



Hearing Transcript

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Hearing:	Issue Specific Hearing 2 (ISH2) – Session 6
Date:	28 November 2024

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00:05

Okay, so the time is now 1145 and this hearing is now resumed. Can I just check that live streaming has recommenced? Thank you. So we're going to move on to Item 13. Now geology and soils, and I'm just interested in looking at the determination for locations of best and most versatile land. Es, chapter nine. Figure, 9.3 so it's a PP, 069, indicates the locations of best and most versatile land. It would be good if we could share this document on the screen. Please do

01:12

just while we're waiting for that to come on. I mean, what I'd really like is for the applicant just to explain how the figure was created, and in particular, how the locations of the boundaries for each of the land types was determined. I didn't feel there was that much detail in the actual es chapter to to explain how that was done.

01:34

Thank you, Mum. Richard Sterling, on behalf of the applicant, I'll introduce Mr. Chris cantle, who's joining us on online will be able to assist with that clarity.

01:44

I think, I think I've confused you. I was looking but figure 9.3 Appo, six Nine. Thank you. Applause.

02:20

That's great. Thank you.

02:27

Thank you. We've got it on screen now, and Mr. Kent has joined us, so I'll hand over to him now.

02:35

Thank you. Yeah. Chris cantle, speaking on behalf of the applicant. So this figure represents the distribution of agricultural land classification grades across the scheme the with regard to the

boundaries the mappings undertaken in accordance with standard industry guidance. So that's Ministry of Agriculture and Fisheries and food. 1988 revised criteria for the agricultural land classification and the mapping is undertaken by considering the individual ALC grade of a particular point. So this takes into account a number of factors determine the LC grade, including climate, topography, soil type, interactive limitations on the agricultural land classification. So all of those criteria are taken to account in determining the grade of an individual point. And then when producing a map such as this, the person producing the map has to take into account the both the individual grades and then the distribution of the land. So if there are local to a graphical factors which combine to make a discrete map unit, that's how the mapping is undertaken. So that kind of explains the the mapping. This is supplemented by the appendix. So appendix, 9.2 agricultural land classification survey report, which contains further information on how the AOC grades were determined, and the indeed the mapping of those grades.

04:25

Can you just repeat which which appendix that was for me? Please? Yes,

04:29

it's map one of appendix 9.2 agricultural land classification survey report.

04:41

Thank you. I think what I wasn't quite sure of was you've got on this map, it shows the location of the soil survey points across the site. Would they use the term in the boundaries between each of the land between each of the land types? So. Do they line up with the boundaries? How have you actually determined the exact location of those boundaries?

05:04

Sure, yeah. So it's standard practice to undertake these these soil samples, in a one hectare grid basis. So that's what we tend to use for detailed agricultural land classification. So it's done on a rectilinear grid in even intervals. And then in creating the map units, it's down to the individual mappers discretion. They use a professional judgment to map the boundaries, and that would normally be taken into account the topography. So they may use mapping such as LIDAR data and using topography to draw out sensible boundaries that follow the lay of the land.

05:52

So that explains why the boundaries are not lining up with sort of the soil sample locations in terms of where different soils were identified, if you could, if you could supply me a bit more detail, and I'm happy to have it as a post hearing submission, in terms of how, how the actual bound is, and you say you're using professional judgment, and it's based on anthropography, if you could just supply that evidence, as opposed to him submission that would that would be really helpful.

06:25

Yep, sure, we can. We can provide some more

06:29

detail on that. Can I just ask the council if their content with how figure 9.3 was created and what it shows? Thank you,

06:37

Madam, peers, volunteers for the council. Yes, we are.

06:41

That's great. That is all I had on geology and soils. Does anybody have anything they'd like to raise on this agenda item, Okay,

07:00

so moving on to agenda. Item 14, material, assets and waste. First, 14.1 interested in the use of longer lasting materials. So in the response to EXQ one question, Maw, 1.6 the applicant explained how the requirement to use longer lasting materials efficiently has been addressed in relation to such a few questions regarding the road surfacing so low and very nice, lows, low noise and very low noise surfaces have been proposed to the scheme. Can the applicant tell us what the typical lifespans for these products are? I

07:51

thank you. Mum. Richard turning on behalf of the applicant, I think those remaining must have an idea in order to give you an accurate number, we'd like to just check that, and then we can submit it in writing, if that's okay.

08:08

Okay, as part of that, what I'm looking at is I'm I'm interested because I understand that they normally have lower lifespans than sort of you convention on non low noise surfacing. And I was just interested if the applicant has had a look at where there's any new materials on the market with longer lifespans, and how they're considering in terms of surfacing what they can use if as part of the action point, unless you want to cover it. Now, obviously paragraphs 5.43 to 5.45 of the National Policy Statement outline that the Secretary of State should consider the extent and effectiveness of the proposed management of waste arising from construction and operation of the proposed development. And I know looking at in terms of operation was scoped out, but I just want a bit of justification as to why it was scoped out if, in fact, the low noise surfacing is going to produce more waste during operation for the scheme. And so if, when you're looking at sort of the lifespan of the surfacing, if you could also consider how that sort of complies with the national policy statement in terms of waste operation.

09:20

Thank you, Richard, standing on behalf of the applicant, yeah, I understand the point you're making in some ways. And just just to be clear that, I think what you're saying is using the low noise surface. What's the sort of lifespan of that, I suppose, compared to a non low noise surface, yeah, yeah, yeah.

09:42

And how, and how that would affect sort of future waste generation, and whether you consider it would be something that maybe shouldn't have been scoped out, or give justification as to as to why it was sure,

09:54

well, if we get those accurate numbers, and then, as I said, we'll include that in the written response.

