements of common grounds relevant to the dcl.

11:47

This agenda is for guidance only, we may add other issues for consideration as we progress.

11:54

We will seek to allocate sufficient time to each issue to allow proper consideration of them build on the experience of other virtual events, we propose that today will be split into three sessions, which are approximately one hour and a half each. At completion of the sessions. It's around 1130. We'll have a break of half an hour before resuming at 12 and continuing until at 130.

12:21

The final session of the day would take place between 230 and four o'clock. We will however be flexible about this timings

12:30

will conclude the hearing as soon as all relevant contributions have been made in all questions asked and responded to. This may mean that we need all three sessions. But if the discussion is can't be completed and unlikely to take longer than anticipated in may be necessary to prioritise matters, and define others to further written questions.

12:59

Just a few more introductory comments. Firstly, bear in mind that whatever recommendation the examining authority ultimately makes it is for the Secretary of State to make the decision on the application in Secretary of State is not bound to accept our recommendation. So in circumstances that we were to recommend the order should not be made, it is nonetheless necessary for us to prepare a draft development consent order for the secretary of state should he decide not to accept our recommendation.

13:34

Development consent orders start at the applicants document it ends up it's the examining authorities document regardless of whether acceptance of the proposed scheme is recommended. As such, all parties are encouraged to comment on draft development consent order.

13:54

Finally, it is important that we get the right answers to the questions we are going to ask. As I have mentioned this is predominantly with a written process. Therefore, if you cannot answer the questions that are being asked or required time to get the information requested,

14:12

then rather than giving us a restricted or potential Wrong answer for the smooth running of the examination, can you please indicate that you need to respond in writing? And we can defer the question to the next round of related questions or at a later hearing.

14:29

I would now like to take the names of those who wish to speak this hearing. Please don't forget to state your name and who you represent when introducing yourself.

14:45

I would perhaps like to start with the applicant. Mr. Howard basford. Please.

14:55

Good morning, sir. Can you hear me?

14:58

Yes, I can hear you clearly.

15:01

My name is Howard bassford. I am a solicitor and partner in the law firm DLA Piper.

15:10

I represent highways England.

15:13

supporting me today are my colleagues, Mr. Michael Greg, that's g r e. i g was a legal director and Mr. Henry Jeffrey's j e. f f r e y s is an associate to both of DLA Piper.

15:34

In addition, we have Mr. Mark Steadman, who is highways, interns, project manager, and Mr. David Morrow, who is the project manager from the consulting engineers, W. Sp, who advise highways England,

15:52

there may be a need to refer to other experts. And should that be the case? I will introduce them at that time.

16:02

Okay, that's, that's, that's great. Thank you very much, Mr. Boss foods.

16:10

Now, I would like to move to Northumberland county council.

16:21

Can you hear Sorry, can you hear me? Yep. Can you hear me? Sorry. Can you Thank you. So I'm Katherine Robbie, I'm Senior planning officer with the County Council and supporting me today are Matthew Payne from highways management, development management and David Brooks, from the local services team. They'll be answering most of the questions I think today.

16:52

That is, that's very helpful. Thank you very much. Miss Robbie.

16:59

Now, I will move to Environment Agency. If you could please introduce yourselves. Thank you.

17:12

Oh, good. Good morning, sir. My name is Carol bolts and I'm a solicitor with the Legal Services Department at the Environment Agency. And I also have with me my colleague, Lucy Mo. I'll ask Lucy to introduce herself.

17:30

Thank you.

17:34

Hi, I'm Lucy mo from the vironment agency.

17:39

Thank you very much we smell

17:45

now can I please

17:49

move to Brookfield consultancy? Mr. Foul?

17:57

Good morning.

18:00

Yes, my name is Louie fel, brought thought consultancy. I may or may not speak I'm not sure whether it's going to be necessary for me today.

18:09

Okay, thank you very much. Mr. foul.

18:17

Can I move to do we have a representative from Northumberland states, please?

18:26

Yes, Scrum was in the Thumbelina states. I don't think I'll need to speak to the ILA.

18:32

Okay, thank you very much.

18:38

And,

18:40

Mr. Mr. Horse, are you with us?

18:45

I am indeed. Good morning, everyone. Yes. I'm Mark

18:51

Northgate.

18:54

Would you like to reintroduce yourself please East? Mr. horse? I'm afraid that I didn't hear very clearly.

19:03

Yes, my name is Marcos representing Northgate farm.

19:08

Thank you very much, Mr. Horse.

19:11

And I believe that covers all of the relevant people that are with us today.

19:20

Could you please confirm that I have asked you to introduce yourself or that you have actually been introduced, as well by another member of your team? If anyone hasn't been covered, Please, could you let me know?

19:37

I believe that's it.

19:40

So thank you very much. This now addresses the first item on the agenda, which is welcome introductions and arrangements for the hearing. Are there any questions of any destructor in an introductory manner or preliminary night last night that you would like to ask now

20:00

Assume that scenario. So I will now pass over to Mr. Gleason who will lead on item two of the agenda.

20:12

Thank you, Mr. Pinto.

