



Hearing Transcript

Project:	A46 Newark Bypass
Hearing:	Issue Specific Hearing 1 (ISH1) - Session 1
Date:	03 December 2024

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AUDIO_A46_ISH1_SESSION1_2024-12-03

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Good morning, ladies and gentlemen. It's now two o'clock and time for this hearing to begin.

Go any further. Can I just confirm that everybody in the room can hear me back of the room?

Excellent. Thank you very much. Applause.

I can also confirm with Mr. Keats, we online

recording and the event started. Thank you very much.

I'd like to welcome you all to this issue specific hearing one on the draft development the draft development consent order in relation to the application made by national highways for an order to grant development consent for the a 46 New York bypass project. My name is Kenneth stone. I'm a chartered town planner and planning inspector. They've been appointed by the Secretary of State as the lead examining inspector to examine this application, along with my colleagues Paul Burley and David Lowe as panel members, I will ask my colleagues to introduce themselves. Mr. Burley, good afternoon. My name is Paul Burley. I'm a chartered town planner and planning inspector for nationally significant infrastructure projects. Mr. Love,

good afternoon. My name is David love I'm a chartered town planner with postgraduate qualifications in ecology and a practitioner member of the Institute of Environmental Management and assessment. I'm an examining inspector for nationally significant infrastructure proposals with the planning Inspectorate. Thank you, Mr. Stone, thank you.

You will also hear to us referred to as the examining authority. Our role is to examine the application and to report to the Secretary of State for Transport with the recommendation as to whether or not the development consent order should be made. The application seeking consent for seeks consent for a scheme that comprises online widening of the a 46 to the north of the existing route for most of its length, between found and roundabout and the a one followed by a new section of offline dual

carriageway proposed between the A one and Winthorpe roundabout, with a new dual carriageway tied into the existing a 46 to the west of Winthorpe roundabout. The widening works include earthwork widening along the existing embankment and new structures where the route crosses the Nottingham to Lincoln and East Coast Main Railway lines, the river Trent and the A one

roundabout Farndon and Winthorpe will be enlarged and partly signalized, while the cattle market roundabout will be grid separated by elevating the a 46

access to the a one to and from the a 46 will also be improved by upgrading the brown Hill and friendly farmer roundabouts

planning inspectorates. Case Manager for this application is Ewan Keats, and he is supported here today by Mr. Tim Hall, who's a case officer, and we have virtual support through a further case officer. Please don't hesitate to talk to a member of the case team. Should you need any help at today's event or with the technology,

or I go any further, just a few housekeeping matters. If you've got any mobile phones? Could you turn them off or turn silent?

Terms of toilets, closest toilets are down the ramp and on the left. In the event of a fire, there are four fire exits to the Great Hall. Please familiarize yourself with your nearest exit. Fire evacuation assembly point is near the tennis courts on the front lawn. To get there, you will need to walk through the car park and pass the business center for anyone with any mobility issues. There is also a ramp to use. As far as we're aware, there are no scheduled fire drills planned for this afternoon.

Today's hearing is being undertaken in a hybrid way, meaning some participants are present with us at the hearing, and some are joining us virtually, using Microsoft Teams.

We will make sure that however you have decided to attend today, you are given a fair opportunity to participate. If you are participating virtually and you wish to speak at any point in the proceedings, please use the raised hand function, and we'll invite you to speak at the appropriate time. Alternatively, please turn your camera on so that we can see that you wish to speak.

The hearing is being both live streamed and recorded, and the recording will be available on the gate Burton energy Park page of the national alright

on the

the a 46

page of the national infrastructure website. Shortly after this hearing, for the benefit of the recording, please, can those present ensure that you speak clearly if.

Into a microphone each time you use your name and each time that you speak for those people observing or participating remotely in order to minimize background noise, can you please make sure that you stay muted unless you are speaking?

A link to the planning inspectorates. Privacy notice was provided in the notification for this hearing, and I assume that everybody here today has familiarized themselves with this document, which establishes how the personal data of our customers is handled in accordance with the principles set out in data protection laws. Please speak to the case team if you have any questions about this.

It is very unlikely that we will ask you to put any sensitive personal information into the public domain, and we would encourage you not to do that. However, if you feel that is necessary to refer to information that you would otherwise wish to be kept private and confidential, it should be in a written form which can then be redacted before being published. Please talk to the case team about the best way to do this. In this vein, we would mention that if you want to tell us something about where you live today, because it's relevant to what you have to say, please just give us a general education without mentioning a specific address.

This meeting will follow the agenda published on the national infrastructure planning website on the 25th of November, 2024

examination Library Reference, Ev, 2004,

and it would be helpful if we could have a copy of this in front of you. So I'll ask the applicant to display that on screen at this point

and we scroll through that at the appropriate times. In terms of substantive matters, the agenda is split into various main parts which deal with articles, requirements, protective provisions, other schedules

and plans and other agreements. The agenda is for guidance only, and we may add other considerations or issues as we progress, and we will conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. If the discussions can't be concluded today, then it may be necessary for us to prioritize matters and defer other matters to written questions or another hearing later in the examination.

Likewise, if you cannot answer the question being asked or require time to get the information requested, then can you please indicate that you need to respond in writing?

We plan to break in mid afternoon, depending on how matters are progressing. I when we do take any breaks, those of you who are participating virtually, will you please ensure that your cameras and microphones are turned off during the break?

I shall now move to introductions.

Going to ask those of you who are participating in today's meeting to introduce yourselves. Could you introduce yourself, stating your name, who you represent, and let me know on which agenda item or items you wish to speak.

If you're not representing an organization, please confirm your name, summarize your interest in the application, and confirm the agenda item on which you wish to speak.

I will start with the applicant and your advisors. If we could hear from whoever will be leading the submissions today and any others who may make regular contributions to applicant.

Good afternoon. Loray Hendry, partner at Womble bonded concerns, solicitors for national highways, the applicant for the scheme. I'm the lead lawyer today, assisted by my colleagues, who will now introduce themselves.

Applause, just thank you, sir. Emma Harling Phillips of Council, I am also a partner at Womble bond Dickinson, and will be dealing with the requirements section of today's hearing. Thank you.

Good afternoon. Mark Sutton, project, technical director for Skanska, the delivery partner for national highways, the applicant.

Thank you very much.

Can we now move on to organizations and individuals who have expressed a wish to speak and again, please, could you introduce yourself and tell us on which agenda items you wish to speak? So firstly, if I go to the local authorities, Newark and Sherwood District Council, please, yes. Good afternoon. Sir. Paul Arnott, partner at Town legal representing Newark and Sherwood District Council, and we will be speaking.

On most, if not all items on the agenda. I'll allow my colleague Lindsay to introduce herself.

Lindsay Preston, senior planner for Newark, and show District Council, yeah, assisting all with representations on our behalf.

Thank you.

Okay, so if I can move to Nottinghamshire County Council,

good Sorry.

Good afternoon, Jasper, at all of Council, representing Nottinghamshire County Council,

will be speaking on items three, six and seven, and as were appropriate discussions.

Kevin Sharman, Nottinghamshire County Council

project lead for major projects and programs, particularly transport related. But we are the client for this project.

Good afternoon. DJ, how? Also speaking on behalf of Nottinghamshire County Council.

Thank you.

I don't have any other statutory parties

or parish councils.

I can move to other interested parties who may have heard a request to speak.

Do I have anybody from aldergate properties,

either online or in the room?

Nope.

Do I have representatives from canal and river trust?

Good afternoon, sir. Yes. My name is Simon Tucker, area plan at the Colin river trust, and we'll be making comments on the item three. Notice we article 58 and Item five, regards to protected provisions, most supported by two colleagues who are also here as well.

