

00:12

Good morning. Can I just confirm everybody can hear me clearly okay and also confirm with the case team that the live streaming of the events has commenced. The time is now 10 o'clock and I'd like to welcome you all to this issue specific hearing on the draft development consent order in relation to the application made by net zero Teesside power limited and Net Zero North Sea storage limited for the net zero T side project. The proposed development is a full chain carbon capture, usage and storage projects comprising a number of elements including a new gas fired electricity generation station with post combustion carbon capture plant gas, electricity and water connections a carbon dioxide pipeline gathering network for collecting carbon dioxide from a cluster of local industries on T side, a high pressure carbon dioxide compressor station and an onshore carbon dioxide export pipeline. Thank you for attending this meeting. My name is Susan hunt. I'm a charter town planner and a planning inspector. I've been appointed by the Secretary of State's for levelling up housing and communities to be a member of the panel of inspectors examining this application. Today I will chairing the hearing. Going through the management of the events and taking introductions as well as outlining the purpose of today's hearing. Now going to ask my fellow panel members to introduce themselves.

01:47

Good morning. My name is Kevin Gleason. I'm also a chartered town planner. I'm a planning inspector appointed employed by the planning Inspectorate and have been appointed by the Secretary of State to be the lead member of the panel to examine this application. I believe in the discussion today on the detail of draft home consent order.

02:10

My name is Beth Davis. I'm a chartered geologist and planning inspector. I've also been appointed by the Secretary of State to be a member of the panel for the examination. I'll be taking notes and action points today.

02:23

Thank you together we constitute the examining authority for this application. And we will be reporting to the Secretary of State for business energy and industrial strategy with our recommendation as to when the the development consent order should be made. We are joined here in Middlesboro today by a tillable source, and Ted Blackmore, and they are supported online by Paige Hamlin and de Perak Deborah Allen. If you have any questions or queries about the examination process, or any problems with the technology we're using today, they should be your first point of contact, and their contact details can be found at the top of any letter you've received from us or on the project page of national infrastructure website. In addition to this in person events today in Middlesboro, this meeting is being held on the Microsoft Teams platform. So it's being locked both live streamed and recorded. For those people observing or participating through teams. In order to minimise background noise can you please make sure your devices attend to silence and you stay muted unless you're speaking your hands up function, but please be advised there may be a delay before we sit and wait to be invited to speak at the appropriate time. Also note that the chat function on teams is not in operation. If you don't manage to ask your question or raise a point at the relevant point in time, there will be an opportunity at the end of the meeting for you to raise this under item 10 on the agenda any other business for the purposes of identification and for the benefit of those who may be watching the Digital recording later. Every point in

which you speak please give your name and if you're representing an organisation who it is that you represent. The digital recordings that we need to make are retained and published for public record may contain your personal information. So the general data protection regulations do apply. Our practice at planning inspectorate is to publish recordings for a period of five years from the Secretary of State's decision. Consequently, if you participate in today's meeting, you should understand that it will be live streamed and recorded and the this recording will be published. So if you're participating virtually and don't want your image recorded, you can switch off your camera. Are there any questions with regard to this matter? Now a few other preliminary matters for those attending in person today. If at any time you can't hear or please indicate to the case team so they can make arrangements. Understand there are no fire alarm tests or drills today. So in the event of a fire alarm, please exit via any of the doors in the room and use the stairs to the ground floor congregate outside the reception area. If anybody wishes to use social media report, film or record during today's hearing, you're free to do so. Please do so responsibly and with proper consideration to other parties. And bear in mind that the official record of the proceedings are the notes and the recording that are placed on the project website. This morning, we intend to take short break so that appropriate time usually around half past 11. And we will break for lunch if the hearing goes beyond 1pm. I'm now going to ask those people who wish to participate in the hearing to introduce themselves. If you're only here as an observer, there's no need to introduce yourself, but please ensure that you've given your details to the case team so that they can complete the attendance list. Please state your name and who you represent any preference on how you wish to address be addressed and speak clearly into the microphone for the applicants pace.