20:14

Throughout this hearing, I'm going to be referring to a number of key documents, which participants may wish to have easy access to. These are the latest version of the draft decio submitted by the applicants, deadline three, which is examination Library Reference, rep three double o four, which is the clean version, and rep three double oh five, which is tracked.

20:41

Secondly, the latest version of explanatory memorandum. Rep. One double oh seven, clean, and rep one double eight tracked.

20:55

Next is the Atkins sheduled of changes the decio rep three double o six.

21:03

The applicants responses to the examining authorities. First written questions, we have one oh 32.

21:13

Three responses to the examining authorities written questions from the London Cancer Council upon Oh 73. From the Environment Agency, we have one oh 74. And from Mr. Mark horoskop on Oh 83.

21:32

And then the Africans comments on responses to examination authorities. First written questions, we have two Oh 20. at appropriate points, I'll direct people to those documents, but people may just want to have reference to them.

21:48

If there's a need to this meeting, we're also going to be using the version of the land plans work plans in general arrangement plans. We chose an examination library references a PP double o six, the land plans, a PP Tableau seventh the works plans, and a PP Tableau eight, the general arrangement plans. Again, I'll make sure that I give people adequate notice, so that I can refer to these documents.

22:21

In going through the agenda, I'm going to ask this pattern to have the copy of the developed consent order have referred to available on the screen and will largely be working through that. So that anyone watching today or watching the live stream will be able to follow the discussion on the individual

22:47

parts of the film consent order.

22:50

And if we could have that on the screen now then I'd be grateful please.

22:56

Thank you very much.

23:01

To begin with, I'd like to work through some of the responses to

23:10

first written questions in respect to the articles and schedules the dcl where the examining authority requires further clarification or other matters, which are otherwise outstanding. But before doing that, I just like to ask the applicant to begin by briefly commenting on their approach to the identification of articles and schedules to address the proposed developments. Mr. bassford, could you comment on this? Short well, please.

23:42

Of course, the genesis of a development consent order like this is in the railway legislation of the 19th century. And it's evolution throughout 20th century ending with the Channel Tunnel Rail Link act of 1996. And that also reflects the transport and Works Act and the model clauses for transport and Works Act orders under the transport and Works Act 1992. Those are the parents of the development consent orders that we deal with today. And the drafting in a development consent order reflects those precedents. Those evolved into the model clauses for infrastructure planning and development consent orders, which were published when the regime was initiated in 2009. And that forms the basis for the drafting of all modern development consent orders. The model clauses are no longer in or model provisions are no longer in force as statutory drafting

24:54

draft and look back to those orders in deciding what's an appropriate way to draft

25:00

Development consent order where there is a need to revisit or to advance drafting to take account of new provisions that may be bespoke for a scheme. Then in those circumstances we justify the drafting through the explanatory memorandum, and that explains how we step away from what might have gone before. However, the vast majority of the content found consensual that you see before you today, sir, is precedented.

25:37

See, quickly move through the decio The first thing is to say that they have a fairly standard for

25:46

earthing say that

25:49

fairly standard form. Do you mind? If I check that you can hear me sir? Because I had a moment where I lost contact? Yes, so I can't hear you. And as with the open floor hearing yesterday, is it going to be beneficial to turn off your camera, I will go off video for

26:09

you.

26:11

So, they have a fairly standard format. The first thing is that they contain preliminary items which relates to the way

26:21

is set out the contents and the the short title which explains that, if the order is made, the Secretary of State will have regard to what you say and your report and this examination. And then there is the prepare the preliminary elements, which show how the orders refer to and critically the definitions which

are key in any legal document enable it to be interpreted after that, the principle powers are there and they those are the elements which are somewhat like a planning permission in that they identify what exactly this dceo would authorise. If the secretary of state were to make it, they deal with the power to construct the power to maintain and the effects on the existing planning regime of town country Planning Act 1990. They deal with deviation, which is a concept which enables us to define the envelope of environmental effects of the scheme and the way that we can ensure that the effects are limited, understood and therefore lawful, and that they deal with the ability to transfer the benefits with the order say that like a planning permission, it runs with the land in some respects but and others not. Because this is a highways decio part three of the documents is very important and it deals with

27:47

with the effects on the existing highway network and new highways. The way they're carried out it deals with the concept of street works which are works to highways, it deals with closing highways for public safety during the works and it deals with diversions and closures that will take place once the work is complete. So that the new highway network comes into comes into force in this DC to draw your attention in particular to Article 14 which deals with classification approach that is important because this is a high was England order. And it was England as the strategic Highway Authority. North American counsellors the local Highway Authority, and we need to ensure that the status of roads is properly recorded. We also deal at

28:36

article 18 and 19 with clear waves and speed restrictions respectively, at article 20, with closure of bus stops, and parking lay bys. And those are important because this is a truck road, there will be

28:50

the network as a result of that there are supplemental powers in part for those matters such as water and sewers or pipes. Protective works to buildings in order to ensure that the project is able to take account of its impact on buildings and the ability to survey and investigate land if it is necessary to enter land at any point to check the progress and impacts the works.