Thank you very much.

Good afternoon. I'm Sophie summers, working for the CanAm river trust as well planning and environment lawyer. So I don't know if you noticed, but Simon's video doesn't seem to be working. I'm not sure if it's something that end or his end, but I think he's tried a few things, but if you need to see him, he's not trying to hide.

Thank you. And we're accompanied by Paul.

Good afternoon. Paul gone. I'm the infrastructure services engineer at canal river trust. You

okay. Thank you very much.

Just looking around, do I have any other parties who wish to make any contribution,

nobody else in the room online. Do I have anybody else raise a hand or put your screen on?

No, okay. Thank you very much.

So for all our participants today, for the purposes of the recording, it would be enormously beneficial to us if each time you speak throughout the hearing you could state your name, and if you're representing somebody who it is you represent.

Before I move on, I would just like to mention that all of the host authorities have been invited to today's hearing.

And as I've mentioned, the event is being live streamed and recorded and will be available to view on the a 46 New York bypass page of the national infrastructure website. Anyone watching on live stream or at a later date has the opportunity to make comment about the matters covered today by deadline four, and that is Friday, the 13th of December,

make a couple of opening comments about the purpose of this ish, the draft development consent order is an important document. It is a draft piece of legislation which, if the secretary of state decides to grant development consent forms the legal basis for the delivery of the proposed development. It sets and secures the standards to which the development must be constructed and secures the environmental performance of the development. This hearing is being held on a without prejudice basis. So in essence, even if your position is that development consent should not be granted, and therefore the Secretary of State should not make the draft development consent order, you can make representations in this hearing on the drafting of the development consent order without conceding your wider position.

Is that the draft development consent order should not be made.

It's important for the examining examining authority, because we are under a duty to provide the Secretary of State with the best drafted development consent order that we can even if we end up recommending that the Secretary of State should not make the development consent order. This is because we do not decide these applications. We make recommendations to the secretary of state,

and they make the decision. Even if our report to the secretary of state were to recommend that the development consent order should not be granted, we must still append a draft development consent order, ensuring that the Secretary of State can decide to make the order if they so wish.

We've previously issued a first set of written questions, EXQ one and to which responses were provided by deadline two, on the 12th of November 2024

further responses to those submissions were also provided at deadline three, by the 26th of November 2024

we've sought to have regard to the responses raised in those deadlines and the submissions made, but to ensure there is no duplication, if you feel that the matter has been adequately addressed in your recent submissions, please signpost where we can find

those representations or responses and give the document reference number and paragraphs as your response. Those were obviously only just earlier in last week that those were received, so there may be a bit of duplication, just to prevent that, just you can refer back to your your previous responses. That helps This hearing will not examine the detailed content of provisions relating to compulsory acquisition of land or right or temporary possession of land. Examination timetable proposes separate compulsory acquisition hearings. And we have held a CH one on the applicant strategic case in October, and we held a see a CH on in the individual specific cases this morning, we may also return to matters on those issues at other DCO is HS or CHS or written questions.

Does anybody else have any questions or points that they wish to raise before we move on any further,

not seeing anything from the room or from virtually. So we shall move on. So

if I move to Item three on the agenda, and that's dealing with articles,

as I've said, we've picked up a number of matters on articles and things like that in our initial first set of written questions. So a number of points have already been raised, and it's just to sort of get a bit of clarity on those. So item three, a, Article Two, which deals with definitions. And I think there seems to have been some we asked questions on this, and there has been some further responses and commenting. But

can I ask the applicant and then ask the local authorities whether they are now satisfied that

Article Two, the definition in relation to local planning authority is sufficiently clear in respect of the requirements, three, four and five, and whether or not that needs to

give an indication that it might be more than one local authority or other, but it's just in terms of I've seen a number of comments on the matters.

Thank you. Mr. Stone the ray Hendry, for the for the applicant. I mean, our our submission is that the definition is

sufficiently clear in the context of those requirements. But if it is helpful, I can kind of talk through the reasoning for that. So essentially, relevant planning authority is defined in Article Two of the draft development consent order

number R, E, p3, 003, I won't keep referring to the examination library reference number for that particular document. Fair

enough. It says in any given provision of this order the local planning authority for the land

to which the provision relates. There is precedent for this approach in the a 47 ones for to Sutton DCO from 2023

and essentially the effect of this definition is that particularly in requirements three, four and three and three, four and five, where you have the possibility that some of the subject matters being consulted on in relation to those requirements might cross the planning interests of a of a sort of NSDC or NCC. And so what we're just trying to kind of show there is that.

That to the extent that their planning functions are relevant to the topic that may be being consulted on, they will be consulted on those on those topic areas.

Absolutely happy to hear any submissions from the local authorities if they if they disagree with the approach. And as I'm sure you've seen, the approach does vary across orders that have been made, but that's our explanation. Thank you very much.

Can I turn to local authorities? Can I turn to NSDC first? Yes, Paul on it, and Sherwood? Yes. It's not a point that we feel particularly strong about, but I mean, we start from the position obviously, that this is a development consent order, and needs to be clear on its face to anyone which particular planning authority,

particular reference to relates to. So there are, I mean, there's differing approaches, as

Mr. Hendry alluded to, there are some development consent orders which have have named a particular local planning authority. So, I mean, I think we would encourage the applicant, where they can, to seek to be specific, if that, if they're able to do so.

But again, it's, I suppose it's a matter for you, so whether it's sufficiently clear. But I mean, we would say if it can be made clearer, and we have seen some examples where there is more detail, perhaps provided either in the definition or in particular requirements which particular planning authority relates to.

Thank you.

Nothing. I'm sure. Have you any comments on that?

Just county council? No. I mean, we would. We would echo the comments of New York and Sherwood in that regard, and in regard to the question and definition of local highway authority. I mean, we accept that's adequately defined in the right in the definitions themselves. Questions themselves.

Okay, so that's helpful that the local highway authority is adequately to find that helpful

applicant. Do you have any comment as to whether or not there is the potential to be more specific in terms of the requirements to actually specify this specific

local planning authority, or whether not that's something you could look at. Thank you. Lara Hendry, for the applicant, absolutely happy to look at the definition to see if we could perhaps expressly refer to the point that we're trying to make, which is that it's relevant to the planning functions of the local planning authority, if that will assist in kind of clarifying the intention there. Thank you very much.

Okay, so if I move on Article Three, this application of legislative provisions, there's been a bit of an issue that's been raised around the Nottinghamshire County Council permit scheme.

Can you just the applicant? Can you

just tell us why you believe that it's appropriate to disapply that. And then I shall come to NCC to

explain why they think that that's not necessarily the case, to see if we can actually get to a position on this, as to whether or not it should just be maintained as it were, or whether or not we move to the national standard.

Thank you. Larry Hendry, for the applicant, the first thing, first thing to say, is that by disapplying or seeking to disapply the NCC permitting scheme, it's not an assertion of the applicant that we don't think that the other NCC have to comply with their traffic management duty. We fully understand that there is a role, a very important role, that NCC plays as the local highway authority, and we aren't wiping kind of clear all controls and obligations on us in relation to notice requirements, etc, when it comes to street works and traffic management. So whilst the order is seeking to disapply that particular permitting scheme. The basis for that is really because the permitting scheme seems to be designed, and I will, of course, see what NCC is. View is on this, but seems to be designed for more kind of specific traffic controls. We're talking about a scheme that's going to run for a number of years, where significant amount of street works and traffic management is going to be required. And as such, the sort of administrative burden of applying for a permit at each instance or the applicant, as well as the local highway authority seem to be disproportionate to, you know what?