06:34

Good morning, Madam, my name is hurry Woodfill part kings counsel I appear together with Miss Isabella to first that to my left of counsel were instructed by Pinsent Masons. And also in relation to the issue of article 49 matters related to authored by Herbert Smith Freehills. I'm also accompanied by Mr. Nick MacDonald to my right, who's a Partner of Pinsent Masons who will be speaking to some of the issues today. There may be other speakers to be called upon depending on what is raised, but I'll introduce them as and when required.

07:14

Okay, thank you very much. So the only other parts we have in the room is for a record and Cleveland Borough Council.

07:25

I'm the head of Planning and Development at Red county council. And I'm here today to assist the examining authority with any final issues raised in relation to the application.

07:37

Thank you very much, Mr. Miller. And appearing on Microsoft Teams, I'll go through them in no particular order for SES Development Corporation.

07:53

Only Madam, my name is Tom Henderson. I'm a solicitor and partner at law firm EDB Pitmans representing SDDC.

08:09

Thank you very much. And PD Teesport place

08:18

Good morning. I'm Casey Smith. From eversheds Sutherland International Limited LLP, representing PDT sport.

08:29

Thank you all stirred Hornsey for

08:37

Good morning. My name is Mr. Meyer. I'm a solicitor with Shepherd and Wedderburn and I'm representing ORCID Hornsey project four

08:48

thank you and welcome to side wind farm

08:59

it's Casey Smith and ever since then, and again I've sent in two segments

09:06

Thank you Teesside gas liquid processing and Teesside gas processing plant limited.

09:16

Good morning. Good morning, madam My name is Colin Innes, and I'm from the law firm Shepherd and Wedderburn and I appear on behalf of Teesside gas processing plant limited and Teesside gas and liquids processing and they are under the umbrella of north to see Midstream Partners. Our primary interest will be in relation to item six of the agenda.

09:40

Thank you, Madam Chair. Thank you very much, Mr. Dennis. Red Car bulk terminal. Sembcorp utilities limited

09:59

Good morning, ma'am. My name is Andrew bias counsel. I'm instructed by DLA Piper to appear on behalf of Semco

10:09

Thank you very much and for North Teece group place

10:19

our I'm Monica Madam I'm bearing down your green of console instructed by symptoms and I appear for Northeast group which actually consists of three separate companies northeast limited North tears rail limited and North tees land limited.

10:41

Okay, thank you very much. And for clients, please. Good morning, Simon Jones representing client of lanky. Thank you very much. Is there anyone else present here today that I've not already read out? That is going to speak today?

11:05

Nope. Can't see any hands up. Thank you. Before I move on, oh, sorry, there's a hand up.

11:21

Volunteers, Madam a bit later on putting a hand up there. My name's Jeff Bullock. I'm a partner and charter term planner at Dalton water Davis CWD. And I'm appearing on behalf of the clients and may be speaking on some matters.

11:37

Thank you very much. Before I move on to the purpose of the hearing at item two, I just like to notify everyone present that we have received and accepted some additional submissions that we received yesterday. And they're from North cheese group and Natural England. Firstly, could the applicants can you confirm that you've seen those?

12:07

Yes, they came in the Northeast group last night. So we haven't had long with them, as you might imagine. But we've seen those we've seen the representations from Natural England. They came as less of a surprise as we've been in dialogue with Natural England as you might imagine.

12:27

Thank you very much. So, Mr. Jenny green. Could you please just briefly explain the purpose of these representations and why they've been submitted at this late point in spite your Webster Rasika.

12:51

I apologise for the lateness now. They were launched yesterday morning. Sorry.

12:58

Just finish. I think someone just disturbed they'll just start again. Someone just arrived in a room. Thank you. Yep. Could you just briefly explain the purpose of the representations? Why have submitted them at this late point in time and not at one of the prescribed deadlines? We will come on to the contents of the contents of them late in the examination hearing today. Just Just briefly explained, please. Thank you.

13:27

Yes. First of all, I apologise for the delay. I understood they'd been lodged yesterday morning. The purpose of them is to provide in writing the background to the matters that have been covered in deadline representations. They are already a summary of those matters. And therefore they assist by way of background of the various questions that may be put say today. For the convenience of the examining authority, and for the convenience of the applicant, there's nothing new that's raised in them, but there's simply in writing so that both both the examining authority and the applicant can understand the questions that are we going to be putting today.