29:25

Part Five is very important because it contains the powers of compulsory acquisition and possession which are needed to assemble the land and to access the land to allowed works to be carried out. I can assure you sir, that these are very standard provisions that will be familiar to you and Mr. Pinto, from other development consent orders. These are not novel. They are approved by the Secretary of State and they take a very normal approach to the acquisition of land a part six of the section relating to it

30:00

Relations. This deals with having a lot of trees and removal Petros and in particular in relation to tree preservation orders. And that is because they're the area in which the works will take place and the environment in which they will be carried out, ensure that we need to make sure the powers are available to to carry out works which affect vegetation, and in particular protected and valuable

30:31

assets. And then the final part of the decio. itself audit the DCA contains certain miscellaneous provisions that tidy up the powers and ensure they're sufficient for the implementation scheme. There are a long list of schedules, I don't propose to read through all of them.

30:56

Those things exist anymore, as I believe, but there are many

31:04

impacts on highways and the way in which public rights of way and the rights of the public pass and repass are managed during the works. And after they come into operation. I hope so that that background and that approach to drafting is useful. It is thoughtfully carried out. And we are ready to hear your questions and respond to them. Thank you very much, Mr. breastfeeds. Yes, that is useful, just provide very helpful context, so that people listening will understand how the CTO has been set out. And now we can move on to the more detailed matters. So as I said, like to work through, based on some of the responses to the first written questions, in respect to the articles and schedules, the decio. And under this first item, we won't be dealing with articles 16, schedules two 410 and 12. They'll be dealt with later. So the primary documents putting TCL itself will be the applicants response to first written questions. And that has reference rep one Oh, 32. I'm not going to go through every response because a number of them, those responses were content with. And the issue is effectively closed, that he'll pick up some as we do go through.

32:33

And the first one is question dcl 110. And that's related to Article two, which is the definition of commence. So it's on page five of the DCR which is coming up on the screen.

32:50

And those the highlighted section

32:53

are that the

32:55

definition which has a couple of additions as deadline three. So this, as you'll be very familiar with Mr. basford is

33:09

a definition which is often subject to discussion at issues, hearings, definition of commands, if you could just provide further explanation about what this definition is trying to achieve and how the different qualifications applied to the definition in dtos. So, in the case of this PC, do you have a number of elements which are slightly different from others, which I

33:44

presume they

33:47

are because of the specifics of the scheme, if you could just explain those exclusions and particularly the recent change that has been made that deadline three, thank you.

34:00

Thank you, Sir, you are right. And this is something where I suspect we may come back to discussions to ensure that we satisfy you as to the drafting of this provision as the examination proceeds. The term commence is important in the DCA because it triggers liabilities of the developer which would be highways England here and its responsibility to

34:28

at works or to provide protective works, which are which may be very extensive, quite complicated and involve a large amount of preliminary investigation. Now, that investigation may itself comprise development. So for instance, if one word carry out an engineering work such as an excavation, under the law, that is development, what it is easy to get into a bind whereby for instance, when

35:00

would be precluded from carrying out an archaeological investigation involving the digging of a trench

35:07

until 100 discharged a provision for which the digging of the trench was required.

35:17

So, for instance, to have a written scheme of investigation that is acceptable to the historic environment, officers of the county council or to historic England, you may have to dig a trench and you have to have your written scheme investigation to carry out works, but if you have to dig the trench in order to find the information, then you are you are a bit stuck. So, the wording that we have here enables pre construction, ecological and archaeological investigations in particular,

35:56

and mitigation that is required to address the impacts of the

36:02

of the project to be carried out before triggering the bulk of the responsibilities under the order.

36:09

Now, that means that some care will be needed when we look at the definition of the construction environmental management plan, because we have to balance the need to prepare that plan to

36:23

complete the construction of a

36:31

new applies there. So, that is what we are. That is the design of this petition, which is otherwise entirely unprecedented. What I would suggest, though, is that we continue to look at this. We go through the examination with you, sir, and Mr. Pinto. And that, and identify how this operates. And whether it's a satisfactory because it is about fine tuning definitions like this. And that is a matter akin to every decision that we deal with with your brother inspectors. Thank you. Yes. And as I said, there are elements in this definition which clearly don't appear in others for various reasons, different types of schemes. So it may be that we need to come back and just as you say, fine tune. So happy with that response for now. If we can move on, because Thank you. So let's then move on to his question this year one point 18. Article two again. So I think it's the following page. Page Six.

37:36

Yes.

37:40

page seven, actually, let's move down

37:44

here on the page. So

37:47

this is the points

37:50

and the definition of

37:53

structures, engineering drawings and sections. That's why it's highlighted there.

38:03

No, it isn't these two above that it's right of way in the right way. Yes. Two states actually should start on the new line, I think, because that's the definition of that term. Secretary of State means have to stiff transport. Yes, there's a carriage return required after a long order. Yes, we will pick that one up. I think that we're going to fall out of that dropping so

38:31

it's nice to have things correct, though.

38:33

Okay. Let's then move on to Article seven, choose limits of deviation.

38:43

And you've already

38:47

made reference to this provision in your introduction. So please do 130 was the original question on this as it sets out now in this version, Article seven. brackets five is a repetition of articles seven brackets for the wording is identical. Can you see that? Yes. And I think what's happened is that the original decio related to the high load champion over which works in West more junction of works. I think that's what should

39:25

replace what is currently item five, but no need to check that immediately if you could check that and the next version of the TCU

39:39

we should not do that, sir. Thank you. That's really helpful. Okay.

