

TEXT_A1iN_ISH1_Session3_23022021

Tue, 2/23 3:15PM • 35:56

00:03

Well, good afternoon, everyone. Time is now to 30 times resume this hearing. Are there any matters before we head back into the agenda in detail that anyone wishes to raise before we get started?

00:20

No, not hearing anything. So let's, let's return to item four on the agenda, then shedule. Two of the TCL requirements. Just a couple more points for me to raise.

00:38

Let's start with requirements eight, which is surface and fall water drainage.

00:50

And in various responses to the environment agencies relevant rep

00:57

provided at rep one oh 65.

01:01

The applicant states that details will be developed further during the detailed design stage in consultation with the Environment Agency local authority secured through requirements eight, a presence requirement states only refers to consultation with the relevant planning authority. Should this be amended to include the Environment Agency? Can I begin with Environment Agency and that points

01:26

confirm whether they wish for this to be included?

01:35

Hi, it's Lucy Maria from the vironment agency and the Environment Agency do not need to be included in this requirement.

01:44

Thank you very much.

01:47

misspell toes. I see you on the screen. Did you answer comments as well? No, thank you service modes dealt with a point.

01:59

Okay. Thank you.

02:04

Moving on then requirement nine archaeological remains.

02:10

This is question for Northumberland county council.

02:16

Question TCR 173.

02:22

Asked about the inclusion of the draft hidden schemes of investigation being included within requirement nine.

02:34

And the applicants comments was it wasn't necessary to do so. As they're covered within the outline camp. And quiet nine provides written schemes investigation submitted for the approval of the secretary of state must reflect the relevant mitigation measures provided in the riak. So can I ask counsel, are you content with that response?

03:01

I think so. Yeah. I need to double check with the with the archaeologists. But I know that she's been

03:07

discussing taking the decio forward. So my last conversation with her was that she was she was content.

03:17

Okay.

03:19

Can we say you will confirm in writing of the next deadline that what the position is? Yes, that's right. That's great. Thank you very much.

03:31

And can I ask the applicant

03:36

not referencing this requirements, but there's a reference in requirement for two D and all the plans to be provided. One of those plans is an archaeological control plan. can ask how that relates to this requirements.

04:00

I think again, sir, in line with what we discussed in relation to the traffic management plans, this is an item which we probably will look again to see whether that should be consolidated with the

04:14

the requirement which you will read refer to. Okay, that's fine. Thank you very much, Mr. Greg.

04:30

So then just moving on final point, which leads to part two of sheduled. Two, which is the procedure to procedure, the discharge of requirements.

04:49

And Mr. bestfriends, referred to this this morning.

04:53

highways England's projects are slightly different from other TCS

05:00

In that the requirements are discharged through the Secretary of State.

05:07

Are there any comments from any interested parties about this procedure? discharge of requirements, particularly from the sums and counts cancel?

05:24

Now, I've got no comments to make. Okay, that's good. Thank you.

05:42

Good. So I think that concludes item four, unless anyone else wishes to raise any items.

05:51

Now, let's move on then to item five, we could choose sheduled 10 to decio. Protective provisions.

06:09

Thank you.

06:13

Thank you, sir. And good afternoon. My name is Henry Jeffries. I'm a solicitor at DLA Piper and I'm appearing on behalf of highways England.

06:21

As you will be aware, sir, sheduled 10 to the draft development consent order contains the draft protective provisions. And these are made up of three sets of protective provisions. Firstly, for the protection of electricity, gas, water and sewage undertakings, which is part one, and then provisions for

the protection of electronic communication code networks, which is part two, and finally, provisions for the protection of the environment agency, which is part three. Now, through through ourselves, DLA Piper. substantive discussions as to protective provisions are currently underway with both northern gas networks and National Grid gas

07:01

in relation to Northern gas networks, and meeting was held most recently on the 19th of February, discuss protective provisions. And I can confirm that a draft asset protection agreement is currently in circulation and is currently with northern gas networks for review.

07:17

In terms of the points which have been discussed, I can confirm there aren't any major points of contention. And I think it's fair to say both parties are confident that agreement be reached during the course of the examination.