14:16

Okay, thank you very much. Can I just ask ask the applicant state? Do you need more time to digest these? If so we can

14:25

lose the short short ones resists. We are proposing to respond to these matters now that they have been raised in writing. And there are a number of detailed points that have been identified in these representations. And it's worth putting into context, the written representations, which are meant to contain each party's detailed case. The reasons why they support or oppose the application identifying those Also the application specific matters that are not agreed and the reasons for any disagreement. The written representations put in on behalf of NTG were two pages in length. That's rep 207. We have seen obviously the various representations which have been made. At each deadline, we've responded to them, we see that there is a third round written question in relation to the most recent ones. What we now have is significantly more extensive, and significantly more detailed down the written representations, we have sought to respond at each deadline to whatever has been put in in accordance with the timetable. And we have not Heather to seen detailed, a detailed markup for example of the draft protective provisions, which we have provided. And so now we have more detailed comments on them. Well, okay, they've been accepted, and we will consider them and we will respond. But I was not proposing to use today's hearing, as the appropriate time at which to provide a detailed response to each of the detailed points can certainly give an overview of what we think in terms of the broad themes of what is being said. But I don't propose to go into detail because my clients need a fair opportunity to consider those matters. I mean, now now they're there. They've been accepted, we will respond to them.

16:50

Okay, thank you very much. We'll leave it at that for now. We'll be asking noughties groups to take us through them at appropriate points in today's hearing and tomorrow's compulsory acquisition hearing. And before we move on, I believe there is a Mr. Webster for red cup bolt terminal that we didn't meet in introduction stage just introduce yourself as we record bulk terminal apologies matter.

17:21

Technical problems this morning John Webster partner at Rasul cook LLP here on behalf of red car well, town limited.

17:31

Thank you very much. Moving on to item two, the purpose of the hearing. The hearings today will be structured discussion led by the examining authority and its purpose is to enable you to answer any questions we may have. To ensure that we have all the information we need to make our recommendations the Secretary of State's were familiar with the submitted documents. So when you answer a question, you don't need to repeat at length something that's already been submitted. If you want to refer to information that you've submitted, please give the appropriate planning and spectral examination Library Reference. Additionally, if you use an abbreviation or an acronym, please give the full title there will be people here today or watching that might not be familiar with those titles as you are.

18:38

The majority of the discussions will be undertaken by those parties that have requested to speak and that we've just met in introductions today. But this is a public examination. So if you haven't indicated that you wish to speak, it doesn't preclude you. If there's a point that you do wish to make, please feel free to indicate at the relevant time that you wish to contribute. The examination procedure rules require the start of the hearing, the examining authority shall identify the matters to be considered. The agenda for the hearing was placed on the project page of the infrastructure Inspectorate website on 11th of October, and that's on the screen now. So item three will address the articles of the draft development consent order number nine, Item four, we'll consider the requirements. Item five covers schedules 10 and 11. Of the draft central order which provide deemed marine licences. Item six will cover protective provisions which are contained within schedule 12. Item seven covers consents licences and other agreements within item eight. Addressing statements of common law round that are relevant to the draft sent order. We do expect to comfortably accommodate all of today's agenda today and will conclude the hearing as soon as all the relevant contributions have been made, or questions asked and responded to. We may add other issues for consideration as we progress. And there's an opportunity to raise any other relevant business towards the end on to item 10 on the agenda. Also, you will be aware that the examination is a predominantly written process. So if you can't answer the question that's been asked or if you require more time to get the information requested, please indicate you need to respond in writing and this will be for submission at the next deadline which is deadline 11 On Wednesday, the 26th of October.