What it is we're actually trying to achieve, given the other controls that are set out within the within the order and within the other control documents. So if I could just refer to a couple of articles that that may be of assistance, and it kind of setting out where those controls are. Article 13 of the draft development consent order the application of the new roads and street Works Act 1991

it seeks to kind of proportionately apply the new roads and street Works Act controls by disapplying A handful or slightly more than a handful of those provisions, whilst making clear that the kind of rest of the act as it would apply, is still in force in relation to the works that were being carried out under the order, albeit, you know, with some slight definition amendments, Article 18 of the draft development consent order, which refers to the temporary alteration, diversion, prohibition and restriction on the use of streets

requires that the applicant obtains consent from the relevant street authority before carrying out street works on works on streets that are not within its control.

Article 22 of the draft development consent order under traffic regulation, it sets out the consent requirements in that context, as well as notice requirements.

Finally, there is the outline traffic management plan, which will, as you, as you are aware, be captured into the detailed traffic management plan in accordance with requirement 11 of the draft development consent order, which also sets out a number of commitments that the applicant must comply with, in relation to communicating with the local highway authority. In relation to traffic management during construction, there will be a sharing of information. There is an active consultation role, both in the preparation of the detailed traffic management plan, but as well as on specific elements like dealing with traffic management in relation to road closures.

So all of that is to say, really, that we've we fully appreciate that that NCC have a duty, and we're not trying to cut across that duty or make it difficult for them to comply with it, but we would ask NCC to sort of work with us in coming up with a range of controls that are more proportionate to a scheme of this size and complexity that would work with for both parties, if the controls that are already set out in the order are considered insufficient. So conversation.

And it may be that we can't kind of get into that detail today, and that perhaps we could pick that up as part of our discussions within the socg, sorry statement of common ground context, but I just thought it would be helpful to kind of lay out our thinking in relation to why disapplying The permitting scheme might seem, seems proportionate to us in that context. Thank you very much.

Can I ask for NCCS comments? Yeah, thank you. Jasper Lyon, on behalf of nuncia County Council,

I think what the county council would have fundamentally said, I mean, it's acknowledged that there is a traffic management plan

that will

manage that interaction between the county council and national highways, but not into the County Council's position fundamentally is we have this statutory duty. We have this permit scheme that we use in order to

make sure that we meeting that statutory duty, we have to be cognizant of other other applications in the vicinity and the traffic. The permitting scheme allows us to do that, and we see, whilst we acknowledge this is a development of significant scale, we don't take the view that it needs to be taken out of the permit scheme in order to adequately manage how it interacts with other developments that may be happening in the area, and just the management of the works generally. I mean, if it's if it's of any assistance, it is worth noting that one of the points from our

consultants is fundamentally that it's some level to do the software whereby you actually book permits. It's DFT software that actually national hybrids already use with us. So we don't see fundamentally that the the requirement to comply with the permitting scheme would be fundamentally onerous. But other than that, you know, there is a conversation to be had, but that's our position in relation to that right now.

Thank you. Larae Hendry, for the applicant, I was only just going to make the point that, and probably is what you've already made. Actually, it's just that the I would think the fact that.

National Highways may already use the permitting scheme for some of its works. Is is perhaps not a reason alone to require national highways to continue using the permitting scheme in this context.

Thank you. It

does seem to me that there's a bit of discussion that needs to be had between the parties on this issue. I don't think it's something that we can necessarily resolve, but it is something that I think is important to get to the bottom of, and to agree that I don't think that we can necessarily move straight to this application on it. It's not one that requires the approval of the other parties. But in that sense, I think if we could have some

discussion and maybe some movement on that issue between the parties, then I think that's the best way forward, if we can just have an open dialog on that, and we will keep our eye on that, and let's not lose sight. We need to get that to we need to get to the bottom of that before we get to a position where we, as the examining authority issue, are draft development consent order so there is provision in the timetable for that to be done. So that's really your benchmark as to when we would like to have some conclusion on this issue.

Thank you.

Other matter on this, I just wanted to touch base, and I think it's already been picked up in the responses to questions and the responses to matters. But

are there any other matters that you're aware of that might be brought into the disapplication. I note that EA response and things of that nature, they're quite comfortable that there's not going to be any further disapplications. I think in terms of your

the EM that was submitted, there was just an indication that there might be over the evolution of the project, some other ones. And so each time we've got the opportunity to ask whether or not something's evolving in the background that we need to be aware of, I just wanted to pick that up.

Lorraine Hendry for the applicant, nothing, nothing at this stage. And we're happy to sort of update the consent and agreements, position statement and the explanatory memorandum to make that clear and draw a line under it. If that's helpful, yes, that would be very helpful. Thank you.

Next item I have on my

list was article 10, and in relation to limits of deviation, this was a matter that's been raised by NSDC. So I think in terms of that, they were concerned that maybe the justification for those limits had not necessarily been set out in full in the explanatory memorandum. And I see, in terms of the deadline, the response to their comment, you've given us a further comment, but maybe NSDC, you could just highlight what issues you have, or if you still have issues. Yeah. Thanks Paul on it for Newark and Sherwood. Yes. So there's a number of concerns we've got with the drafting, sort of both generally and specifically the general one. And I sort of suppose the opening comment is that these are particularly in relation to the vertical deviations. And the limits deviation seem very generous and wide and somewhat at odds with other other road schemes.

For example, that I think the recent Wesley DCO, they had their deviations of naught point five, whereas you will see that in relation to certain works, looking for a maximum of one meter upwards, or as far as two and a half meters downwards. So that's a sort of general point

that there's specifics in terms of subsection two, I think, is drafted at the moment. It talks about consultation with a relevant planning authority. I think that should also be local highway authority.

And then I think there's a sort of a bit of a typo, because it should also say, I think after local highway authority certifies accordingly. So there's reference there to

that where this is where the Liberty deviation don't apply. It's demonstrated by the undertaker to the Secretary of State satisfaction. But I think there's a missing wording there, so that that's a bit of a technical point. But the the main concern we have is the the absences. We see it as a specific works based justification for those generous

proposed limits of deviation, which relates to, in particular, the cattle market, roundabout components of the scheme, which may be worse from.

Our local impact report and other representations we've made throughout the process, we are concerned about the impacts of the scheme on or on, in particular the views from certainly Mary Magdalene church, and therefore, obviously limits of deviation in here, quite generously and widely drawn. Do do raise concerns for us from a sort of landscape and heritage perspective? So our request would be that that if the applicant is seeking this, that they

are required to robustly justify it, and we would invite them to consider potentially more reasonable and less expansive limited deviation, particularly in relation to the

cattle market components of the scheme,

just in terms of the applicant response or comments on your Comments, they indicated that the limits of deviation

were downwards because they felt that there may be opportunities to reduce the height and therefore reduce the impact. So in terms of the fact of limits of deviation having quite a degree of variety, there is the potential that that variety could be to reduce the impact. And also the ES is predicated on the basis of a worst case scenario where the impact are assessed against the most significant deviation, if it were indeed, indeed, Paul Arnott from new can share with so, yeah. I mean, I think our point would be on that, as if the height can be reduced, and that should be for wonderful better phrase, baked into the baked into the scheme and not I

suppose. The point is they haven't got to the detailed design, so they can't do that yet. So they're trying to keep their options open, so that they're not forced into a position of having to build something more

impactful than they would otherwise have to if at detailed design stage they can reduce that indeed so. But we would again, just given the sense, particularly sensitivity, of these receptors, we would

again request that if there is opportunities, even at this stage and absent detailed design to to look at reducing the height that that is, that is explored,

and we would say, reflected, then in the approved drawings. But I take the point about obviously detailed design not having been carried out. Thank you, applicant. Could I just turn to you for your comment, and as part of that commentary, could I just ask whether or not you would find or well, to note that I would find it helpful, but it may be that you can do this as well, is updating the explanatory memorandum to provide further justification for the position within that but can you address some of the discussion that we've just had.