07:29

Similarly, in respect of national grid gas discussions are ongoing. And in particular, in relation to the points raised in the written representation, which was submitted by National Grid gas that deadline to and then responded subsequently, by housing that deadline three, and again, that there is a side agreement currently being prepared by DLA Piper on behalf of highways England. And similarly, we don't anticipate there being any major points of issue on that.

07:59

And so in addition to those two parties, and DLA Piper have also made contacts with each of the environmental agency, Northumbrian water and Northern powergrid, to discuss both protected provisions and also progress them to common ground, which we can we can deal with later. And to date, we haven't had substantive discussions with these parties as to protective provisions. But we are we are very happy to you going forward. And would also note, of course, that tshechu attend to the draft DCA contains protective provisions which cover those interests.

08:34

So I think with reference to the agenda, sir, where substantive discussions are underway, we don't consider that to be any insurmountable differences of view. And further where discussions haven't commenced, I think we would say we continue to rely on the draft protector provisions set out in the draft DCA in terms of a timescale, I don't think we're yet able to commit to a specific deadline for for agreements to be completed with northern gas networks and National Grid gas. But as I said, there aren't any major points of contention. And of course, we will continue to write updates through the statements of common ground.

09:12

Thank you. So thank you very much, Mr. Jeffries. That's very helpful. And let me just check my notes if sending further.

09:27

The only point I had was

09:33

the response to TCP 1.77.

09:42

Which I think

09:45

what I've seen is

09:47

confirming the position you've outlined Mr. Jeffries, comment from the Environment Agency, saying we require further discussions with the applicant before we can comment on the acceptability of the

10:00

protective provisions. The proposed changes submitted on 10th of December 2020. And if accepted may have implications for the protection under protective provisions required for TCL.

10:15

is built. Is there anything you want to add to that? Before I go back to Mr. Jeffries,

10:21

so it might help you if I explain the the provisions for the agency are obviously short and sweet at the moment. And we have no issue as as things stand because highways England aren't seeking to disapply any of our consenting regimes. And if that continues to be the position, then those protective provisions in themselves are acceptable. But as we pointed out in our letter, obviously, how is England are looking at possibly significant changes, and depending on what the panel decide on their application to make those changes. And so at the moment, we would caveat, our position on that basis. I hope that's helpful. That's certainly helpful. Yes, that clarifies your position. Thank you very much, Mr. Jeffries to do anything further. Thank you, sir. Yes, just to say thank you misspelt, that's very helpful to understand and we will, of course, continue to engage following the submission of the material change requests at the deadline for

11:24

Thank you very much.

11:27

I would just add to the Jeffrey's submission that it would be helpful if having seen and I know that Environment Agency already knows a fair deal about the proposals and the significant change request, if they have particular areas, which are likely to be of interest to them. And which would affect the protective provisions. If they could tell us in advance that would be really helpful. Appreciate you, they may not be able to do that. But if they were it would be extremely helpful.

11:56

Thank you, Mr. Password. That's sensible advice, which I'm sure the environments agency will take on board. Thank you.

12:05

So

12:07

are there any other items anyone wishes to raise? And item five, particularly provisions?

12:18

No. Okay. So let's move on then to item six, which is shedule 12. of the decio.

12:32

I documents to be certified.

12:37

We've already heard this couple of times already. today.

12:48

I set out on the agenda. We said to review the documents to be certified and seek views as to whether the list is complete, and if not what additional documents would need to be included.

13:01

We've referred to construction traffic management plan. And

13:11

I've noted

13:14

which

13:16

I've made which suggests entries, deadline three to reflect the latest documents, versions, population human health additional assessments.

13:29

Sorry, I'm not sure whether it's telling me that has been done or needs to be done. But I don't have any further

13:38

documents that I think needs to be provided. Does anyone else wish to comment on this item?

13:48

No. Okay, now, thank you.

13:52

Good. So let's move on then to item seven, which is consents licences and other agreements.

14:01

Can I begin by asking the applicant to provide a brief update on progress and other consents, licences

14:08

and agreements and interactive timescales, when these these might be agreed is the best for

14:18

very good. There are a few of these. So in relation to badges,

14:29

backs,

14:31

great crested newts.