20:55

In terms of the draft financial sense order, this is the third issue specific hearing the first being held on the 11th of May and the second on the 12th of July. We've since received a range of written representations and further iterations of the draft Velux sent order the latest was received at deadline aid, and the examination library references rep 8003. The hearing will address matters raised since issue specific hearing for in July and up to including those submitted at deadline nine. However, if we haven't raised an issue at this point, it might be because we have all the information we need or we did we expect to receive it in writing. The agenda focuses on a number of specific provisions where we consider examination through this hearing as appropriate. This will be the last issue specific hearing in relation to development. So in order matters. So it is important that the answers to our questions are full, and if necessary, supplemented in writing at deadline 11. And whatever and recommendation the examining authority ultimately makes it is for the Secretary of State for business, energy and industrial strategy who will make the decision on this application in this case, and the Secretary of State is not

bound to accept our recommendation. Throughout the hearing Mr. Gleason will be referring to the latest versions of the documents. The draft Development Centre was received at deadline eight which is rep 8003. Names that explanatory memorandum is rep 8006. And participants may wish to have these to hand for reference. Are there any comments or questions on the matters I've just outlined before we move on? No hands up. Thank you. I'll pass over to Mr. Gleason who will lead the main discussion starting with item three articles of the DCA.

23:08

Thank you very much. So the agenda identifies the following matters under the heading of Article articles of the draft DCO. The applicants will be asked to provide a brief overview of the proposed changes to the articles of traffic DCO, including the reasons for the changes since the last TCO hearing, which is Isha three examining authority will specifically ask the applicants to address IP submissions in relation to Article Two permitted preliminary works, Article eight consent to transfer benefits of the order and article 49 modification of the interface agreements. Interested parties will also be invited to ask questions clarification in relation to DCO articles. So I'd like to begin by asking the applicants to provide a brief overview of the proposed changes to the articles, including the reasons for those changes since the last DCO hearing, which was is h three.

24:16

So thank you. I'm going to ask Mr. McDowell to provide that overview.

24:22

Thank you. Good morning, Nick MacDonald on behalf of the applicants since the last issue specific hearing on the DCO applicants have submitted three updates to the draft DCO. Draft DCA was submitted deadline five, which is rep 500 to the updates addressed comments received from interested parties at deadline for matters raised by the examining authority and interested parties at the second issue specific hearing on the DCO and compulsory acquisition hearing to And at issue specific hearing on environmental matters on the 14th of July. A draft DCO was then submitted to Deadline six, which is rep 6002. This was submitted as part of the applicants change request in order to remove optionality for the co2 gathering network crossing the river T's which was accepted into the examination. By the procedural decision of the sixth of September PD zero 17. The only substantive amendments to the DCO were to incorporate the changes required to give effect to the change request. Other than the exception of amending articles 49 and 50. Relating to the Hornsey project for interface agreement, merely to comply with statutory drafting requirements and correcting related formatting errors, or draft DCO was then submitted at deadline eight as you've identified rep 8003. In accordance with the examination timetable. This update addressed all other matters since the draft DCO was submitted at deadline five, including updates committed to in the applicants response to second written questions deadlines six, which was rep 600 to the draft. DCO also included updates to address comments received from interested parties at deadlines, five, six and seven. Briefly, the changes the articles since I CH, on the DCO comprise amendments to Article Two interpretation involving the insertion of new definitions or amendments in order to give effect to changes elsewhere in the DCO. Or to address comments from interested parties. A number of the changes are required as part of changes to articles or requirements that the applicants are required to address in following agenda items. So don't propose to say more about those now. Amendments to Article eight, the transfer of the benefits of the order. The

applicants have made limited changes to Article eight paragraph 13 In order to clarify the timing of the notifications to the Environment Agency and marine management organisation that an agreement has been entered into for powers in the DCO to be transferred. The other changes made to Article eight relate to comments from South Teased Development Corporation. And again we note this is subject of a separate agenda item later changed to paragraph six of article 32 temporary use of land for maintaining the authorised development. This is to clarify the undertaker is not required to replace a building or any debris removed when it is restoring land use temporarily under this article to ensure that this matches the equivalent drafting in article 31 paragraph five various changes to article 49 modification of the interface agreement and the insertion of a new article 50 inserting an alternative process for the modification of the interface agreement and related compensation arrangements. Again, we know this is subject of a separate agenda item later this morning. Limited other changes to address formatting issues numbering and minor change to the heading of article 27 were also made. In addition to the submission of the updated draft VCOs applicants submitted comparison versions at each deadline showing the changes from the previous version. Each DCO was also accompanied by a schedule of changes, summarising each change to the DCO and an update to the explanatory memorandum. So that was everything I was proposing to say by way of introduction on the articles.