09:59

Thank you. You. Does anyone have any other comments on this before I move on to Item 14.2 Okay, so I understand the applicant's response to its q1, question. Ma, W, 1.3 and the reasons why, detail with respect to waste, can't be provided. Horograph, 10 point 7.73, of chapter 10 states that there's a reducing trend for landfill disposal in England, and although the forecast future baseline landfill capacity suggests that there's likely to be available inert and non hazardous, hazardous landfill capacity in the North West region and the Greater Manchester sub region. But in relation to hazler's landfill, it states as a likely to be capacity in the Northwest region. I'd just like the applicant spend a few minutes talking us through about landfill capacity and explaining why we should be confident that the waste from the proposed scheme can be dealt with appropriately by Waste infrastructure which is always likely to be available you

11:27

thank you, Mama. Richard Sterling, on behalf of the applicant, in terms of what's available in the northwest, the best information I can sort of share with you this morning is that we are aware that the Environment Agency produces tables which sort of provide the details on the more data on the availability of landfill void capacity at a regional and sub regional level. Those tables, I believe, are sort of updated periodically, appears annually, so we can, perhaps, by reference to those, go and sort of determine what's the latest data, whether there has been anything later to that which is already included in the environmental statement, and then provide You with a more detailed response in in writing on those lines. If that sounds

12:25

agreeable, yes, I mean, what I'm looking at is, if you're looking at the Northwest region, to use that for landfill capacity, rather than to the Greater Manchester, and just considering how far from the proposed scheme, waste could potentially have to be transported. And the other thing I'm concerned about in terms of the transport assessment, that if you don't know where your potential landfill sites are going to be, how have you accounted for that in the transport assessment?

13:00

Thank you. Mark, yeah. Richard Leon, behalf of the applicant, yeah, I understand the sort of correlation with the transport assessment there, so we'll, we'll include that as part of the response, as I say, by reference to the latest data that we're able to direct you to.

13:19

Yes, and I do appreciate that you you can't supply detail, but I'd just like a bit more confidence on where waste is going to be transported to. I'd also like to know how confident are you in the waste recovery rate percentages that have been given in in chapter 10. I

13:38

Bucha,

13:48

thank you. Mel, yeah, understood, and we will include the degree of confidence in those figures as well.

14:02

And one more one more question on this paragraph, 10 point 10 point 19 explains that the estimated amounts of hazardous waste are not included in Table 10 point 15, as are anticipated to be small, bearing in mind that the ES states, there's no capacity in the Greater Manchester sub region for any of this waste, hazardous waste that's produced to be taken. So regardless of the amount, you're going to have to take hazardous waste out of the area. And I just want you to explain why things acceptable that the disposal of hazardous waste quantities have not been included.

14:47

Thank you, Mum. I'm sure you're anticipating my response, but apologies that I don't have particular expertise in hazardous waste. But. Yeah, we will note that and include it as part of the written response. Okay,

15:06

can I just ask the council if they've got any concerns over the capacities of their local waste infrastructure and the effect that this scheme could have on them? And does your scheme? Does the scheme proposals for waste accord? And if so, how with your mineral and waste policy,

15:35

Piers, value Smith for the council, miles, you will have noted, perhaps in relation to our responses to the first examination questions that the CASL file enables comments on a few of these things until we sort of receive further information from the applicant, if we may. I think the most useful answer we can give to that is, once we've seen what the applicant is going to deal with, then we can respond in writing, addressing that point as An action point for deadline, five pounds,

16:06

that's acceptable. So

16:25

just, just one more question on this before we move on. I was just wondering whether the issues of waste, and particularly landfill capacities, have been considered as part of the cumulative impacts in relation to other schemes or developments which may also have landfill needs that may coincide with the proposed scheme, if it was in, if it was constructed.

17:02

So, thank you. Mel rich, turning on behalf of the applicant, the indications I'm receiving are that waste is included as part of the cumulative assessment, but obviously, in order to provide you with a more specific detail, we can speak to the appropriate experts and confirm that and direct you to the relevant sort of application documentation to guide you on now, when we come back in writing, okay,

17:38

thank you. So we'll have that as a as an action point.

17:54

Apologies Richard, filling in behalf of the applicant, again, I've just received a further note for our team, advising that cumulative effects on that were specifically scoped out, as per the scoping opinion. But obviously, perhaps in order to do that, if I as part of the written note, if we direct you to where that is, because I only have a sort of summary at this point, rather than a specific reference for you.

18:28

So what if you just want to give me that reference? But yes, if you could find me more details and action points so you see you've got a reference for where that bench has been scoped out.

18:38

It's in the scoping opinion. So second,

18:55

yes, and it's a PP, 144 mum, for the benefit of your note, that's the scoping opinion that was submitted. You have

19:03

page number, paragraph number

19:09

4.6, is materials, material assets and waste. I

19:27

and that's as precise as I can get at this moment in time, but we will review and just check if there's a more precise reference I can give you in terms of cumulative impacts.

19:37

Thank you. Oh, apologies.

19:41

I've been told 411, one is the relevant paragraph.

19:49

Thank you. Thank you. Does

19:57

anyone have anything on waste that they'd like to raise? Now before I move on to material efforts. No, okay, so in response to EXQ one question, M, a, W, 1.8 the applicant states that they cannot provide more detail as to the precise, precise locations that suitable material were absorbed from paragraph 10, point 8.5, of chapter 10 states that the initial assessment of the mass Hall volumes for earthworks shows a net fill requirement of approximately 220,000 meter cubed to construct the new highway embankments and widenings. This volume excludes the ponds, which are expected to generate up to 40,000 meter cubed of arisings. So you're going to have potentially a deficit of 180 meter 1000 meter cubed, and that's if you can use other material for the pond. So firstly, can I say applicant, based on the geotechnical data that you have for the site, how confident are you that the materials generated by the pond construction will be suitable for use in the new highway embankments and widenings?