14:35

There are letters of no impediment in place in draft or an interim draft. And good progress is being made to achieving those with natural England. Some of the updates that's needed are no more than updating the name of the scheme and the title of the licence but we have to

14:58

make sure that that things are done properly.

15:01

So those

15:04

those should be with you, I think in decent

15:10

time and certainly with the character of the examination.

15:15

But in any case, they are a precondition to construction. So we know that the environment is protected in relation to red squirrels there is no licence required.

15:28

In terms of any water abstraction licence, we don't know if we need an abstraction licence at this stage, but should the contract to identify the need for more than 20 cubic metres of water a day then it would apply for that itself from the Environment Agency and as Miss Bolt rightly points out,

15:48

the interest Environment Agency in the environments are protected by the standard application process.

15:56

In relation to activities which may affect flood risk,

16:02

it's conceivable that there will need to be an environmental permit for the river callkit and long dike burn. And again, that's a prior to construction type

16:16

consent, and we need to bear in mind that this that the principal, if the government agency is concerned about principal at the development having having been involved in this process, then we ought to know already, if there was a particular concern there.

16:33

The land drainage consent from the local flood authority which is not on the CAD council here that if

16:43

required, would be obtained again by the contractor prior to implementation for works.

16:51

Waste exemptions, if needed, again, is a matter for the contractor prior to the relevant arisings being produced. Trade effluent consent would again be a matter for the contractor to obtain from Northumbrian water for Section 61 agreement under the control hallucinate basins 34 is needed then that will be for the contractor to agree with

17:19

the

17:21

local planning authority with Northumberland county council. And finally, if

17:27

an asset is needed from natural England in relation to triple si activities, this would be progressed after the DCA was granted.

17:44

And after detailed design, but prior to construction, so those are the updated positions in relation to consent will confirm those more fully in our final submission to you following this.

17:59

This hearing in writing.

18:01

Thank you very much, Mr. Purse with this helpful.

18:05

Just two

18:08

questions further in relation to this item. First one

18:16

relates back to the relevant rep from Northumberland county council. And

18:23

the invocation the council will continue to seek and advocates for Section 106 agreements to secure appropriate mitigation and no compensation in relation to the identified impacts of the proposals that's considered response set out that these matters would be addressed in various ways, including requirements can ask counsel, if you wish to say anything further in response to the applicants comments, as well. Yes, thanks. I don't think we do require a section 106 agreement. I think we'll just put that in as a as a just in just in case but as things have progressed and discussions, I'm confident that we're not going to need anything.

19:10

Thank you.

19:13

That's helpful.

19:15

And then the final points on this item first back to

19:25

rather than representation by Northumberland states.

19:32

Rep Oh 11. And the applicants response to that. And it relates to the construction of

19:44

Lund northern parts of the area which is identified suicide compounds on London in 19.

19:55

And there through the folding, planning

20:00

position on that site.

20:03

The applicants response liaison with northenden status ongoing, the applicant is confirmed to the landowner, they have considered the potential impact of the scheme, reducing the compound area. And in respect of the lighthawk site

20:20

goes on sale it's proposed to enter into an undertaking with Northumberland estates for the reduction in the compound area, so as not to impact on their development, Mr. Bassett for the new able to update us on that position, please. Well, sir, that is I understand in the course of negotiation with a number of other matters, Mr. fel will also be able to update you. The the matter, though, is being approached in a manner which does not necessarily need us to amend the decio we will keep that under review and should it become necessary to do so later than that will be fine, or they should not need to. This therefore, provides us with flexibility as matters stem through retaining the power that controlling the actual implementation through private agreement with Northumberland estates. Thank you, Mr. Fellas, you've got your hand up.

21:15

Yeah, just to just to just to confirm what Mr. Bassett said that we are.

21:22

We're in discussions about about that and how we go forward. The the

21:29

Yeah, the initial concern was that the area includes the sawmill development, which is currently under construction. So but the conversations highways England have confirmed that they're they're able to, to work within the rest of the boundary limits. And so we'll be able to, hopefully accommodate all that. So don't forget things agreed. Okay, well, it sounds like you're still talking, which is always good. Yeah. Yeah. Very much for that. Thank you.