Thank you. Lorraine Hendry, for the applicant. To

be fair, many of the points I was going to make have been made, but essentially, the approach to limits of deviation across particularly Transport Orders, is varied, and often what you find with regards to limits of deviation is it's varied because of particular environmental constraints that might be in existence for that particular scheme, or some other reason why the limits of deviation may be more constrained in that location. It is possible for the limits of deviation to to be greater. And we have seen examples, for example, the A 303 Stonehenge order that has a very complex set of limits of deviations

that are set out within that order depending on the types of works. And again, you can see and understand why that might be the case given the kind of sensitive location of that scheme. However, I would say that there is precedent for the one meter upwards and one meter downwards approach that we have initially adopted on the a 46 scheme, for example, the a 48 black pant taxed in Jupiter order of 2022

but

that is not to say, and as you said so yourself, Mr. Stone, the limits of deviation are always assessed as part of the environmental impact assessment. They are the worst case scenario when we carry out that assessment. So the assessment does reflect the extent of the of that deviation. And the point that we've made in our response

in document, R, E, p3, 037,

is exactly that that where we can, during detailed design, take advantage of kind of further information or or further detail to lower the height of cattle market, to reduce the impact. We absolutely will do so. And.

And I don't have specific instructions on it, but I imagine that providing that now, it will not not be possible unless somebody touched me on the shoulder and says something else, just because of the very nature of it, there are potential knock on impacts. So our intention is to do the is to lower, but we also have to consider the kind of the rest of the scheme and whether or not that can actually be achieved with detailed design,

the the

the final point that I wanted to make, we'll take, I'll take instructions in relation to the specific drafting points on the including the local highway authority as a consultee, in relation to the certification. Though, apologies, I wasn't exactly clear on what the kind of proposed amendment was in relation to that, but

if

Paul on it for me, we can show I'll just address at that point. So it's, I think, as the drafted at the moment, it's, it reads

to demonstrated by the undertaker state satisfaction and the Secretary of State all in consultation with the relevant planning authority. Data deviation, I think should be certified accordingly that a deviation.

Thank you. That's very helpful. I get you. Yeah, thanks.

And then sorry. Larae Henry, for the applicant, the final point that you made, Mr. Stone about adding the justification to the explanatory memorandum, we're more than happy to do that, and we'll do that for deadline four.

Thank you. Applause.

It may be that that justification also sort of expands and provides some of the explanation of the actions that you can take to achieve those matters. So, Geoff, I just one point near we can show it. So I think, as you may appreciate, it's the upwards limits of deviation that are particularly concerning. I think, to to my client, given the that we see, their assessment that it's towards the upper end of less substantial harm for impacts on relevant heritage assets. So obviously, any, any increased height, yes, only, only would potentially aggravate that assessment. So it's in particularly, obviously, the upwards

limits of deviation that are sort that are that are concerning. Yes, I assumed that it would be the upper limit of that but I would assume that the

assessment of the impact is based at that upper limit. In any case, the rain 100 for the applicant, that's the case.

So if I may, just read our number of Nottinghamshire County Council, just to clarify, we would welcome being named specifically in sub paragraph two

of article 10. Okay.

Thank you.

Okay, that moves me through to

Article 52 on Crown rights,

basically just looking to the applicant as to an update on the position with regard to Crown land.

Bit of a crossover with CA and TP, but we haven't really explored that too much and but what the necessity for Crown land is noticing some of the comments you referenced the fact that you're looking to register the land, and therefore you may not necessarily need it as Crown land, but can you just update us as to where we are and how that process is going, whether or not you think you would get to that registration, or if that isn't going to be the case, what your your your actual position would be in that

scenario. Thank you. Lorraine Hendry, for the applicant. As you may be aware, we have one Crown land plot affected by the scheme, which is plot two, slash six, a on sheet two of the Crown land plans as dash 017,

this is a plot of land that was owned by a company called AF budge limited, which is now dissolved. And as a result of that, the land has.

Reverted to the crown as borona Vacantia land. So that is one avenue that we are currently investigating with the Crown's solicitors, sorry, the Crown Estate solicitors, in order to understand what that means in this context. And at the same time, as you may have seen that piece that plot is currently highway operational, highway. So the land registry application that you referred to is an application by the applicant for adverse possession. So that that may be another way of, kind of regularizing this um piece of land that seems to have been forgotten in the in time. So our approach currently is still too pronged, firstly, to sort of investigate the bonaficant impact on the crown on that land, and then to seek to have it registered via an adverse possession claim. But ultimately, if we are unsuccessful in either of those routes due to time or or being turned down, then we would seek crown consent, as per the Planning Act Section 135

and given that that

is not the quickest Avenue,

is that being run in tandem, and is that being progressed so that will form part of the same discussions with the solicitors for the Crown Estate.

Obviously, we need that concluded by the examination, end of examination, and obviously, again, if it can hopefully be done by the time in which we would seek to issue our draft development consent order, then that would be helpful. Understood. Thank you. Applause.

And I then move to Article 58 and

that relates to the update on suspension of navigation

discussions with canal and river trust. I suppose what we're looking for here, and it may be helpful that canal and river trust are here as well to give us a bit of an update on where you've got to with the canal

and river trust in terms of both the article, the drafting of that article, and I understand that that will obviously relate to the protective provisions and the interaction between those now we've got a separate section of protective provisions, but it might just be useful, as this is the first opportunity to deal with that that we just wrap it all up in one and sort of give us your indication of where you're at. And then I shall ask canal and river trust to come in and give me a comment on what you said.

Thank you. Larae Hendry, for the applicant,

as I understand it, the drafting now for a revised article 58 has been agreed between the applicant and canal rivers trust and will be incorporated into the draft development consent, or direct deadline for

that has been running in tandem with the conversations in relation to the protected provisions which I am instructed have been progressing very, very well, and the parties are down to sort of the final points before we're looking to be in an in an agreed form. So we expect that that couldn't be very much done before the close of examination.

Thank you very much. Canal river trust. Can I just ask you to

put your camera on, or whoever wants to speak to speak to this if you're interested. Simon Tucker, on behalf of the COVID Trust, apologies, the camera doesn't appear to be working for

me. Unfortunately, yeah, I mean to just confirm yes, the trust has been good in positive discussions with the applicants on this issue, and we are happy to confirm we have agreed new and revised wording to Article 58

and we're well advanced with the protected provisions. We understand from the applicant the agreed provisions will be provided at deadline four, and once these are included in the draft DCO, we'll be happy to confirm in writing that those matters have been agreed,

sorry on a separate matter and sort of in relation to this morning, because you weren't in this morning. Does that mean if you agree the wording of Article 58 and the protective provisions, you'll also withdraw you.

Or objection to the compulsory acquisition.

I believe that that's that would be the case. Not sure if my colleague Sophie summers wants to add anything to that.

Sophie summers canal and river trust. I think the land negotiations are going very well and significant progress has been made in the last couple of weeks. I think the we would maintain an objection to the use of compulsory acquisition powers,

and I would expect that the land agreements will be sufficiently progressed by the end of the examination that actually the applicant won't need those powers.

I know we're sort of straying into something that was more this morning's, and you may not be the appropriate party, but can you comment on that?

Thank you. Lorraine Hendry, for the applicant, I don't have specific instructions, but it all sounds like good news to me. So

in terms of the nature of your written submission to the oral submissions that have been made, if you can just sort of clarify that point, that would be helpful. Absolutely. Thank you very much.