21:11

We've undertaken. Sorry, Phil, I'm sorry for the applicant. We've undertaken. You know, a lot of ground investigation. The ground investigation has been interrogated in stating it in the environmental statement, I would suggest that you know, there's high degree of confidence because based on recent data physical ground investigation, under consideration of those ground investigation data, I

21:44

Okay. Thank you. So I do understand that at this stage you can't provide detail, but at a high level, can you confirm that you've determined whether there is capacity at local quarries to meet the deficit, or are you going to have to look further afield for materials if the site was to be constructed

22:09

for the applicant, in looking at the agenda item, the XQ response, you know, we appreciate the panel's difficulty in interrogating this point, I think Similar to the it was a similar sort of thought process, really, in preparing for the hearings around the waste point, I think we'll, we'll take that way we can see the panel's concern in this area. I think we'll take that away and consider further. I don't know if there's anything very specifically I've heard you, you just stated,

22:41

I mean, one of the, one of the issues is again related to the transport model. Yeah, sure. And if you you know, if you know there's unlikely to be a quarry within a certain distance, you're going to have to travel a lot further that. How has that been accounted for in the transport modeling?

22:55

Yeah.

22:56

And I do appreciate that you're not going to know the exact location, but just give me a feel as to what what is available locally, and how far you're going to have to travel to get that material

23:07

film or simply, applicant, yeah, I think that's helpful. We can come back on writing. Come back to you in writing.

23:15

Thank you. And again, I'm going to ask about whether the cumulative impacts have been considered, and where they've been considered so in relation to potentially other schemes or developments which may also have material needs that may be in construction, if the schemes to go ahead, and how that, how that's been taken account of, is that something you can point me in the direction of now, or would you like that's an action point. Thank

23:43

you. Mel Richard, sending on behalf of the applicant, and it will include that as part of the action point, if we may, you'll appreciate that we dealt with transport matters on the first day. So that's why our expert isn't here today. And then in relation to cumulative moving through that as well. Yes,

24:05

and with the cumulative cumulative effects, it isn't just the transport issue for me, it's the amount of material that would be available for potentially competing schemes.

24:17

Thank you. Understood.

24:19

And I suppose within that equally, if you're aware of any schemes in the area that you would be able to take material from that are doing at the time, that you know of any large, large schemes that you could, you could use for that, that would be that would be helpful. Um, just want to turn to the council again. Do you have a concerns about your region's ability to supply materials required for the scheme and against it a card, and if so, how with your waste and waste and materials

24:49

policy? Again? Pis Rod Smith for the council, I think it'd be useful for us to respond, in that sense, to Deadline five, in the same way, given once we've had the material, the material note. Unintended, as we've had the written answers from the applicant, I should say, though, and I think it is reflected in our answers to the questions in terms of the availability of locally sourced materials and things like that, the council struggle slightly as to how much that's going to be within its knowledge to say that definitively, we will try our best to assist, of course, in our answer. But I think

25:27

I appreciate that. Does anyone have any other comments on this item? Any other materials or waste on materials? Okay, in that case, I will hand back to Mr. Robinson to deal with the remaining item on the agenda.

25:48

Thank you. Um,

25:51

was start

25:53

with on the draft development consent order, we will firstly go back to a discussion that we had the first issue specific hearing, and this was the use of significant adverse within sections of the within sections of the development consent order. And effectively what this is, is where, where one example is in the definition for maintain effectively the authorized development. Can undertake various alterations or undertake various activities, provided that they do not give rise to any materially new or materially different significant adverse effects in comparison with those in the environmental statement, and it was the use of the word significant adverse that we have wanted further discussion on. And is this hasn't been used in in any other development consent order so far, and and the applicants, we've noticed your responses deadline one, and in particular that the explanatory memorandum was updated, where you stated that the reference to significance is or significant is made to align with the fact that only significant environmental effects need to be assessed in the environmental statement, and only a departure from an assessed outcome that is of significance should be restricted. And then you in your response to action points from the first issue specific here, and you referred to the a 14 Cambridge to Huntington improvement scheme and the N 20 junction 10 a development consent order which refer to materially worse adverse effects, and then more recently approved development consent order for the a 57 links Road, which cited materially new or materially worse just to explain the material difference between The wording those used in those orders and what you've used in yours, because obviously none of those referred to significant adverse So can you just explain what the material difference would be, if any?

28:16

Thank you. So Richard Thompson, on behalf of the applicants, I think that to break the point down, if I may. There's a point about referencing adverse effects for clarity, that it's only those adverse effects that we're seeking to restrict insofar as if they'd not been assessed as part of the environmental statement, and that if there was a beneficial effect, the applicant shouldn't be sort of prevented from from doing that or providing it the part about significant that we're trying to explain further in the explanatory memorandum, which you referred to, is that in the environmental statement, of course, if something was to result in a significant adverse effect, then that's likely to be something That would require mitigation and or should have been considered and put before the decision maker so that the decision maker then was able to consider it when, when deciding to mean approve the scheme. So if you were doing something that resulted in a new or different significant adverse effect, then that's the sort of matter that would need to be expressly considered by the Secretary of State. Again. Does that help your question? Did also talk about relationship? With the the other orders that we've directed you to. I think the same approach there is that it the other orders, if I sort of generalize that we're picking on the first point about wanting to clarify the position with adverse rather than beneficial effects, and then the wording that we've proposed is to add further clarity that actually what we're what we're doing here, is talking about the significant adverse effects, because it's, it's if something, as I say, was significant adverse it's likely to require mitigation. And that hasn't been considered nor provided for in the original assessment that supported the application.