39:44

And then staying on article seven limited deviation.

39:49

seven seven

39:52

states vertical limbs of deviation at defence commendation overbridge are not

40:00

point six five metres or points or downwards

40:04

and in your response to these here 131

40:11

it says up to 650 millimetres increase or 250 millimetres decrease in heights to accommodate 400 millimetre increase in the depth of the structural beam as a consequence of the increase in the bridge span and a 250 millimetre increase or decrease in the finished road levels on the a one I think I understand that but I think the important thing is just to clarify the limits that you require are 650 millimetres or naught point six five metres in either direction

40:47

is that correct?

40:52

Yes, that is correct.

40:55

So, the 650 millimetres is the increase and of the the depth of the structural beam 400 plus 250 or 650. We will check that but though that's the naught point six five metres, either way, is not material in terms of any environmental impact, but that is the power of deviation which the engineers require. Thank you.

41:30

Again staying with article seven, and the question was one to 1.35.

41:39

As you've pointed out, tailpiece wording is the same as in other TCS including the a 19 down your lane junction.

41:50

And state sector state following consultation with relevant planning authority certifies accordingly, that deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the ies.

42:11

And the question we had posed in TCL 135 was to explain the process in place for sector states to determine where the exceeding vertical limits would not give rise to

42:30

a truly new or materially worse effects. And you set out your your considerations, their

42:39

precedence aside, the issue to be decided really is whether there is justification for this particular tailpiece in this particular

42:51

TCL. I'm not convinced that that's fully covered in the

43:01

explanatory memorandum, is that something that's you could consider again, well, the pert The, the reason that this tail piece is always justified is because this deals with the unknown unknowns. So, the inclusion is to address matters which might arise during implementation of what is a lengthy and complex construction project and to ensure that should unforeseen

43:38

piece of information come to light for instance, there is a ground condition discovered meaning there there has to be a change in design that can be accommodated. And it would not be possible

43:53

if you

43:58

necessary, because until that has occurred, we can What is the need to seek effect. You broke up so slightly. I think the

44:12

if you could go back to the last point you're making there, sorry. Yes.

44:17

The point

44:20

is, we cannot at this stage, though,

44:30

on this

44:33

death or when cluded to address those unknown eventualities.

44:39

Okay, okay.

44:44

If you could, again, you were breaking up slightly if you could cover that in your written submission. just clarify that point further. I think that that's all I need. On this day. The only other point on limits of deviation

45:00

just wants to check because this provision

45:05

indicates that the Secretary of State would consult with the relevant planning authority. And we tend to appear to have had comments back from Northumberland county council on this specific provision. Can I just check Miss Roby? Are you content with this elements of the

45:27

article that you would be consulted?

45:32

on content that we will be consulted?

45:35

I would detailed meditate bit further advice as to whether whether or not it covers what we would want to cover in terms of

45:45

assessing additional environmental impacts, but I think we will be content with that. Can I can't kind of come back and confirm that in. Certainly, yeah, but the basic principle you have to be happy to be consulted? Yes, yes. Yes. Yes. Okay, thank you very much.

46:01

Okay, let's move on then to Article 11, which is next on my list. And that's all for doing so. Before doing so, sir, I

46:13

should, should say that that there is a, an inbuilt failsafe This is for for Ms. Robbie's reassurance there's an inbuilt failsafe, which is that the Secretary of State is unlikely to approve a change

46:31

if the

46:35

local planning authority is not content, and the local planning authority is only going to be content if it has sufficient of a

46:47

full

46:58

Yeah, okay. Yeah, there's inevitable need to consult the local planning authority to ensure that they are contended before making a submission to the Secretary of State. Understood, yes. Okay. That's fine. Thank you.

47:12

Article 11. Yeah, before we just move to that, maybe it's worth saying

47:20

that,

47:23

and I'm assuming you'll do this anyways, in applicants, is to confirm your position in writing at the next deadline.

47:31

I think I'm probably hearing 95% of what you're saying is the past for both hate to think that's within that 5% or something, a key word or phrase that is missing? And if I thought showing this oral examination that something was missing, I'd ask you to repeat it. I can't obviously be certain I'm hearing everything

48:00

in my submissions on each individual points, that'd be helpful.

48:06

Then on another device, in order to, to make sure that you can hear me, okay, I see that. Yes. Thank you.

48:17

Good. Okay. Let's move on then to

48:21

Article 11, which is

48:27

power to alter the layout of streets.

48:35

And he was questioned again by Can you send me on the new device? Yes, I can. Thank you.

48:43

Excellent. So article 11. Go ahead. I was just changing device. Okay.

48:52

Let me just read through the question was in the country response.

49:08

Yes, I mean, this is a question really for the Cancer Council again

49:15

is a sheduled to the DCR required in this case. And secondly, should appendix Chen two, which is the this is question for the applicant, should appendix Gen two which is existing and proposed Kotori area within the order limits, limits plans for certified documents. So Miss Robbie, start with you. Please. Do you have any views on article 11? Since it does particularly relate to the county Council's streets?