Okay, I think that sort of brings me to a conclusion on matters in relation to the articles that are included in the draft development consent order. So does anybody else have anything on these on the articles that they wish to raise with me? I'll just check around the room.

Nothing there online.

Nothing there.

Okay, in that case, I shall move on to the agenda item four, which is to deal with requirements.

Again, I predicate this in the basis of the fact that we've already had a number of questions asked at the EXQ one, and there's been a number of adjustments and amendments made to the various requirements and various iterations of the DCO, and I'm very conscious that it is a a matter in progress

and a matter in work that will continue on so with all of those caveats. And if we move to requirement three, which is the first item I have

just turn up mine so I can

follow things through as I go as well. So requirement three, just

to point parts J and t. So part J is the biodiversity net gain audit report.

Note, so it's not sorry, J is the invasive non native species management plan and biosecurity risk assessment. And then T is the invasive non native species. Method statement,

is there a difference between those two, or is it duplication, or

is one of those not incorporated within the other? I

I

think there's a difficult if you move the microphones, because the microphones don't

connect with the tar. So sorry, you shouldn't move the microphones.

The they're particularly set up so that there's a Connect.

Thank you, sir. Emma Harley Phillips, on behalf of the applicant, I will be dealing with this requirement section of the agenda. So the short answer to your question is, no, it's not a duplication. They are different documents which serve different purposes. I can expand in our written representation, but in very short form, the the management plan and biodiver and biosecurity risk assessment essentially provides the strategy to manage ins and the biosecurity measures that are anticipated, whereas the Method Statement details how the work will be undertaken. But if you look, if one looks at what is said in ES chapter eight, which is document, reference, app, 052,

actually, that suggests that the method statement is part of.

Of the ins management plan, and as such, we would propose the next deadline that we will amend this list so that instead it reads invasive non native species management plan, biosecurity risk assessment, including an invasive non native species letter statement, just to make that clear and consistent with the ES. Thank you very much. Thank you, sir.

In terms of requirement three, there's a request from Natural England with regard to the soil management plan being adopted in relation to pre commencement activities.

As they've indicated, there may be a possible impact related to soil handling and soil resources during that phase of the works,

or do the pre commencement work secured through requirement 17 and set out in the pre commencement plan need to be expanded, or does reference to the SMP to avoid conflict or confusion? So it's just whether or not that needs to be picked up in requirement three, whether it's picked up in requirement 17, or how you're proposing to handle the soil management plan in relation to recommencement works as well. Emma Holling Phillips on behalf of the applicant.

So as you may be aware, at deadline three, the applicant updated the first iteration environmental management plan to deal with the need for the outline soils management plan to address the pre commencement activities as well. However, in looking over the DCO on this agenda, Item, that doesn't actually work, because requirement three relates to the authorized works, not the pre commencement works. And instead, as you say, it's requirement seven that relates to the pre commencement works. Now the pre commencement plan that was submitted with the application, which is document number app 188, requirement 17. Sorry. Requirement 17. Oh, apologies, yes. Requirement 17, not requirement seven, the pre commencement plan that was submitted with the application, which is document reference at 188

does have a general mitigation section that relates to soil handling, and it also has mitigation measures in relation to specific, specific works in section two that are also relevant. However, what the applicant proposes to do is to amend that pre commencement plan to ensure that the measures is in the SNP that the Natural England wish to see applied. The pre commencement works are appropriately detailed in that pre commencement plan. So

that means that, essentially, it will be achieved by way of requirement 17 and the pre commencement plan. But we don't believe that the pre commencement works, which are defined in Article Two One of

the order, needs to be amended, because that already refers at paragraph I to environmental mitigation, and therefore there's no reason for it to specifically reference soil management. No, thank you, sir. Okay, and in terms of making that amendment and adjustment, are you in dialog with Natural England that they're happy with that? Or so, we have been in dialog with Natural England as part of the statement of common ground process.

We will be letting them know that this is now the plan, because originally we'd said we were updating the first iteration environmental management plan, but we will make sure that those measures are that they are content with those measures. It's our intention, to submit the changes to the pre commencement plan at deadline four, but we will be in discussions with them in advance of that, and hopefully we can present an agreed position. Thank you. Thank you.

On the point of the soils management plan and the accordance with pre commencement plan.

What would the arrangements be if, when discharging requirement three, the soils management plan was amended

and then became out of step with the pre commencement undertakings?

Emma Holly Phillips, on behalf of the applicant. It could well be that that could happen, and that's because the soil management plan as part of the first iteration management plan, and then second iteration management plan relates to the main works, not the pre commencement works. And it could be that there are different mitigation measures that need.

Apply because of the nature of the pre commencement works. So essentially, the pre commencement plan will have the detailed mitigation measures in relation to soil management for those works, which would then not be influenced by the soil management plan as part of the first EMP and the second iteration EMP. Could it be the situation that parties who are expecting and waiting to comment on the soils management plan could think that that's the sole document dealing with soils and therefore miss the opportunity to comment on the pre commencement plan and have any of their requirements added to that in relation to soils.

Emma Holly Phillips, on behalf of the applicant, I'm not aware that any of the interested parties beyond Natural England and the Environment Agency have raised an issue in relation to soils management. But we would hope that by submitting that updated pre commencement plan with the detailed soil management measures at deadline four would give parties sufficient time to make representation on those measures and allow that plan to be updated in light of those representations. If there were any,

would that be positively put to those parties? Because so far, as I've seen so far, none of them have commented on the pre commencement plan,

if they've only commented on the outline soils management plan, which is appended to the first iteration environmental management plan. Emma Holling Phillips, on behalf of the applicant, it certainly can be positively put to Natural England. Indeed it will be. And the Environment Agency, we're not aware of other parties that have concerns on this issue. Obviously, the two local authorities are here today and are hearing what's being said and will be able to see that plan. We're happy to share that with them outside of the examination process if necessary.

But beyond that, I think it, it will just be consulted on as part of this examination, right? Well, we'll take that as an action. Are there any other matters that need to be dealt with in a similar way? For example, the routing and construction traffic that's going to occur during the pre commencement phase? Emma Holling Phillips on behalf of the applicant. So as far as we are aware, all matters have been addressed in the pre commencement plan, and the parties are happy with that plan. We're not aware that any representations have been made querying that. Obviously, if that changes throughout this examination, we will keep an eye on it, and we can look at that plan again. But my understanding is that it was only in relation to soils management that that plan had been queried. But the the the broader concern I have is that parties may not be aware that they've they've ought to have made comments on the pre commencement plan. So for example, if pre commencement works affect a public right of way, and there needs to be a diversion. We'd be interested to know that

some type of measure was in the plan to address the concerns that Nottingham Wishing County Council's already made in relation to the

post. Well, I suppose the post pre commencement, so the actual

development phase and how they can comment on and, for example, signpost diversions. We are concerned that there's not a situation arising where there's a period of works where those safeguards aren't in place.

Emma Hollingford, on behalf of the applicant, I think the difference is between what works are actually covered by the pre commencement plan, which are very narrowly defined, works which are defined in the GCA, but also set out in chapter two of the ES, where the scheme is described, and those later works which are managed and dealt with Under the Environmental Management Plan and the process for consultation and approval of that plan under the DCA requirements, and so to the extent that, say, for example, the local planning authority has a concern around the main works and their interaction with rights of way, that may not be a concern that that that exists on the pre commencement plan, because

those works are so narrowly defined, right? Can I just broaden out the question then? Because there will be vehicles involved in the pre commencement phase, aren't there? And vehicle routing is dealt with in the otmp, which comes into effect in the post commencement phase, not the pre commencement phase. The otmp says that it includes details of routes roads where vehicles cannot travel down. How would something like that be controlled in the pre commencement phase, and how would.