29:02

Thank you, Mr. McDonald was very helpful. Good, thank you. So now let's walk through the specific articles which are identified in the agenda. These are matters which appear to be an unresolved between the applicants and interested parties, then there will also be one or two other items that aren't specifically identified on the agenda and I'll come to those. Let's start with Article Two. Which and specifically the term permitted preliminary works and representations in respects of this definition was submitted by sawtooth one corporation in their written rep. That two Oh 97 A and by some call in they represent Session rep three Oh 25 And the applicants in the written summary of Vyas H, what is h three provides an explanation as to the reasoning for the inclusion of this definition, should don't need to go into here. Subsequently, STD C. And their written summary advice h3 also commented, noting that it's accepted by the napkins. That's the permitted preliminary works are intended to be controlled by protective provisions. And that's the tang corporation will therefore seek to agree and appropriate amendments to protected provisions clarify this. We then move on to Deadline eights, we have the statement of common grounds to the applicants and SDDC, which in this case, that's the issue is subject to protected provisions. And he's now agreed. I wonder if you could take me through how that actually works now in terms of addressing the concerns which the term Corporation had and how that's addressed in Part 19. And then I'll ask Mr. Hanson, for your comments on that.

31:35

So yes, happy to do that. You're right in your if I may say so in your summary of the way the issue has both arisen and develops, I don't propose to go back through the those matters. And indeed, one of the matters in the examining authorities Action List, and the last hearing on this matter, asked us to work towards protective provisions that overcomes these matters. What has happened since is that in negotiation with SDDC, we have agreed changes to the protective provisions for their benefit. That's part 19 of scheduled 12. And there is a new protection that explicitly requires the undertaker to submit works details to SDDC for approval prior to the construction of any permitted permanent work within the T's work days work site. So previously, the equivalent obligation only applied to the construction of



certain numbered works defined in sheduled, one of the order, and it's right to say that the permitted preliminary works may not form part of those numbered works in some cases, and that was the lacuna that was being discussed. And although the terms of protective provisions are still being negotiated, the drafting with respect to this issue, I understand is agreed and will be included in the finalised version of the development consent order that submitted at deadline 12. And my understanding is that that is the detail that lies behind the position and statement of common ground to which you have referred and that that same issue doesn't arise in respect of the same core protective provisions because they're the control of works, you'll recall is linked to the commencement of the authorised development rather than specify specific work numbers. And the permitted preliminary works are embraced within the definition of the authorised development and so there's no need for a similar clarification in that case.

34:00

So thank you. That's helpful, just to clarify, is the wording in all 19? Already? Has that come later?

34:13

That's to come. So sorry, if I didn't make that clear, but yes, it's the negotiations have resulted in an agreed form of words, which are not in the deadline aid version, but will be in the deadline 12 version.

34:27

That's fine. Thank you. It's Mr. Henderson. Do you want to add anything to Mr. Hill pot summer?

34:36

Thank you, sir. Yes, not very much to add. We agree with the the applicants summation of where matters stand. the drafting of this point is agreed. And although other points obviously remain under negotiation, we are content that the version of the protective provisions that will go into the final version the order has has dealt with this matter.

34:57

Thank you So again, help, I can ask you the position in respect of semicolon. And I'll ask Mr. Pious to comments once you've made

35:21

Yes, so far as I'm aware, obviously stem colour speak for themselves. And we're not aware that same colour is requesting an amendment to the provisions that relate to the permitted permanent work. So the reasons that I've explained we believe they're already covered, that if there is a concern, no doubt, it will be explained. And we can consider and respond to it.

35:44

Thank you, Mr. Bias.

35:49

Thank you. So no, we're not raising any concerns on preliminary works any longer.

35:56

So guys, how that was resolved, then? Because you did submit representations. Rep. Three, Oh, 25. Well, you were concerned about this matter.

36:13

We we did there. And to be frank, it's not something that I've been asked to reconsider when appearing today. But I think I suspect the answer is consistent with what Mr. Phillips was describing in relation to some court being a console T in relation to various permitted preliminary works, but I'll need to check the points there and come back to you.

36:38

That's fine. Perhaps we could have that as an action point. That's you, we'll come back to that next deadline, it's confirmed that position and how it hasn't been resolved? Yes, of course,

36:48

very happy to do that. Thank you very much.