49:51

Can I ask if Matthew Payne could answer this, please? Yes, certainly.

50:04

Apologies I'm just reading it now. That's fine, fine.

50:40

Could you just repeat the question please? Again, so just so

50:45

we have.

50:46

So this fits into

50:51

article 11, the T co sets out to provision and then question 1.38 was questioned from the examining authority. And I'll set it out and then the applicants response to it. The expansion memorandum states that it is unnecessary to list the affected roads as the location and extent is self evident and works plans. The effects it will should either be marked clearly, as such on the plans are listed in the sheduled decio, preferably the latter. The article also covers any streets having a junction with such a street. But the rationale for this drafting is not explained in the explanatory memorandum.

51:38

And we asked the applicant to explain the rationale for this drafting. In response, the applicant said, Article 11 gives power to alter the layers of streets within the limits. If there's a junction with such a street,

51:53

then the alterations to the layout of the streets within the order limits could have a consequential impact on the junction, as power has been included, to undertake works to ensure that any such work requires can be carried out to the junction, the plans in appendix Chen to show the existing and proposed carriageways and the associated existing streets.

52:19

What I was expecting was a response from the Cannes council at deadline to but we never received that I was expecting responses to what the applicant is saying basically, is a shedule or a plan necessary to

52:40

address this matter. And the advocate is saying that this is covered in the information in Gentoo

52:49

Mr. Payne.

52:51

Yeah, apologies. We've missed that specific point. And can we get back to you on that one, in terms of whether we agree or not in terms of deadline? For the next deadline forth in the written submissions, please? Yes.

53:06

I think these points

53:12

again, sorry, getting feedback. On number of these points, it's very difficult and putting people on the spot a little.

53:20

I'm sure Mr. Bass with his use to it as a solicitor, but for others, it may be quite challenging to respond. So happy that the response comes next deadline. Mr. basford, just in terms of

53:34

appendix, Chen to then my supplementary question was, should this be certified documents?

53:43

So, the it's important to think about the what what this article is designed to do. Now, if you are building a project, and imagine you were so the Genesis as I say is in railway legislation, no matter you're building a trust

54:04

and if one were to extend the principle which the examining authority has set up here to speak to, you would have to list every single street which was affected by high speed

54:17

and then the same way here and the term streets is extremely wide, it includes everything which is laid out as a way or place. So that means that it is every driveway, every single foot path every cycle way, every beaten path across a field and it includes of course the a one trunk road itself. So that is why it is okay

54:45

with draw

54:49

beans

55:00

Do the highways England DCMS do that because they're all about changes to a highway network. So you don't need to obtain a power to change highways. And then separate power to change highways. If it's duplicated, you simply say these are the works. We propose. They're shown on the general arrangement plans shown on work plans, you then don't need another set of plans, which show exactly the same sort of thing.

55:26

Okay, I think that's, for me that provides further clarification, which is helpful. So thank you for that.

55:35

I will still

55:37

in invites the county council to respond at the next deadline. And I'm sure that they will find Sorry, I shouldn't put words in their mouth. I think your explanation may assist them in responding as well. So thank you for that.

55:53

Okay, I, I hope they they are.

56:05

Sorry, Mr. Pastor, I don't think we got very much of that last comment. If you could repeat it, please.

56:12

I just say that it is of systems to them. Ah.

56:27

Now I think we lost you again.

56:32

If you were suggesting that that's a further discussion with the County Council would be helpful,

56:40

then I'd agree that that would be the possible way forward as well. So hopefully, that that's can be resolved by the next deadline. Okay.

56:52

Thank you. Thank you. So yes.

56:54

Okay, let's move on then to

56:58

question TCL 140, which is article 12. Can on the screen?

57:15

Just check my notes.

57:25

Yes, this is the issue about schedules, including the road classification. And I think the counts Council is now included, and elements of that. I'm not sure it's been fully agreed between the County Council and the applicants yet.

57:48

I'm going to ask each of you in turn, just summarise where you are in terms of

57:53

Article 12. Mr. Buffett, can I start with you, please?

58:05

So would you say that again?

58:08

Yes. So I think there's

58:11

article 12. The suggestion was made by the Cancer Council to include

58:19

classification of

58:23

roads within sheduled three, which is relevant shedule. And I think that can Sorry, I think highways England's was content with that. I'm not 100% certain. If you could summarise where you're where you what your position is, on article 12. Then I'll ask the county council to do the same and just see if there are any outstanding issues on this matter.

58:51

Mr. Bedford?

58:53

Sir, I don't think that we believe that there is a

59:01

anything between us and the county council on article 12.

59:08

We it is another instance where there isn't any need for additional schedules, because

59:18

which is longest.

59:22

Okay.

59:25

But, obviously, if the CAD cams would like to elaborate and address that point, yes.

59:34

Some of the council council could do that, please. To Mr. Payne again.

59:41

Yes, I think it will be honest with you. Yes. In our response, we requested that obscene classifications of seeing new roads were included in the audit just mainly to to assist ourselves as well into identifying sections of Rhode Island network that are subject to the order looking at

1:00:00

The latest version of the order published for deadline three, I can't see any seagull you wrote classifications in the schedules.