30:49

Okay, yes, I think actually breaking those two down, two terms down, actually is quite useful, because they do have a slightly different context. The wording in your explanatory memorandum that only a departure from an assessed outcome that is of significance should be restricted. Does the wording that an outcome that is of significance not allow a greater flexibility than if an outcome was only to be materially new or materially worse.

31:30

So Rich, though about the applicant? Simple response to that is yes, and I think The reasoning is if you could have something that was materially new or materially different, but ultimately, if it didn't, if it wasn't significant, then it didn't tip that threshold for potentially requiring mitigation or further investigation. So that's the reason for the additional clarity, if you like, an inclusion of the word of significance.

32:01

Yeah, I'm trying, because I'm trying to think of a practical is there, is there any examples within, within the scheme where you consider that any changes could be potentially significant that you would need to do?

32:18

So we're just turning on behalf of the applicant, do, intrigue. I mean, we can give that some further thought, and I can see if we can think of any. But my initial response is one of obviously, but we're not looking to make any changes that would result in a materially significant effect, because at that point, yeah, sorry, if I approach it this way, if we made a change that was likely to result, sorry, that would result in a likely, significant effect, then it wouldn't have been assessed in the original environmental statement, I think that's an appropriate point at which either we as the applicant wouldn't be allowed to do it, or would need to, you know, be consulting with the Secretary of State. And the reason is that if it did result in a likely significant effect, we're more likely to then have to be coming back in to ask for either a non material amendment or seek a material amendment to the existing application, probably. But I take the point that you started off asking, were there any examples where we were looking to go with this? I suppose the first response is no, and we're very much hoping not to the wording here really is to operate to as a constraint and to make sure that what's been assessed and considered by the decision maker in the environmental statement that we won't exceed those parameters without a further form of scrutiny.

34:02

Yeah, I can see what you're trying to do. I'm still slightly concerned that you are potentially getting more flexibility than what has been allowed in other orders just by using that because there is a potential way that you could interpret this, that if it's I there's potentially a difference between what's a material different and what's material significantly different or adverse effects. And that's what I'm just trying to understand, is, is, is what the extent of that change could be in comparison to what's being used in other orders. Now, you did refer in your submissions to something that had been included in in albeit it is, was in draft, in the lower Thames DCO, about being construed significant not to be construed.

Again, as I say, we don't know what, what's going to happen with that particular scheme. Team, could you just explain a little bit more about what that annoying is a national highway scheme? What? What the purpose of including that was?

35:11

Thank you, sir. Richard, turning on behalf the applicant is absolutely right. We did refer to the lower Thames crossing Creek because that seemed to be the most recent example where the same point is effectively being progressed, but in a slightly different way. So you'll recall it in the written submissions, I identify the six instances where reference is made to materially new or materially different effects, and that's the wording that you know is commonly been used in low Thames crossing. They sort of had an additional element to to clarify, if you like, or further refine what that term meant, and that's the approach that's been advocated on low Thames crossing. But you're absolutely right. Obviously, that examination of obviously, that examination only closed. I think on the 20th of December. It might be like, yeah, it was last year, but I think it's not been determined. Is there is the critical point? So everybody's still watching that that same space.

36:21

Okay, thanks for that. I think what we'll, we'll do, we'll wait for the written response that you've read, that you'll be preparing deadline for, and and we'll, we'll see another further sort of consideration on this matter. Is there anybody would like to ask, Has the council got anything? It would also like to add on on the interpretation of this terminology,

36:53

Fauci please. Riley Smith for the council, so I think certainly we agree with the intention that the applicant has got in terms of what they're trying to achieve here and the logic behind it. So I appreciate hearing that you have some potential reservations, and want them addressed by the applicant. From the council point of view, I think we are content with the drafting as is. We understand the approach that's being taken, and we understand that amending the materially new and materially different to apply only to materially new or materially different, significant adverse effects, does,

37:26

or, yeah, Does,

37:27

does do what the, what the intention is of the applicant zone,

37:36

okay, thank you. I think that's, that's all we'll we'll say on this for the time being. Unless anybody else wants to raise any comments on on this matter, I don't see any, any hands up. So we will. We'll move on to Article Six, limits of deviation, and it might be useful to display the works plans again, which show These limits of deviation. I

38:54

right, okay, what the aspects of

38:58

the development I just want to query in a little bit more detail is the limits of deviation for potentially for the ponds. Now, in other development consent orders, we've seen specific. We've seen it stated in all in orders, an actual limit of deviation for the location of the ponds. Now, my reading of the article and what's shown on the land plan, so if we go down to sheet two of five, I think is probably the best one. I

39:46

am I correct that the ponds that are shown could be moved or repositioned to anywhere within the pink areas that are identified, which is the. Highway work, limited deviation so

41:09

thank thanks. Richard Delaney, on behalf of the applicant, I was just conferring with the team in the onset to clarify the standpoint you're making because there's not a precise sort of color on that key that I can say that suggests that it's constrained to a pond, limit of deviation, if you like. But I think the ponds would form part of the highway works. And of course, I see what you say. So he saying the highway work. Limited deviation is the pink pink area, whilst that in theory, would work. The other operational constraints, well, sort of the of the DCA applying as far as requirement three, requires the detail design to be worked up in accordance with the the works plans, and of course, it relate also to what's been assessed in the environmental statement. And then so that's the in a sort of theoretical world, if you like. And then, of course, perhaps more practical point is that there are physical constraints as well as to where that pond can probably be located, because the drainage that's going to flow to it. So

42:45

okay, but ultimately requirement three. Did you refer to requirement three? Did you or was it Article Three? Sorry, was

42:56

required. It was required.