Relevant consultees have known that they were meant to provide comments on that.

Emma Hollings to the applicant. The pre commencement plan is a total detailed plan, so it is not something that is subject to later consultation or approval, but that is being done

currently, so that there's no delay to the development. So it isn't the case that one would need to look to the later plans like the otmp. That's not what I was suggesting. So,

no, I understand that. But what I'm saying is to the extent that, for example, measures within the otmp are relevant to the pre commencement works, they are already provided for in the pre commencement plan, both in the specific section which relates to various matters, such as section three, soil handling and the measures which are provided in section two of that plan that relate to specific works, in terms of consultees being aware that they needed to comment on the plan.

The approach that the applicant is taking in relation to pre commencement works was explained in the environmental statement. The pre commencement plan was provided as part of the application. It's provided for in the terms of the DCO. Obviously it is an agenda item in this hearing. So the applicant is confident that that anyone that needs to or wants to

make representations on the contents the detailed mitigation measures in that pre commencement plan are able to through this process.

So could you just point me, then in the pre commencement plan to where I'll find details of the roads that construction traffic can't use. Emma Harley village on behalf of the applicant. So I don't have the plan in front of me now, but I can certainly do that in our written submission. And if there are other matters in addition to say, construction routes that you would like us to highlight, we can take that away and do that in our it's not just construction routes. It's basically anything that is controlled or the

post commencement phase, and where that is COVID in the pre commencement plan. Emma Holly Phillips, on behalf of the applicant that's understood there, and we will, we'll make sure that there are the details sort of signposting document prepared in relation to the pre commencement plan, and we will endeavor to do that for deadline four.

Thank you. Yeah, thank you.

It may also be that

another way of documenting that discussion is through the statements of common ground with the different parties. In that if you include an extra line in there on the pre commencement plan, then you could have them sign off that they are happy with it, or if there are issues with it, highlight what those are. Emma Hollings, sign posting document will be helpful. Or also, you know, in the statement of common ground, I think that might be a help. That might be a helpful addition to that those documents, whether for the different parties we talked about any EA

and the local authorities, apologies, Emma Holly for this involved. For the applicant, absolutely, we'll take that away and ensure that the statements of common ground do have a line that deals with the pre commencement plan. Thank you.

So if I'm newer concert just just very few comments on requirement three.

So firstly on sort of new concert will obviously await the details of the further iteration of the Greek commencement plan that that obviously we just separate item on the agenda, and we can talk about that at the moment as sort of general concern about how sort of quite vaguely worded that requirement is at the moment. So I think that that is an area which needs to be tightened up. And I think again, without going through all our comments, our responses to this question,

but excu one was that, I think it was the general point that the scope and methods described in the plan were labeled as indicative,

as I understood the applicant.

They were suggesting that this is to be a sort of approved document. So I think that's, again, we sort of need to scrutinize what, what is said on on that, in terms of the next iteration of the plan, so that that's the point on that, and then just very brief, sort of couple of comments on the drafting.

So sort of requirement three, one talks about sort of substantially in accordance, and I think I don't know what we probably invite that to be in accordance with it. That's that's quite loose as drafted,

three, two. I think this is comment we might have made before. Must reflect mitigation measures that that's quite open wording. I would say, I would I.

I suggest that might be must accord with the mitigation measures, and then, perhaps more substantive, the scope of the management plans and Method Statements. And again, this might be touching on an item later on in the agenda. There's no reference at the moment to anything relating to construction site artificial lighting.

I think that's a point that we may have raised in our submissions, and so we would encourage that to be added to the list of relevant management plans and method status.

Thank you.

NCC, have you any sort of additions you want to make before I go back to the applicant again? Just read on on behalf of Northern Duncan. No, no, sir.

You got anything further Do you wish to add again? Thank you, sir? Emma Harling for lips on behalf of the applicant, the points raised by

the Council have been dealt with in our responses to written questions. So I don't propose to repeat those now, but we can sign post those responses in our written summary, if that would be helpful. Yes,

okay, I should move on from

requirement three. Let's pick up requirement five.

This relates to the construction hours. And I think

NSDC have indicated they believe that the construction hours are somewhat generous and outside the hours that they would normally find acceptable. And I believe your response to that is that you will have a setup time in advance of that. But I would have assumed that nsdu already had expected that within their time limit. So it doesn't really address the point that they have, because you still have a time period that's starting in advance. So no matter when you start, you're going to have that that time in there.

We just understand from the NSDC what the nature of their concern is, and what they're seeking

for and why they think that the slightly later time needs to be done, given that that's outside and out time hours.

Paul on it for Newark and Sherwood? Yes, I'll address you. There's a number of points on this requirement, but the obviously, the headline point is around the proposed hours for ice development, which are at the moment, proposed for between seven and six, Monday to Friday, and seven and one on Saturdays. And as we already alluded to, sir, that they are at odds with our standard construction hours, so that that is what we apply to

develop developments generally. And I think the concern is that their short point is it's too too early, seven o'clock weekdays, and particularly on Saturdays. And so our proposal would be for a slight change to between 730 and 6pm and then between 8pm and 1pm on Saturday. So that's the headline point on requirement five one, I think our other points so on requirement five two, that that that is a sort of list at the moment of

various essential activities which are described as whereupon the applicant can carry out works outside of the specified times. Our general comment on the moment on that is that they're very broadly drafted in nature and in relation to one, for example, say, five to K completion activities already begun, which require continuous periods of operation that may, for example, enable them to as a result of sort of poor scheduling. If I can put it like that, that's so I think we'd encourage the applicant to to look more closely at that list and to see, can it be more specific.

And then there's a general point around

local authority would like to be notified of those occasions on which essential activities are carried out outside of those hours. And then I think there's a slight disconnect between as drafted regulation five, three and 5453,

talks about

being consulted,

whereas.

And I think the local authority would ask to be more than consulted there, that we would be required to get our prior consent to, and this, this relates to, again, activities that are carried out outside of those hours and days

for seasonal or the reasons.

And we would, we would ask for the local authority to be, to be proof, to provide their consent for that, rather than just consultation. And then finally, in relation to regulation five, four,

that does require consent, but there's no

time limits there. So I think we would ask for a reasonable period of time in which to have prior notification of those

proposed works, and this relates to activities

outside of

activities assessed in the ES which would which would not go give rise to new or materially different effects. But again, we would ask for a time period, and I think our suggestion might be 28 days for that to have a reasonable period of notification and time to consider and then provide, provide consent if, if required for that.

Thank you very much.

Applicant. Do you have any comments on those matters? Thank you, sir. Emma Holling Phillips on behalf of the applicant, yes, sir, if I could take each of those matters in turn. It

is acknowledged that the hours are outside of what NSDC refer to as their standard construction hours, but the applicant suggests that it does need to really be remembered that this is a nationally significant infrastructure project of quite a scale. We're not talking about

someone putting an extension on their house and changing the construction hours could have really significant program implications for the construction of the scheme, which is a nationally important project.

So that's the first point on that. In terms of the you said could have by half an hour. So that adds half an hour a day,

would it have? I mean, have you made an assessment as to whether or not that would elongate the construction period for any time. I mean, it's speculation. I'm just I'm just wondering, is there anything a little bit more concrete around that? Emma Harley Phillips, on behalf of the acting we can certainly look at that and come back in writing. But I mean, if we just take it in terms of the the hours that have been specified.