1:00:12

And this is both relevant to this and the discussion we'll have later on article 16, as well, in terms of adding C and euro classifications.

1:00:21

Something's identified.

1:00:25

I, I, I think that what Mr. Payne is seeking is that, first of all, we have classification of roads addressed under Article 14. But I think that what what Mr. Payne is seeking is simply that and I understand discussions have been underway, that where there is a reference to a given street or public right of way, for instance, under Article 16, where the shedule refers to the relevant road, the relevant classification is given. So it is a sea road, it says it is a sea road.

1:00:58

The description of the road. I think that is what Mr. Payne is saying, which is not controversial.

1:01:06

Okay.

1:01:07

Council would be happy, sorry, the applicant would be happy to do that.

1:01:13

Well, I think we would need to understand from Mr. Payne and his colleagues, the the classifications that they think apply, and then we can look to apply them we're very willing to accommodate something as that that would be helpful to the county council, but it would be useful to know what they think the classifications are,

1:01:33

in order to assess them.

1:01:36

Okay, Mr. Payne? Yeah, I believe we've sent those through to the applicant

1:01:43

in advance of the deadline one submission, and also it was appended to our response, or the deadline, one of the deadline to I can't remember now, it was an appendix, the copy of the email and the table that we've sent in our review, our first initial review of the decio for deadline one,

1:02:07

day those and pick those up in advance of the next iteration of the order. If we have not incorporated them, we will note why. Which may be a matter of timing or maybe a matter of principle, but I'm expecting this to be something that we can accommodate. Thank you. That's helpful.

1:02:27

Let me just check. There's nothing else on my list for article 12.

1:03:00

Now, I think that's fine for now.

1:03:08

If

1:03:10

if the Khans counsel and the applicant could look at that article, again, see if there are any further outstanding matters. I'm slightly

1:03:23

unsure of my notes whether I've picked up all the latest responses. So if there are any outstanding matters, perhaps they could be identified that deadline for

1:03:34

Thank you.

1:03:36

So let's move on to Article 13. Construction maintenance of new altered or diverted streets.

1:03:50

Mr. basford, in responding to Mr. Fell yesterday, in respect of the adoption of roads is this provision you were speaking about

1:04:00

yesterday? Is the provision on that basis? Could you talk us through its please? And then I'd like to ask if it is an article which is acceptable to the Cannes Council.

1:04:15

Of course. So this provision

1:04:20

filled in what in a private development would be covered by a section 278 agreement. And it provides that a road which is constructed under the CEO has to be completed to the rest

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of the local health authority, which in this case, it can't count.

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Then

1:04:43

it

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is passed to the camp that they thereafter take it on as a highway maintainable at the public expense. And this is a standard provision you will find it in many gcos and it is

1:05:00

is entirely appropriate in the circumstance. Now it's important of course, Mr. fells clients, because it is what secures that where an existing highway access is replaced, the new highway access is treated in a suitable manner.

1:05:21

Thank you.

1:05:25

And counsel, do you wish to comment on this provision?

1:05:36

Yeah. The clarification from Mr. vessel in terms of it being the equivalent of Section two, seven he works is helpful.

1:05:45

In terms of what would become adopted highway maintained by a local Highway Authority, we continue to be in discussions with the applicant into the precise extents of all elements of the scheme. We have a meeting coming up next week with the applicant to for us to get a full handle on exactly what is anticipated that would be offered

1:06:11

for adoption effectively as local highway network as a result of the of the scheme.

1:06:18

Okay, and, and this is an important and normal approach, because in any

1:06:25

scheme where you have two highway authorities, which we have here, highways England as the strategic Highway Authority and Northumberland county council as the local Highway Authority, there will be an interface between the two highways and it is entirely normal. In a highway scheme such as this, that there is a discussion about where that interface will be, whether it's as a giveaway line or the news of a slip road or the or whatever the relevant junction would be. those responsibilities are entirely normally discussed at this stage. Understood. Thank you.

1:07:09

Okay, if we can move on then to

1:07:15

Article 14. And the question

1:07:21

TCL 1.41 1.42.

1:07:28

Use a socially to 14 and 18 ballistae. On screen is article 14.

1:07:37

I think the question we asked.

1:07:42

A couple of questions were asked the responses can from highways England,

1:07:51

I think probably satisfied what we were looking for. But again, we didn't have a response from the county council.

1:08:00

Mr. Payne, this turns and you want to add on this at this point, or do you want to come back and confirm in writing?

1:08:07

Let me just yeah, it's probably safer that I do that because it won't take too long to find find the relevant response from highways England to that question. Can I just note that question number please. Okay, so it says questions 1.41 and 1.42.

1:08:26

Thank you very much, sir. Okay, relates obviously to our top 14 and article 18 T. Thank you.

1:08:38

Next, if we can move on to Article 17.

1:08:42

Access to works.

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So

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in

1:09:01

submission rep one oh 73 counts counsel said wording to this extent is previously used in Northumberland county council a one

1:09:12

is basically the more personals and bypass TCL.

1:09:17

We would additionally require that with the consent of the street authority, subjects consultation is added to the provision and the Africans response to that comment was it's not appropriate to make these powers subjected consent of the street authority. These are statutory powers which are being exercised by the strategic highways authority to implement a strategic highway scheme powers to alter accesses are necessary powerful scheme of this nature before asking.