42:57

I thought

42:58

that was detailed design. Yeah, to the plans. But

43:03

again, that doesn't require you then to undertake any consultation with anyone. Unless you're undertaking something with doesn't result in a, you know this, this material different or significant adverse. And I'm just wondering whether you need to be more specific about limits of deviation for the attenuation pond, given some of the concerns we've got, because I appreciate you may need some flexibility for for them, but the way that the order is drafted, to me, implies that you could have flexibility to reposition those ponds anywhere within those highway work limits of deviation or attenuation ponds,

I should say, for full would it be worth you going away and having a think about whether you need or whether you should have a more limited area for these attenuation bonds.

44:11

So Richard turning on behalf of the applicant, understand the point, and it is one that I think we should take away and consider but I have said, just looking at the plan that in truth, as I look at it, and I'll take, you know, instruction from those that deal with the technical matters and the fact that actually these areas are quite constrained, just looking at the markings, for example, on the works plans, where you've got surrounding embankments, areas of other form of mitigation, I actually think the practical result is the ability to move those ponds is, is actually quite geographically constrained. But I understand that in a theoretical world aligned to the first point, if you can move it anywhere within the the pink land, it may look like that. But I think if we come back in writing, just to set out the probably the practical limitations on that that would assist you best.

45:23

I think so, because obviously, we're looking at this on the face of the order would would authorize. I take your point in practicalities, but it's obviously the confidence of what the order is authorizing you to do. So yeah, I think we'll you can take that away as an action point and provide some further clarification on this that would be, would be useful. That's all I wanted to ask on limits of deviation. Does anybody have any comments they wish to make on it? Mr. Stroud,

45:56

Thank you, Chris Stroud, for the Hillary family. As you might imagine, the answer to your question, your your last question of the applicant is, is highly interesting to us, and we will be very concerned if that was going to move anywhere else, other than the pink area, bearing in mind the arguments that we have about not including any of the blue areas within the scheme. Thank you.

46:36

Okay, thank you for that, Mr. Shroud, you'll obviously see the what the applicant responds, and then you're what you're welcome to make any comments on that at the next deadline. Okay, moving on to Article 38 which is operational land. And we queried the extent of operational land that was being sought as identified in the work plans in issue specific one and what this article would give power to and in your response to issue specific hearing one action point 13, it stated that the provision only applies to land which is used or held by the applicant or any transferee of its powers for the purposes of its undertaking, it will therefore only apply to the land which the applicant acquires permanently for the purposes of delivering the scheme. So essentially, what your response is saying is that operational land which would be granted by Article 38 it wouldn't apply to land that's shaded green or blue on the land plan. So that's land that's subject to temporary possession or or at this acquiring rights, and that's will include large areas located to the north, west and southwest of the M 60, which was, if you look at the land plans for those who you might not have been at the first issue specific here, and were the areas that we were querying in in particular, which are identified as in White. I'd like the applicant to explain further the relationship between what the land ownership would be and what the operational powers would provide you, because you're saying that if what I'm gathering that you're saying is, even though it's included, could be included as operational land, it wouldn't be because you don't own the land,

because you're just providing with a little bit more explanation on what, on why that is the case, that just because you don't own the land doesn't mean to say that you wouldn't have operation. It wouldn't be operational land that you could undertake permitted development rights under.

49:03

Thank you so much for sending your mouth the applicant. So in relation to operational land, I think I'd want to just break it down insofar as it's only allowing the applicant permitted development rights for the purposes of its undertaking. So it's only as a function as the strategic highway or authority. So maybe it helps as well to clarify that. And then there is a point in the planning encyclopedia, actually that refers to this, that is for the purposes of that undertaking. It's not not sort of ancillary or related purposes that I think the example that's actually given is, and it's it's not directly relevant. But if national highways happened to also own a shop, clearly it does not so. And would not. It wouldn't allow the, you know, if you had a permitted development, wouldn't allow you to go and erect a shop, and that's only for purposes linked to the strategic Well, if purposes is a strategic highway authority. So that's a key point for the off in terms of the response that we were trying to come back to you from following the last discussion, I think the concern had been like, for example, on the land plans on sheet two, we were looking at the area. I'm sure it come up on the screen in a moment. There it is. The concern had been around sort of plot two, 5b, I think I recall the question being,

50:44

it was where the big construction compound was, yeah, and the one to the southwest of the junction, yeah,

50:50

yeah. And so the concern, if I accurately restate it, was that, potentially, that that power within the DCO is going to give permitted development rights over that large swathe or those large swathes of green areas. And so the clarification we tried to provide was to say, No, we'd only relate to land that the applicant owns. So that's the land that's going to be acquired permanently. So that's the pink land as shown on those plans, the vast majority of which actually is the existing strategic road network. And then, of course, anything that's going to surface it in terms of, like, maybe drainage, you know, like some of those ponds, so that it has rights there, but it's, it's limited in that way. And I think that was the clarity we were trying to provide. But does that assist, or was there a further point you wanted me to assist with now?

51:47

Yeah, it was. It was just to be, just to be so that we're we're comfortable that just because you, you don't own the land, doesn't mean to say that it can't be operational land. Because those lands, I could get the point about the shop, these are obviously areas of open land, and I think that was more what we were trying to clarify, really, is that actually, just because you don't own it, that that definitely means that you that you wouldn't need that as operational, or The fact that it's within the order limits is whether it matters or not, I think is really what we're just wanting, the absolute clarification on and certain. It's more the certainty, I should say, well, understand what you were saying in your response, which is wanting to be comfortable that that is indeed the case.

52:41

And thank you, sir, applicant, as we said, it would just apply to the land that national highways owned, so same would be the the pink plots.