21:58

Okay, so that concludes item seven, unless anyone else has anything to raise.

22:06

So item eight statements of common grounds relevant to the decio. So I don't necessarily need full update on statements of common ground. But if there are any issues within statements of common ground or draft statements of common grounds, which are worthy of commented this TCL hearing, then it's probably worth raising them now. So Mr. Jeffries, I see you on the screen. are you dealing with this?

22:36

Just before you comments, Mr. Bell, your hand is still up? Is that legacy? Or you still want to say something? apologies, legacy? I'll take it down. Sorry. Thank you. Thank you, Mr. Jeffries.

22:50

I think sir, in light of your comments, unless there is any benefit in me running three dates, and most recent meetings and phone calls for each party. I don't think there are any major issues to flag at this point other than to say that discussions are ongoing. And further steps of common ground will be submitted at deadline for variable to run through, but the conscious may not be productive. Now, I think we've seen the deadline three deadline, two submissions. Now to those so we,

23:23

we may have questions on some of those in the next couple of days. But I think unless there's anything specific Let's move on. So thank you for your contribution on that. Thanks.

23:33

Okay, so that concludes item eight. I'm now going to hand over to Mr. Pinto to deal with the remaining items. Thank you.

23:52

Thank you, Mr. Gleason.

23:55

So moving on to item nine, review of issues and actions arising determining authority will address how any actions placed on the applicant are to be met and considered the approaches to be taken to the examination of the draft dcl and any changes to it in the light of the issues raised. These actions will be circulated as soon as possible after the closing of these set of hearings.

24:23

Does anyone have any questions that they would like to raise in relation to the review of issues and actions?

24:36

I'll take that as an also I shall move on to item 10. Any other matters?

24:44

We have not been notified that anyone which has raised any other matters that are relevant to this hearing. Has this has that position change and Would anyone like to raise any other matters now?

25:07

Nice to fell, I believe that you have just raised your hand. Yes, can I just confirm, and I'm going to put it in writing anyway, but

25:18

the roads we had earlier on but it didn't get notice. But it was just in relation to

25:23

Section 13 in brackets one which was the over the link roads or the new link roads to rock, Southwest linkle and East linkle. I just wanted to confirm that the landowners are in support of the applicants wording and

25:40

proposals put forward there but we'll confirm that in writing to you as well.

25:45

That would be very helpful. Thank you very much Mr. foul.

25:49

And

25:51

if no one else would like to raise any other matter shall move on.

25:57

So with examining authority would like to raise to further matters which are not on the agenda. The first concerns the accompanied site inspections, which were timetabled for the week commencing the 29th of March, we have decided to postpone any accompanied site inspections that week. Due to the ongoing lockdown associated with the pandemic. The inspections will be rearranged in we will notify parties of the revised dates or dates in due course.

26:28

We are grateful for the applicants itinerary which was submitted at a blind to that representation to dash zero to three. And we'll consider in we'll consider these in due course. We should also say that although at deadline one a number of interested parties expressed a wish to attend an accompanied site inspection. There were no submissions indicating which properties those parties would wish us to visit in Why? Please bear in mind and an accompanied site inspection provides an opportunity for the examining authority to view sites or locations from public land in front private land subject to the permission of the land owner, should it be necessary to do so. We are now delaying the accompanied site inspections into will give further consideration to any requests for an accompanied site inspections to be submitted by deadline for the 12th of March. In addition, the examining authority will be undertaking unaccompanied site inspections at some point during the examination.

27:34

The second metric concerns the applicants proposed changes to the application deadline one representation one dash 001 the applicant indicated that submission of a formal request would be made at deadline for a change request. Is that still the intention? And would the applicant wish to provide any further information or updates as to where we stand on that specific change request? Well,

sir, that is still the intention. The applicant has begun its its consultation in relation to the proposed changes. And we're expecting to have the submissions ready for you at that time. These will we expect proceed in line with the

28:28

in line with the programme which we set out at deadline one and the preliminary meeting. So that the information before you is perfected as the examination goes on.

28:44

And thank you for that. Mr. basford.