1:09:57

sorry

1:09:59

excuse me.

1:10:02

I'll begin by asking

1:10:05

highways England, whether that addition should be made. And then let's cancel come back on that. So Mr. bassford, first please.

1:10:22

So, the

1:10:26

basic provision is that,

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since these are to do with forming of accesses, it's a matter for the

1:10:38

for the rather than the Highway Authority, which is also the streets of authority to address the points. The Highway Authority in question is highways England. So it's unnecessary to require there to be formation of a formation of an access in relation to to require consent for formation of accesses, which I was England is making on the roads that it is going to administer and which it is, which it is constructing. If, however, we're concerned about the formation of accesses on the local highway network, which will be inherited by Northumberland county council, then we have to look back to the

1:11:23

provisions in Article 13. One, which is that streets which include Of course, those accesses, street authority involved, must be completed the reasonable satisfaction of local highway authorities that already covered the wordings otiose.

1:11:44

Mr. Payne to come back.

1:11:47

Again, I think that clarification from Mr. basler is helpful. I think there was a little bit of confusion aside from us, our streetworks team as to where those what that article related to, but they're satisfied as well, that obviously they will get the suitable notice for anything, either outside the limits of which to which we are currently or will be the Highway Authority for those access points.

1:12:11

As clarified by Mr. Basterds? I think we are we are reasonably happy with with the response made by the applicant on that point insofar as we will be suitably consulted in and there are other articles that some of the elements that we were concerned about.

1:12:28

That's helpful.

1:12:31

Yes. Okay. That will no doubt be confirmed in writing at the appropriate point. Thank you.

1:12:43

Article 22 powers in relation to relevant watercourses,

1:12:49

and the question was raised. That's TCM one point 47.

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The only

1:13:05

both county council and Mr. Hawes responded to this question. And then

1:13:13

highways England provided a response to Mr. Hawes at rep two Oh, 20. Think Mr. Hall's if you're there, your concern was that the powers appeared to be quite draconian. With minimal protection offered to property owners, the applicant has come back and responded on that. Mr. Horse, is there anything further you wish to add at this point? Or are you happy with the Africans response to that?

1:13:42

Yeah, hi there. I can just confess I've not been able to see the responses yet. But

1:13:48

it just felt that obviously, without any any sort of understanding of what the actual circumstances where this could be triggering you applied in, and I'm sure it wouldn't be, but obviously, it does give quite a number of powers that do what they wanted to do at the time. And I thought there might have been an opportunity to review and revisit that note to seek separate approval. Okay.

1:14:16

Thank you for that. Mr. bassford. Do you want to

1:14:19

try and clarify the point for Mr. Hawes now, or is that something you want to to

1:14:27

address in writing once Mr. hawza Senior comments further, just let me see if I can turn that up. So in order to

1:14:38

in order to be as helpful as possible to Mr. Hawes as to have we have Mr. Hall's

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mission. I'm just checking our phones to him. I don't think I have it immediately.

1:14:56

And so I suggest that we respond

1:15:00

To him in writing, that particular concern is ascertained in response to dash oh two? Is that correct? That's the one yes.

1:15:11

I suggest that we'll we'll turn that up whilst we continue. And it may be something which perhaps after the break, we pick up when we return in all things moving persons who isn't the way forward. Thank you.

1:15:30

So if we can now move on to Article 25. And the question was TCR, 1.49.

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And I think this is where we revert to

1:15:52

the definition of commence to some degree, because

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this seems to relate to low impact preparatory works, which are excluded from the commencement definition.

1:16:07

And I suppose

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the question really is, does the applicants have all the powers he needs to carry out these works?

1:16:19

And is it adequately justified within the

1:16:26

explanatory memorandum? Mr. Buffett?

1:16:30

Well, the point of authority to survey investigates

1:16:37

is not so much because of the consents to perform the works in question, it is very much about the ability to enter on the land, and that is the interference with the rights of REITs members of the public and landowners that the article addresses. And so, that is why you always need this provision, because it gives us the power to survey and investigate matters on land. And that that is why it is included.

1:17:13

Okay.

1:17:17

does it relate to the different priority works, low priority works? Well, it can relate to the preparatory works, but it can equally relate to any surveys or investigations which take place during works. It, it isn't, it isn't just about preparatory works, it has no authority to survey and investigate lands.

1:17:41

Okay, yeah. And to make trial holes, them, so so forth. So, I mean, those are operations, which it has to be clear, that the undertaking may perform.

1:17:54

And it's also it also gives the power of entry at trading.

1:18:01

So it gives, it gives the power of entry to,

1:18:07

to those works, but there must be a connection with the definition of commands.

1:18:15

Well, is that well, that is relevant in that the within the order limits, there is a power to carry out works, when those words commence, is constrained by the requirements of the definition of commands.

1:18:33

The provision here also applies the order limits, but it's a separate power. And what it is looking at is an ability, it's not a works power, or not a not associated with the main works power, it is a separate power to survey because survey is an activity on land, which interferes with rights. And so therefore, you need a power to do that, it then looks at what the consequences of the ability to survey are. So for instance, to leave apparatus, it gives an authority to leave apparatus and it enables investigations to be able to take it so it enables

1:19:09

surveys and investigations to be undertaken, it enables the land to be accessed, enables trial holes to be made.