36:50

So if it helps, it would fill up on behalf of the applicants. My understanding based on instructions is that the resolution of samples concerns has not been as a result of different drafting. It may, therefore, simply be that in discussions between the parties, the way that the existing provisions operate to protect sencos interests has been conveyed. And obviously, then, it's a matter for some core as to whether that satisfies their concern, but we'll wait to see what they come back with. That's my understanding. Thank you.

37:24

I'm grateful for that and noted.

37:26

Thank you. So just two other definitions within Article Two, for discussion, or clarification from from our point of view. Firstly, the definition of so called pipeline corridor protected provision supporting plans. And so this has changed from the previous definition, which was Semco operations, which was transferred from the central protected provisions deadline five. And that changes, I understand it reflects the changes to requirements 37. Perhaps, Mr. Phillips, you could just take me through that change, but also, could you identify where the pipeline corridor protected provision supporting plans, and the shared areas plans, which are noted to be in sheduled 14, where they can be found please?

38:48

So I think it's probably best if Mr. McDonald responses to this.

38:55

Thank you. So as I understand the definitions are included within Article Two, merely as a because the terms are used both in the respective protective provisions relating to some court and in respect to the shared areas plan relating to Anglo American and as you've identified in the shedule of certified documents, therefore, that's why the definitions sit where they do, the shared area plan was submitted.

I don't have that in front of me, but we will either confirm that later this morning or and in writing. I don't believe the Simcoe pipeline corridor protective provision supporting plans have been submitted to the examination at this stage. But they are under discussion between the parties in relation to the protective provisions and clearly that is something which needs to be submitted. for your review, and in order that Tim Gore's necessarily can comment on them to they will be submitted.

40:08

So will that be the next deadline? You're expecting that to be submitted and I'll

40:14

have to take instructions as to where those plans currently sit in terms of their production and discussions with Simcoe

40:24

and thank you for that. And then the shared areas plan. It is identified as revision one, September 22, was no reference in article 14, if you could come back to us, please just point out where we can find that. I think I have seen it but I couldn't cross references when looking at DCO. leave that with you. Thank you.

40:49

Sets. Sorry, I cannot Nick McDonald for the applicants. The Shed areas plan was submitted at deadline eight, the applicants References 4.17, which will be added to the schedule of the DCO. And the examination library references rep. 8008.

41:13

Thank you very much. Mr. Bias, do you want to comment on this definition of the pipeline corridor on behalf of your clients?

41:28

So just making sure I tip my hand down before I do anything else? Um, no, no, I mean, just because we're on these provisions. And and we're dealing with SIM core in relation to this part of of the DCO. The only point that we have so it's not about the plans as such, but about the definition of seven core just to make their simple drafting requests that simply will be defined to include its successors in title because seven calls reference throughout the the order and of course, if Simcoe disposes of any of its interests in the pipeline corridor, then obviously, we're going to want the undertake to be liaising or consulting or that local authority to be consulting with them and not seven call, he says to drafting point and so far as the plans are concerned, no no comment at this stage.

42:14

Thank you very much, Mr. McDonald, are you content to include that you something you need to take

42:21

away with Nick with all of the applicants who will take that away and consider it and just check where the definition of semaphore is used throughout the DCO and will take account of Miss biases comments and address that

42:36

thanks very much. Thank you. So, the second definition or third definition I wanted to raise was TG entities, which means T side gas and liquids processing and T side gas processing plant limited. This has been added to the definition and the council T's T G entities will be consulted to certain requirements. Firstly, could the applicants explain at inclusion? Why CG entities have been given that status to be consultees? And also why this doesn't refer to North seat Midstream Partners with the parties to the statements of common grounds. Rep 6118. So and then I'll come to Mr. Ennis representing TG and this I think it is yes.

44:18

So, the explanation is to obviously why the definition has been added is because there is now a new requirement 38 which identifies the weather there are requirements that specify a need to consult the TG entities and then makes provision for that, obviously, one needs to define who they are. And they've been added as consultees to certain requirements where it's felt that their interests warranted in short as to why Hi there, I'm defined in that way and not by reference to another group, I'd have to take that away and get instructions on that matter.