53:02

Very much the map and anybody want to add anything to what they've just heard. I

53:25

Okay, we'll move on to Article 45 and which is, it's, it's article 45 paragraph three that we're wanting to really ask the question on so what this article is disapplication and modification of legislative provisions. And it's the provisions regarding or the modification that you want to do to the hedgerow regulations 1997 and it's regulation 60 1e of the hedgerow regulations, I think it is that you're wishing to modify by inserting all development consent after planning permission. We queried the necessity for this power in our supplementary agenda to issue specific hearing one, and we noted your response in the expansion memorandum at paragraph 5.113, could you just expand upon that a little bit more just to explain why sub paragraph three is actually required.

54:37

Thank you, Sir Richard turning on behalf of the applicant and so that the extension is just to recognize development consent order in the same way as a planning permission to effectively not require you to seek a license otherwise to remove the head hedgerow. And in that sense, it aligns with the One Stop. That principle of using the DCM, so that's the reason why we've included that.

55:09

Okay, does article fit 36 of the draft development consent order? Would it already provide the power that you need in that you're already proposing, and you set out in schedule eight, a little bit more clarity of the work that you will be undertaken to important hedgerows. So whilst I can see what you're trying to do in terms of amending the effectively the parent legislation, do you actually really need to do it if you've already got the powers that you're seeking within the order,

55:47

thank you so rich. Thing on behalf of the applicant, I think without is included article 45 which is, of course, the application disapplication or modification of other legislative provisions, and is to make sure that the two, two legislative arenas, if you like, align so that there's no conflict between the two. So it's actually just to make sure they operate together in a complimentary so

56:25

Okay, is it, is it the case that the parent legislation properly has specifically referenced planning permissions, because they wouldn't have the power to override the parent legislation, whereas obviously a development consent or that would So is it the case that the parent legislation has deliberately not referred to that to development consent because it doesn't need to, because you've got your own powers to potentially To do that under the development consent order process, do

57:11

and thanks so much turning on behalf of the applicant, I think the concern is perhaps 241 is that the regulations pre date and the DCO, I hear what you're saying in terms of with the DCO, therefore sort of Trump that earlier piece of legislation. Whereas I think article 45 is operating, and I would happy to confirm it in writing to because I just wanted to check, but from memory, I think it's section 120 section 120 of the Planning Act 2008 which then allows the power to modify, apply, or disapply of the legislation. And I think that's the appropriate way to do it. So we've, we've got the power in 36 within the DCO, but if that was then conflicting with other legislation. Our ability to apply or disapply it comes in Article 45 and that's why we've just, as I say, very, very simply, included reference to development consent to make sure it aligns. Actually the hetero regulations 1997 do otherwise. Where I thought possibly this question was going to go when, when thinking about it was that there is reference in there for the carrying out of works by the Secretary of State, but only in relation to functions for which it is the Highway Authority and areas for which it relates, so it would be constrained to the strategic road network. Whereas this power then ensures that if there was anything that was on the local road network which from which national highways wouldn't otherwise have the authority to act. The operation of 36 and sorry, articles 36 and articles 45 then allow national highways to remove so shed rows as are detailed and limited in schedule eight of the draft eco,

59:13

okay, thank you. Yeah. I think if you can provide a bit more for the detail of that as an action point, just on on that, I think it would also be worth explaining whether there is actually, I mean, I'm assuming the fact that you're wanting to put this in is there's no precedent in any other order that's included. This is that the case? Do you know off the top of your head?

59:38

So Richard Thompson on behalf of the applicant, so can I just clarify when you're saying no other order that's included? SD, do

59:45

you mean any other made development consent order? No, no, I

59:49

appreciate that. Sorry. It was just article 45 three. You mean as opposed to Article 36 because article 36 is, is obviously it was in the

59:59

you. The it's article 45 three. To be more specific, is what I was saying, that has any other made Development Center that included a similar provision for the hedge roads regulations as you've got in 45 three.

1:00:15

Thanks everybody today. Off the top of her head, I don't know the dude. I don't know that, but article 36 was one of the model provisions, so yeah, but I can check back and include that as when as part of the written note.

1:00:36

That's fine, but yeah, the statistic clarify, my query wasn't with with Article 36 so that's fine. Does anybody want to raise anything on this particular No, Okay, moving on to the next. One, requirement three, I think we had quite a we had quite a lengthy discussion yesterday on design, so I don't actually intend to to touch upon that now, because obviously the applicant is going to provide some more details based on the discussion. So I think it'll be best just for us to wait to see what comes in the deadline four, and then review whether anything further needs to be done to requirement three. So we'll move on to requirement five, and it's just a discussion, obviously at in our issue specific hearing agenda, once the supplementary agenda, we made some potential suggestions as to whether this requirement could be expanded upon. And the first one is we asked a question on whether requirement five, which is the landscaping scheme, or it's just titled landscaping, effectively, whether reference needs to be made within it also to hard landscaping. And in new response, the applicant stated that works to public rights of where maintenance tracks are beyond the scope of the landscaping scheme. Are you actually proposing any areas of hard standing within the scheme in terms of like foot passing is really what we're getting at here? I

1:02:23

uh Tony Weston, for the applicant, the simple answer is no, there'll be very little hard landscaping or formal footpaths, just because of the very nature of it. There might be some kind of informal hard standing which would largely be associated with maintenance accesses, so things like the ponds and so on.