1:19:19

And it it then deals with compensation. So it has to do with those sorts of concepts. The actual commencement of works is controlled by the definition of commencement and the requirements themselves this, this may be something relevant. So if one were to enter on land and carry out an archaeological investigation in the scenario I

1:19:40

portrayed to you, but it might equally be that there is some land within the order limits. And there's a concern about an ecological impact. And the surveyors go to check on the ecology during the works. Okay, okay.

1:19:56

That's helpful. I will take that away and have a further Think about it. Perfect.

1:20:00

This provides at least some clarification for me, thank you.

1:20:04

It shouldn't need any further qualification. And it.

1:20:10

It is a standard provision. But the reason for its inclusion is, as I've set out, it's about making sure that we can do the things we need to do to ensure that the works carried out appropriately and the impacts are properly understood. Okay, thank you.

1:20:25

If we move on then to Article 28,

1:20:32

which is time limit for exercise of authority to acquire lands compulsorily.

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And

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we

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issue the question, Tc 1.5 on.

1:20:56

So the applicants response

1:21:01

to any

1:21:04

questions has in this on this provision, our

1:21:10

justification for

1:21:13

the power in this case?

1:21:18

Which

1:21:25

sorry, let me just check my notes again.

1:21:38

Yes, Mr. President, can you just explain this provision further, please? Sure. Sure. Your concern in your question, is that there's a, that the

1:21:51

that there is

1:21:54

a power that lasts for five years. But you say, why is it that at the end of those five years, you're still able to be present on the land? Now, let us imagine that for some reason, the

1:22:11

imagine that the duration of the works is something like three years, I, colleagues, experts at housing that will be able to tell me how long that actually is. But let's say it's three years. If one were to, for some reason, only acquire land that is needed in year four.

1:22:34

And then to carry out the works in that fourth and fifth year, it may not be possible to complete the works within the five years. So the so the power in order to prevent blight being indefinite, you have a limit on the time during which the power can be begun can be exercised. But once it has begun, it's possible to remain in occupation. So you might say how is the landowner properly protected in those circumstances where

1:23:10

an engineering work is still going on after the expiration of five years? And the answer is it sounds in compensation. And all of the compensation provisions in this part of the DCA then chime in. And they ensure that a person who is deprived with their

1:23:25

period is able to claim status compensation under the compensation code.

1:23:33

Thank you. That's helpful. Can I just clarify? Why might the situation arise where the acquisition didn't take place until year four?

1:23:47

Well, it is rather user of course, they a I think a charter town planner asked. So, you will be familiar with the ordinary

1:23:59

provision implied by sections set by the town country Planning Act, which imposes a time limit on the implementation of development. Now, the

1:24:12

Town and Country Planning Act does not compel the commencement of development at the Planning Commission is permissive, in this sense, is permissive. So in the same way, it might be that for whatever reason, the works do not begin immediately the decision is made obviously we all fervently hope that that is what will take place. But it may be that there is some delay for whatever reason.

1:24:37

And in those circumstances, it's entirely appropriate that the powers to acquire land should run in the same sort of way that the planning permission part of the DCA operates

1:24:52

to help with exhibitors and analogy. Okay, thank you.

1:24:59

Letter.

1:25:00

And just to point out the mischief, if one were to impose a restriction on the time of staying in occupation of the land, if that were the case, and for whatever reason, let's imagine that the words just become very difficult. They began in a timely fashion, but they are very difficult if the,

1:25:20

if the occupation of the land is restricted, it would need a

1:25:27

decision in order to extend the powers simply to remain on land and that would be disproportionate. Thank you that that's helpful.

1:25:38

Clarify stop with me. Thank you.

1:25:42

And just to give some colour to that the the

1:25:48

duration of the works in each case here, we're expecting the Part A Morpeth to Felton to take something like 32 months and the Anak to Ellingham. Ellen job I should say.

1:26:01

Period.

1:26:14

Mr. passwords, we think

1:26:17

you back I think we lost you there.

1:26:21

I am here. You can hear me, sir. Yes. You were talking about the timescale for the works?

1:26:29

Yes. So for the Falcon element party that is 32 months for the anak 12 engine section. It is around about 24 months. Thank you. And as with any engineering project, of course, one always wants to improve on that, but it is possible that they may be extended. Understood. Thank you.

1:27:05

I've number of further questions on the articles. And conscious it's now 1127. I think it might be appropriate that we take a break now

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until 12 o'clock.

1:27:24

The procedure we need to follow for such a break is that Mr. Pinto and myself will leave as in, we will switch off our cameras and microphones

1:27:39

after we have returned, and we would ask everyone else to the same switch of cameras and microphones. We turn at 12 o'clock and we will reconvene the hearing at that point. Let me just ask is Patton is anything else I should be doing? Is that the correct procedure? That's absolutely the correct procedure. Thank you Mr. Gleason. Okay, so we will do that. So as I say now 1128 we will adjourn this hearing until 12 o'clock. Thank you