45:06

Thank you. So, requirements 38 to be heads, somewhat here, but since we're talking about that anyway, it's worth considering now. That's requirements follows the approach that's been adopted in respect of Semco, and South Seas Development Corporation. So effectively, you're giving TG entities, the same sort of status in terms of a console T, correct.

45:52

In respect of those requirements, were were contempt that that is warranted, then we've come sweet, we've agreed to make that change. So it is because it applies only where a requirement specifies that they be consulted. It's proportionate in that respect. And obviously, for some core, they've been added in on the same basis where requirements seem to justify it. As to why requirements, were the TGA entities have been identified, it is considered to be suitable to include them as a particular console tea, I shouldn't need to ask for instructions on that matter. But that is the underlying principle, as I understand it.

46:48

So it relates back to individual requirements, whether consulted in DNS, I don't think we need to go into that detail, but I can see the principle applying. Okay. Mr. Ennis, representing this interest, your intuition coming from anything you've heard? So far?

47:11

Very brief, sir. Colin, and it's on behalf of Teesside gas processing plant limited and TCR gas and liquids processing the TG entities. And just to explain NSM P sit over the top of these as the sort of

holding entity that essentially controls matters. So when that's really the the relationship is NSP sits above them. But insofar as as the requests we put in the requirements concerned, in rep 5041, we set out the extent the nature of the operation, that the entities operate in the facility. And it is fairly clear from reading that representation at the scale of operation is a significant one, and is strategic in the context of UK energy supply, and also relates to a site which has an upper tier coma site against that background, the TG entities, what they've sought to do is to play a positive role up front in relation to discharge of requirements to ensure that those interests are adequately protected. And to make sure that effectively it reflects what is effectively going on at the TGW entities at the time, where there is a need for potentially coordination because there's ongoing development at those sites. And that's a fairly constant part of the process of upgrading equipment and making investment and it's not thought that that's likely to stop in the foreseeable future. Against that background, what we identified was the specific detailed design was one area that there may be issues that we could fit in at that stage. Secondly, was access and general access issues are of paramount importance to the TG entities, given the nature of the facility that is operated, and in particular, how the access operates. And also participating generally, in the wider engagement during the process and against those three broad themes that the TG entities wanted to engage positively with the applicants as as during the implementation phase. And that's been reflected in the requirements. And as I say the reasons for that, I think are really justified as a consequence of the nature and character of the operations with the TG entities operate and the proximity of the proof project and potential interface at various points in the proposed development.

49:51

Thank you, and are you then content with that definition? In Article Two of TG entities,

49:58

we might want successes was, well, if Suncor is seeking it, but I'll take instructions on that. But in broad terms, yes, at the moment, we are working on this through, obviously on negotiations with, with the with the applicants on a range of other matters. But I'll certainly seek to confirm that in our response to the hearing.

50:19

Thank you. If I may hold up and on behalf of the Africans. Now that I sort of caught up with the additional agenda item, as it were just to put a little bit of flesh on the bones. You'll recall that when I explained the principle, I explained that it only applies Of course, where the TG entities are specifically identified in a requirement as being a body that needs to be consulted. And therefore, there is a proportionality in respect of where and on what they are consulted, which reflects their interests mysteries is helpfully summarised the nature of their particular interests. And one can see for example, in requirements 18, which governs the construction traffic management plan, that is an example of where the T G entities have been added, because it reflects that particular concern about access. Similarly, if one looks at requirement three dealing with detailed design, the TG entities are not identified as the console tea in every subparagraph. But only those where it is felt that their particular interests give them a relevant role to play that that warrants it. And you'll also see just taking that as an example, that as between those different sub paragraphs, in some instances, it's only SDDC, which is to be consulted, and that that reflects their particular role. In others. It's simple SDDC and the TG

entities in others, it's same core SDDC and so on and so forth. And so the proportionality is reflected in those requirements throughout where different parties have been identified, and we thought that was the neater way of doing it.