We're talking about. I might get my maths wrong. I'm a lawyer. We're notoriously bad at math, but three and a half hours a week over a considerable construction period does actually amount up to quite a considerable number of days. But as I said, we can speak. I can take instructions on that point and come back in more detail on what those implications could look like

in relation to the comments made on sub paragraph two, I'm disruptive. We can. We can absolutely take that away and have a look to see if they could be made more specific. And we will do that before deadline. Four, however, just to come back on the point made in relation to item K, around the continuous periods of operation that is not in there to overcome construction delays, that is specifically in relation to activities such as concrete pouring that cannot be halted once started. So you can't, you can't just half pour concrete and then stop and come back to it the next day. So that is, that is what that is anticipated to cover, just to try and give the examining authority and the council some comfort on that one in particular, I think I understood that, but I also understood the point that was being made is, why would you start

pouring concrete if you knew you only had a limited window which wasn't going to be sufficiently long to enable you to complete the pouring of the concrete. For instance, why would they start that process? For Emma Holly, for that part of the applicant, if I could just introduce Mark Sutton, who's going to respond on that point for you, Mark Sutton, for the applicant, I completely agree with you, sir, wouldn't be planned to undertake the works to then finish outside of those hours. Would be in the what we're looking at in those specific parts of it is those emergencies and rarities where such a case that a bridge pier, for example, or an abutment pier, where there has been a delay, or there's an issue on the on the highway which causes delay, which may over cause an overrun of, say, half an hour to an hour, or such like on that activity. We don't want to be in a situation where suddenly we're having to stop that operation for the want of an emergency situation. There's something that wouldn't be.

Part of what could be considered due to planning of that operation. No, but it may well be that you could tighten the wording of that to reflect that

mark certain of the applicant, of course.

Emma Honey, if I can just come back on the last two points, no, if you continue yours, then I'll go back to nsdu to see if there's any points, and then come back to you for any final comments. Thank you, sir. Emma Holling Phillips and part of the applicant, it's just to say that in relation to the points raised on sub paragraphs three and four of requirement five,

the local authority being approver, as opposed to consultee, and the request for a time limit for prior notification, I will take those two points away to take instructions, and we will respond in writing, if that's okay.

Thank you, sir. Thank you very much.

Yes, Lindsay Preston for Newark and Sherwood, just in relation to the hours, and obviously noting that the scheme is quite substantial, obviously it's the biggest thing to be happening in Newark at the minute, but in terms of the hours, and not being able to abide by those and obviously losing hours throughout The Week. We do have other construction schemes that are going ahead in Newark, notably the southern link road, which is to the south of Newark, which is also a substantial scheme, obviously not quite on this scale, but it does.

It is a substantial infrastructure scheme which links the a 46 to the A one, and they also abide by these construction hours as part of their construction environmental management plan. So they do abide by these construction hours as part of that and

they do come to us in terms of any flexibility at certain times where, notably last year there was the storms that we had, so we were able to be slightly flexible on that with prior agreement. So

just wanted to make you aware that How similar is the context of that scheme? Well, it's a single carriageway route linking the a one to the a 46 and

is are there any residential units, or are there sensitive receptors nearby? Yes, it's to the south of what's called the southern urban extension. So it's a scheme for up to 3150

homes. Um, obviously not all of those are built out yet. But to phase one, there are properties in that area and other existing properties which are in close proximity to bridges that have been constructed. So there are receptors which were in the area when Phase One was constructed. And in terms of this project we're looking at today, is there any difference in the context along the route of it, for example, are there areas where the proposed start time would be acceptable because there's not sensitive receptors nearby?

Largely, sorry, Lindsay Preston for the for Nook and Sherwood, it largely depends

what activities are being taken place at what time? Obviously, the larger infrastructure which is being raised has greater

prominence to properties, especially on Sand Hills Park, which are the closest receptors and areas to the north, around the end of Winthrop road Robert Dukes in that area where the infrastructure is being raised. Other areas,

notably around farming, would probably have less of an impact,

but the key areas would be around sand hills park so the cattle market, and to the north, around Winthorpe. So might there be some sort of in between that you could agree

yes Lindsay question for the Newark and Sherwood, it would depend how that is managed, because if we have two separate start times,

it may present a enforcement issue for us. Notably, if, if, if, if, if the site is being constructed in a logical way, then we could track that. But if it's being constructed in in areas where there's some works being taken place at farming and some being taken place at Winthorpe, how is that relationship being managed? And if we've got two start times, it makes it a bit of a logistical issue for us as an authority,

in terms of the applicant's comment previously that the first half an hour that they suggested was set up time and not necessarily construction activity, as it were, which might be the more noisy elements would there be? Flex?

Ability within yourselves, if they could construct a requirement which specified certain activities within that first half an hour, so that the main activities started at eight o'clock, but their other setup elements were allowed to commence earlier. Is there any flexibility within that? That I'm not sure whether or not the applicant could construct something of that nature, but

Lindsay Preston for Nook and Sherwood, we will take that away in terms of having to think about what activities may be acceptable, but largely a setup, you know, you've got vehicles coming and going. You've got machinery being moved in anticipation of, you know, the start time. So, um,

an opportunity for a dialog to be had, because there is obviously a question that if you take out half a day a week, which is very rough calculation, half a day a week across a construction period of a number of years, could add substantially to The construction period and could impact on costs and impacts, and one needs to weigh the benefit of that,

or the impact of that, against the impact on residents for a half an hour, which is outside night time, hours. Paul on it for Noah, can share it up. Yeah, thanks. So we've we've heard that obviously the comments from from yourself and from from the applicant, and obviously the applicant has similarly heard our concerns that we share. I think it is an opportunity for further dialog. We

would obviously need to carefully scrutinize and consider any variation, and I anticipate that we probably will receive a revised version of deep draft eco generally, but in particular this construction hours one, and we will be open to dialog and potentially looking at, for example, and obviously subject to instructions, maybe it being explicit, what is, what the activities are permitted or not permitted during that first, first half an hour, but, but it's a matter for further dialog between thank you and the passage, can I just ask the applicant? Do you have any comments? Thank you, sir. Emma Holly Fitz, on behalf of

the applicant, I mean, just to give you a flavor of the sort of activities that might happen in that first half in our setup period, we're talking about things like site briefings in relation to the works that are happening that day, changing into PPE, etc, and we can give a more detailed breakdown of that. We are aware that other schemes have done exactly what you have suggested and set out what activities can take place in that half hour. And we're very happy to go away and have a look at that and continue this dialog with the council and see if we can come to some sort of agreed position on this. Thank you very much. Very helpful.

Okay, can I move to requirement six? I

i ask the applicant to comment as to whether there is sufficient clarity in the terms of what is meant by no part, and that part at this point in the scheme, should there be greater clarity around those terms.

Are you proposing at any stage of phasing plan for landscaping or anything of that nature? And you know, could it be tied into that?

Emma Harling Phillips on behalf of the applicant. So I think the first point to note is in relation to what the environmental statement says in its description of the scheme, in terms of how the scheme is expected to be constructed. And if I can just give you some sections for your for your reference,

chapter two of the ES is app 046,

and section 2.68

explains that the main construction works would be split across various sections of the scheme with those with those sections set out in figure two, two of that chapter.

It then goes on to explain that section 2.69 that those that sections one, four would be delivered in parallel

with sections five and six being delivered separately. I'm instructed that

apologies, and then there's an additive construction program based on those sections, which is provided in table two, three of that chapter. So essentially, so.