1:02:43

And do you provide in those details as part of requirement three? Yes, okay, because it's not unusual for landscaping plans to include hard landscaping within them, which was sort of the reason why we suggested it so in essence, you're saying that it's for the access tract. I'll turn to the council, because you did come back to say that you would support such an addition. Is there any comments that you want to raise as to whether it's actually necessary to include hard reference to hard landscaping within The details to be required in the landscaping scheme so

1:03:45

yes, and they pay as well for the council. I think we still think it would be appropriate to include and have referenced within that, given we appreciate the comments there as to minimal, but I think it's something that the council would still wish to

1:04:02

have. I is the end anything the applicant wants to respond on

1:04:08

that. Tony Weston, for the applicant, I think it would be good to understand from the council in that case whether what they're seeking is to understand how those routes might fit within the landscape themselves, or whether they're seeking approval of those details for any kind of maintenance, access routes, hard landscaping, which might be provided, because it's not 100% clear which it is, I suppose

1:04:36

you could just expand on that list around

1:04:39

it's not a maintenance point is the latter, not the former? No, it's the former, not the latter. If that assists, do

1:04:48

you want to come back on that? Yes, thank

1:04:50

you. Okay, I think we'll take that away and have a think about it, and then perhaps engage with the council before we respond in writing.

1:04:59

I. Yeah, I think that's a sensible suggestion. So we'll add that as a as an action point, staying on requirement five. I just one of the other suggestions that we queried was whether reference to the findings in the arbor cultural Method Statement needed to be included in your response to the this is the applicant's response to the supplementary agenda is the agricultural impact assessment identifies the trees affected by the scheme, rather than the protection measures required, and it's the protection measures that would be approved as part of the landscaping scheme. The agricultural impact assessment. My reading of it, it contains recommendations including reassessment of impacted trees. It also identifies the trees to be affected and felled. Compliance would therefore ensure that any scheme relates to the trees identified you've also made reference in commitment LV three in the registry of environmental actions and commitments to an agricultural Method Statement and tree protection plan, although I haven't seen that referenced in the documents to be heard under requirement four. So I think there's two questions here. Firstly, because the agricultural Method Statement sets out further details and reassessment of impact to trees, would it not be the case that reference to the landscape and replying with complying with the measures within that? Would that be add certainty and more clarity that those measures that you've stated in that document would actually be secured you

1:07:10

uh, Tony Weston, for the applicant, apologies. Was just conferring there. Um, I believe the answer is that actually, it's not necessary to include it in requirement five because it's secured as part of the environmental management plan. So perform part of the second iteration. It's part of the first iteration environmental management plan. Appendix n, the outline landscape and ecology management plan contains details and links to the impact assessment, and so it forms part of the second iteration under requirement four rather than under requirement five.

1:07:56

So it's appendix n that is secure of the first iteration environmental management plan that is securing the findings of the agricultural impact assessment, and is that the same agricultural Method Statement and tree protection plan that's referred to in commitments LV three and LV 17 in the React.

1:08:22

Thanks. We believe so, but I think we'll need to check that one. I don't have the react immediately to Yeah.

1:08:28

So if you could just check that, because when I, when I read those commitments, I was trying to work out where the those, the references to those plans, were actually secured, and it wasn't clear to me. So if you could come back and confirm that in writing, then, then that would be useful. I'll turn to the council, because, again, this was something that you considered would be beneficial to insert. Is there any comments that you have on what you've you've just heard from the applicant,

1:09:02

so bills Riley Smith for the council, if it is included elsewhere, then that would satisfy that concern, but will, as it were, just wait to see what's provided in writing. But that sounds, as it were, at face value, like an appropriate response.

1:09:17

Thank you. That's all I have to add ask on landscaping for the time being. Does anybody else have any queries they want to raise on landscaping? Okay, I don't see any hands. Finally, to requirement 13. This was a requirement that the applicant added to after discussions at issue, specific hearing one, and this sets out the details for consultation that need to happen. Can I just ask the applicant in this requirement why you've specified a four? 14 day time scale and why you considered this would be a reasonable time period for consultees to respond

1:10:13

Tony Weston for the applicant, we did have a look at a number of other made DCOs, and there's quite a lot of disparity in the time periods that are specified in those but having previous knowledge of the M 54 to m6 link road, which provided for 14 days and was made only a couple of years ago, where 14 days was acceptable at the time, then we thought it was appropriate in this instance, to include The same period. Certainly I don't think we'd had any comments on any of the other interested parties to suggest that that period wasn't an acceptable amount of time.

1:11:01

I'll ask the council, because we didn't receive any comments on this, and obviously this would affect you in terms of anything that you get consulted on, are you satisfied that 14 days would be sufficient in this instance?

1:11:16

Yes. Thank you, sir. Piers Riley Smith, for the council, we are, and part of the rationale for that is in practice, with a lot of these matters, there is commonly, if not always, lengthy pre application discussions with the council. So we think the 14 days is appropriate from our point of view.

1:11:39

Okay, thank you for that. We'll probably ask this at a second written question, probably to the Environment Agency and Natural England, if I think of the other bodies that could be affected by this. Because obviously, each case, I appreciate, every case, is assessed on its own merits. So and obviously in this particular case, we will assess the suitability now based on the circumstances in front of us. So I think that's that's useful clarification for the time being, that's really all of the aspects of the development consent order I wanted to cover today is, are there any other articles or schedules within the order that anybody in the room would like to discuss and raise in addition to the ones that we've just talked about, I don't see any hands up, so I will now move. Oh yes, Mr. Stroud.

1:12:37

Chris Stroud of Morrow for the Hilary family, perhaps a little bit slow on the uptake and not fully conversant with the terms of the DCO, but you are aware of our position in regard to the environmental mitigation land. It's our view that that should be taken out, if that is taken out of the scheme as permanent acquisition and goes back to the temporary status that it was granted in the earlier consultations, I would be very concerned, As a slight cynic, that the limits of deviation. The example you raised of the location of ponds gives some form of ability for a Trojan horse change in design which requires further land take. I don't know whether that is possible under the order as it is currently defined, but I will be very concerned, and the cynic in me just wonders whether or not the allocation of those two parcels of land that I referred to as environmental mitigation, north and south and south actually there for some other reason, given the relatively flaky justification for its incorporation in the first place.