28:50

The letter also indicated that in a hydraulic modelling in geomorphological information would be submitted at deadline AIDS. And I think that this is linked with timetable depths. Mr. bassford, you have alluded to as well just now,

29:05

Can Can you please provide or explain why this information cannot be submitted at deadline for and what are the implications of this for the overall examination type table should it be necessary to consult on that specific report in that additional information. So, the the hydraulic model is a highly detailed piece of modelling which requires a certain amount of time to be produced. And ordinarily This is also shared with the Environment Agency before submitting it to a tribunal such as yourselves.

29:42

The most important thing is that parties are able to comment in relation to this and then in respect of the changes that particular items to which the model refers relate to the relate principally to the

30:01

Bank reinforcement required on the north and south bank and the bank protection works which are indicated there. Now, in order to enable the submission to you to be properly informed, a Manning's calculation will be provided which provides some information, but we are aware that you will need to examine this properly and it will be necessary for the Environment Agency and others such as Northumberland county council and natural England to be properly informed and that is why we are producing the we will produce the the

30:42

hydrological and geomorphological modelling in due course. So, this is not a matter on which you have heard any representations that this will not be to not to be successful, or be problematic in terms of review of documents, and the Environment Agency has been aware of this proposal for the submission of documents for some considerable time since before Christmas. And should the data be available, then, it is conceivable that we will submit them to you sooner.

31:18

But our intention is that before submission, they should be shared with the Environment Agency as matters stand. And that

31:26

that will enable them to be submitted to you having been seen in advance.

31:32

That's very helpful. Thank you, Mr. Boss for it. Since we have the Environment Agency present with us, can I just ask the Environment Agency, if they are comfortable with the situation in terms of time to comment and review the information?

31:48

And, sir, we do have some concerns. According to mismo, it will take us four to six weeks to review the model. And that's assuming we've got all the information and data still being collated for the model. There have been problems because it's behind schedule because of weather conditions and, and safety issues as as things stand. Perhaps I could ask mismo if there's anything that she'd like to add to that, sir.

32:20

Yes.

32:21

Thanks, Carol. That's correct. And modelling is quite complex. And it's not until you run the model that potentially you realise that some modelling files are missing. So. So essentially, if information is missing, it could cause further delays to our ability to review the model. And furthermore, we may need to respond to environmental flood incidents, which could then impact on our timescales to review the model. So the timescales are very, very tight. So the sooner we get the model, the better essentially. Okay. Thank you very much for that intervention, Miss smell in response as well. Thank you. And it's important to note, sir, that in producing the programme, that that we had set out for you, we had,

33:17

we had already identified this being duration that they would require, and it's taken account of in the programme. So our objective obviously, is to have that information to the Environment Agency on schedule, and it is for them, obviously, to deal with it that if they're not able to deal with it in time, then that is a matter obviously for them. But we will have the information to them in line with the schedule that we have set out for you.

33:44

Thank you, Mr. basford. In terms of progressing, and actions, I'm sure that you will confirm that you are in constant dialogue with the vironment agency on this matter in keep all players informed in involved as question evolves, yeah, you surmise correctly, we are in touch with the Environment Agency. And I know, for instance, that Mr. Jeffries has attempted to speak to him as mo a number of times over the last few days, but not being able to get hold of her. But, but we are endeavouring to make sure that everyone is fully apprised of the progress that is being made.

34:22

That's helpful. Thank you very much, Mr. bassford. If there are no other relevant matters, may I remind you that the timetable for this examination requires that the parties provide any post hearing documents on or before Friday the 12th of March deadline for of timetable.

34:41

This is also the deadline for the receipt of the applicants revised dcl. May I also remind you that an audio recording of this hearing will be placed on the spectris websites.

34:55

Before I move us to closure of the hearing? Are there any other issues

35:00

issues that anyone would like to raise at this point.

35:08

I'm obviously the closure of hearing. So thank you very much for attending today and for your participation which has been very helpful. We shall consider all of your responses carefully and we will form our which will inform our decision as to whether further return questions and or further rounds of hearings will be necessary. The next hearing for this project will be the compulsory acquisition hearing, which is due to commence tomorrow at 10am. Once again, thank you very much for your time. The time is now 306 in the afternoon, and these issues specific hearing on draughty SEO is now closed. Thank you