When you look at figure 2.2

in conjunction with table two three, you effectively have a proposed high level phasing plan, although I am instructed that, given that this is a linear scheme, the reality is that you know, as explained in those paragraph sections one to four are likely to be delivered together. The reason that the requirement references to approval in parts is so that parts can be commenced, if necessary, before all the other scheme details are finalized. And that's to ensure that commencement is not delayed in one area of the scheme, if there is a particular sticking point in another area, you know, one area may be entirely uncontentious, and there may be a delay in another area in terms of whether or not they are appropriately defined. The main point which we responded to in your written questions is that when the scheme is submitted to the relevant planning authority for consultation and the Secretary of State for approval, it will make it clear what part of the scheme it relates to, and will clearly define the parameters of the scheme that is being proposed and is being approved. So taking that in the round, we believe there is sufficient clarity, and there isn't a proposal to produce a phasing plan,

but in terms of the referencing in the environmental statement, there's no certified document, or there's no overall plan which subdivides it down into parts or phases or elements, and it's just in

the context of An expectation of when a part may be submitted, and not understanding that. So in that way, is it not appropriate, or is it not capable of providing a plan which labels different parts of the plans as part x, y and z, and then coming back with something to say when those would be submitted.

Emma Harley Phillips on behalf of the applicant.

So I take your point. I mean, it's possible that a plan could be submitted that would be a certified document that essentially replicates the detail that is in in chapter two that I've just referenced. The thing to note on that, though, is that it's not necessarily the case that when requirement six says that it's going to it could be discharged in part. Those parts might not necessarily relate to just section one or just section four. It slightly depends on the issues that are being addressed. And that's why I said at the outset that when the scheme is being submitted for consultation and approval, it will make it very clear what parts of the scheme the local authority are being consulted on, and what parts of the scheme the Secretary of State is approving and what parts they are not,

if I may just test my understanding on what you've just said. So is that to is that approach to provide maximum flexibility, then if to prevent any kind of holdups across the entire route, it means the app, the developer, where, you know, principal contractor, can just like, right? We've to come we've come

across an issue here archeology, or with the bedrock, particularly harder than we envisaged, or whatever it is, we can then get cracking on this area. So rather than separating sort of

salami slicing the development, you're just providing a bit more flexibility to prevent delays. Is that my understanding correct? Thank you. So Emma Harlan Coliseum, part of the applicant? That's exactly right. So, you know, one could imagine a situation where the applicant is looking to discharge requirement six. In relation to sections one to four, the landscaping scheme is incredibly simple. It's all, you know, practically been agreed in advance. But in relation to one section, there's one area where there is a debate over the particular species of tree that is, you know, appropriate, rather than delaying the entire scheme because of that one discussion on Section five, the applicant is proposing that sections one to four could be discharged and approved. So that you know that pre commencement or pre use requirement is, is discharged in relation to those sections, and work can continue and not be held up by that one issue in relation to another section. I

understand. Thank you for that.

Okay, can I turn to the local authorities? Do you have any comments and what you've heard? Yeah, Paul on it for newer can share it? Yes, just a number.

Of comments on this at the moment. I mean, I think to pick up the point you made, so I understand the applicant wish for sort of maximum flexibility. But equally, this concern as drafted at the moment is it would be difficult for Secretary of State on approval or local planning authority on in consultation, to sort of take a holistic view of the landscaping proposals. So we would, we've typically seen where, where is, there's a wish for sort of phase discharge, that you would have a sort of a scheme wide landscaping scheme, perhaps on a sort of framework level, and then a provision for detailed, detailed, phased landscape scheme. Because a concern I've got at the moment is, yes, no part. It's not clear what that part might be.

It does enable maximum flexibility, but does it enable the decision maker and the local authorities consultee to consider things holistically? So that's the sort of first, point.

Second one was around, I think, the absence of any reference to in six two, to the scheme having to accord with any relevant plans. I think at the moment, I mean, I've seen another similar road scheme DC, as references here to scheme layout plans. But I'm not sure whether there are, are to be, to be frank, any of those at the moment, but I think I encourage the applicant to see it seems, again, quite loose and flexible wording there

and then turning to

regulation, sorry, requirement six, five, it talks about all Landscaping works must be carried out to a reasonable standard. But it's that's, that's quite what does that mean? I suppose, to be frank, I think there's a

scope for disagreement there,

and perhaps more a need for more specificity there, if I can say it in the requirement as to what a particular British Standard or the code of practice? So again, it's quite loose wording, which I think could would benefit from being being tightened up.

Thank you very much.

NCC, do you have any comments just kind of girls or, well, the county council isn't a director consultee for the landscape plan, so any comments are just observations, really. And the only observation we'd make is we would be a little bit the piecemeal nature of all. The possible occurrence of a piecemeal approach is a little bit concerning. But ultimately, if we're not a

consultee for these kinds of application, thank you. Thank you very much,

applicant. Do you have any final comments? Thank you, sir. Emma Holling for let's on behalf of the applicant, yes. So if I can take each of those points in turn in relation to sort of a holistic view of the landscaping proposals. And this reference to a scheme wide, landscaping scheme in effect, that is exactly what is provided for in requirement six, two, which requires the landscaping scheme for each part to reflect the applicable mitigation measures from the first iteration Environmental Management Plan and the environmental master plan. So the applicant has already set out its view of the landscaping scheme for the whole scheme, and there is a requirement that when we come to the detailed schemes for the various parts, that it must reflect that overarching scheme, by way of requirement six, two,

in terms of the absence of a reference in requirement 62 for the authorized development to accord with a relevant plan. I think it's important to remember that we have to read the DCO as a whole, and the applicant is already required, by way of requirement 13 to comply with the first iteration Environmental Management Plan and the second iteration Environmental Management Plan that will flow from it. And then also of relevance is the detailed design requirement, which requires the scheme design to reflect,

to accord with, sorry, the scheme design shown on the works plans, for example, the engineering drawing and sections, the mitigation principles set out on the environmental master plan. So when we read all of the requirements together, the applicants of the view that actually, that there are the appropriate controls, that the that the authorized development must be constructed in accordance with the various plans and documents and referred to, and then in terms of the reasonable standard referenced in requirement 65

the standard has to be in accordance with the recommendations of the appropriate British Standards or other otherwise recognized codes.

Those are not specified in the.

Requirement, because they may well be subject to change,

and that's why it is drafted in that way. We can go away and have a look at giving examples of what those standards and codes may be. But I think the point is that even though reference is a reasonable standard, it does need to record with whatever standards and codes of practice are applicable at the time.

Thank you, sir. I just ask a quick clarification you talk about and the proposed requirement talks about calling with the first iteration management and, sorry, environmental management plan. Does that mean that if the DCO is made, there's no further opportunity to amend that proposed landscape master plan. Emma

hollingford, it's on behalf of the applicant, I think, sir, that the answer to that is that there would be an opportunity to amend it, and it's by the fact that the first iteration environmental management plan becomes the second iteration environment environmental management plan. But the requirement is to accord with the first iteration and

the second iteration Environmental Management Plan must be in substantial accordance with the first iteration environmental management plan. Okay. So in terms of, why does it mention the first iteration in the requirement? We've just been discussing

Emma hollingford, the applicant, my understanding is that it refers to the applicable mitigation measures set out in the first iteration management plan, because that is one that we have now. But I do take your points there, and it may be that we want to reflect on that drafting to refer to the second

iteration environmental management plan that comes thereafter. But the principal point is that it will need to comply with what is set out in the FIE MP, which becomes the second iteration Environmental Management Plan and the commitments in the React appended to those documents. But I do take your point, and we can go and wait and have a look. Okay, well, we'll take that as an action point. Then thank you,

right? Thank you. I'm conscious of the time. We still have a good bit to get through on the agenda, but I think it would be helpful to have a short comfort break. So if we say, if we return at four o'clock, the

hearing is adjourned and we shall return at four o'clock. Thank you. Applause.