1:14:12

Okay, thank you for that submission. Obviously, the applicant is going to be responding on that particular article, and as I said before, I think it will be worth if you've got any further concerns, particularly on what the applicant in response to the questions we've raised, then you're welcome to raise that deadline five. Okay, well, we'll just move on now to I'll pass over to Miss Holmes to lead us through the remaining items on the agenda. I Linda,

1:14:43

thank you. Given the number of action points, I'm not going to go through these in detail now, they will be published on the project page of the national infrastructure website as soon as possible. I'm conscious a lot of the deadlines were for deadline four, which is coming up on the 10th of December. So we will endeavor to. These published tomorrow for you, just moving on to any other business. Has anyone got any other business that they would like to raise that's relevant to the hearing before we close? Yes, Mr. Heaney,

1:15:12

oh, thank you. I'm sorry for missing the last few days of the meeting, but I've come along today, and I've got a few points. I'd like to ask if you've covered them before. Just tell me, and I'll cut them short. So there's about eight parts, but they won't belong so don't worry. So what I'd like to find out about is a proposal from the contractors to work seven days a week. If that's been covered and I wasn't here, I do apologize. I would like to propose the work six days a week, not seven days a week. Why? Because the residents have enough noise, and a Sunday is a day off for everyone. So we would like a bit of

peace and quietness over that period of time, any heavy works to be carried out by the contractor, such as drilling and piling and ripping up Woods not to be carried out at night, but we'd be carried out during the daylight hours. I did mention the fence, and you did say you had it covered, but I never mentioned an embankment. I should have done. The trees have been covered, and the fence has been mentioned, but an embankment between the trees and the residents hasn't been covered. It could be a good idea to use non toxic, non hazardous waste to build an embankment, have a trees and then have a fence line. Just a proposal, just an idea they may take on board, or they may not. I was going to ask, and the hope bury Council might give us a backing on this, if it would be good enough to supply triple glazing to the nearby residents, including myself. As I get up in the morning and I put my feet in the floor outside my bedroom window is a motorway. I have an 190 degrees vision of it. Now, in the summer, the noise is there, all depends on the weather. In the winter, the noise is there all depends on the weather. By bringing the motorway closer to where I live, the noise is going to increase, but I may be one of the fortunate people on this particular area. There's other people's closer to the waterway, so their noise level is going to go up, the pollution level is going to go up, such as the light level that you spoke about earlier, and definitely the pollution in the air from dust and all the rest of it, I'd like to know if a liaison officer for complaints has been set up between berry Council and the contractors and the other people the highways. So I think it'd be a good idea. I've had an independent liaison officer dealing with people's complaints. People will have a lot of complaints. Remember, in fact, we've got to put up with this over the next four year. So compensation wise, I don't think it's too much to ask for the contractors to think or offer triple glazing. And if it, if they did offer it, the triple glazing should be installed before the works carried out, because not at the end of four years, when it's all there, it's all gone. The triple glazing is a good idea, apart from giving me nice new windows. So along that line, other compensations could be, we've got four summers. We've got four Christmases coming up. The contractors could be nice and generous to the residents, such as days out, meals during the summer, one or two days, and a Christmas party at Christmas. So having said that, I'll leave you with it, and that's all I've got to say.

1:19:34

Thank you. Thank you very much. You've made a number of points that I will give the applicant chance to respond to those if they want. But can I encourage you to submit those comments at deadline four, and then the applicant can probably provide a fuller, a fuller answer to your to your queries and to your points, and we can consider them as part of the examination. So would the effort like to respond some of those comments?

1:19:57

Thank you. Phil Emerson, for the applicant, it. Yeah, Miss Lea grateful for your comments. We've I mean, I know we've recently, sorry, I know we've recently corresponded. There's been an email between the project team. There's a number of points there. We could certainly meet with you and go through those points. We will respond in writing to the specific points on piling noise, impacts, light and such like, we can confirm that we'll have a dedicated publicly as an officer. He'll be asked contact at any time, and we'll come and speak to those nearby residents as works approach. We'll have mail outs, and however you choose to receive that sort of information, if you like, just looking through the points. Now, I think that's probably also now. I mean, just generally, on the noisy works, we fully appreciate that. You might imagine that we don't want to be working some days either, and so, but that sometimes, operationally, where it affects the motorway, we'll close elements of the most way, you know, we need

to do that kind of working. I think that's probably where I'll leave it, just for now. But very happy to come and talk through all those points with you. We can bring documents and show you bits of pieces, but we'll respond in writing.

1:21:12

Thank you very much. Has anyone else got any other AOB that they would like to raise the room or online? Oh, I see no hands. So I will move on to Item 17. There's no other items relevant to this hearing. So may I remind you that the timetable for this examination requires that parties provide any post hearing documents on or before deadline four, which is Tuesday, the 10th of December. May also remind you that a recording of this hearing will be placed on the inspectorates website as soon as practicable after this hearing, before we close, I'd like to thank all of today's and yesterday's participants for their time and assistance during the course of this hearing. I shall consider, and Mr. Robinson will consider all of your responses very carefully, and they will inform the examiner authority's decision as to whether we need any further written questions and or further round of hearings, and whether that's necessary. So the time is now seven minutes past one, and this issue specific hearing for the proposed M, 60 M, 60 2m 66 semester Island Interchange project is now closed. You.