52:21

Thank you, that's helpful. Okay, so now I'd like to move on to Article eight, which is consensus transfer benefits of the order? So the context here is that STD C, commented on the applicant's latest draft DCO at rep 6143 and noted that the Atkins had amended the article to include new subparagraph 14 with STD C thoughts that's providing notice after the transfer takes effects, wasn't appropriate and was seeking notice before the applicant to transfer powers. In line with drafting of Article eight, nine and rep seven, double o nine, the applicants commented that I disagreed with that approach. And that's it's one corporation would be notified within 10 working days of the transfer, and therefore SDDC would know who has powers over his land very shortly after such powers are transferred. SDDC came back rep eight oh 57. Saying that without prior notice, they'd be placed in unreasonable position, whereby a third party would have rights over the SDDC area without SDDC always tended knowledge, therefore is reasonable and proportionate, has been formed the transfer price of the transfer of powers prior to the transfer and then think the latest comments was deadline nine were the applicants commented on deadline aid submissions. Applicants position remains that notification within 10 working days for transfer is reasonable and proportionate.

54:49

Applicants also points out most CCOs could no provision to notify landowners regarding the transfer of TCO powers. So I think that's the position we've got to at the moment Please correct me if I've missed anything misrepresented. But can I ask Mr. Henderson on behalf of SDDC to, to comment on that, and then asked the applicants for their further views. And Mr. Hansen in commenting? Can you tell me? Are you looking for revised wording for this article? And if so, can you suggest something? Just handsome.

55:34

Thank you, sir. Tom Henderson. For SDDC. Yes, you summarise the position as as, as far as it's got through the examinations. The the Current Provision of an after the event notification, it remains unacceptable, as far as SDDC is concerned. And in essence, we think the drafting changes quite simple. We are merely looking to be put in the same position that the Secretary of State is being put in, which I think is if you bear with me, sub paragraph or paragraph nine. So in essence, as TDC would become a party notified in the same way that it's actually state is under that under that provision. And if it would assist, I could just give you a bit more of a reasoning as to why we think this is a reasonable request and an appropriate request. Five points to make. The first relates to the scale of of impact of utility corridors across the tees works the state says you will have seen from the the works plans their extensive utility corridors across the site with the potential for numerous statute undertakings to be transferred powers to implement those works. Secondly FTD STD C is no ordinary landowner in this context. It's a statutory development corporation with a function of securing the regeneration of the site. So it is different in many ways you need in this context. The third point relates to DCA precedent. Whilst we acknowledge that the mechanisms that the applicant is seeking here, I think do draw on precedent as equally along line, a DCA precedence, concurrent DCA. And we can give you some examples in our summary of oral submissions, a long line of precedent where unnamed statue Undertaker's are subject

to an approval of the Secretary of State before powers are transferred. So that level of assurance doesn't exist here. We're not We're not saying, fourthly, that there shouldn't be an approval role for for us or the Secretary of State. But in that context, we do think it's reasonable for STDs to be STD C to be notified, prior to the transfer. So if there is a particular concern, it can obviously raise the matter with with the applicant. And lastly, as I said at the outset, we are merely asking to be included in the same process and on same timescales that the Secretary State would be. So it's not additional work for the applicant. So it's not an additional burden to the implementation of the scheme. And therefore, for all of those reasons, we consider our request to be an acceptable one.

58:38

Thank you. So on my point about specific wording, have you considered anything there?

58:43

We haven't come up with specific drafting. So we can do that as part of our our summary of oral submissions that, you know, on the hoof. I think effectively, we are saying that the provision that relates to notification Secretary of State would also say and CDC and its and its various entities.

59:02

Okay, that's, that's fine. If you could put something in writing next deadline available. Thank you. Mr. Phillpotts. Do you want to comment?

59:11

Yes. Matt has moved on a little since the written material that you summarised a moment ago. It's right to say that the applicants position remains that what has been provided in the new paragraph 14, is entirely reasonable and ensures that SDDC would be given notice of the transfer or grant within a short timescale of it occurring. However, we have recently and I've stressed recently, the STC won't have had a chance to consider respond to it because I believe it was only communicated to them overnight. That we are willing to To make an amend make an amendment to Article eight, in order to provide greater reassurance to SCDC that the concern that it has the practical concern, which is that someone might seek to exercise the powers before SCDC is aware that they have been transferred, because otherwise that the matter really is not a practical import. We propose to address that in the following way. Which is that notice must be given to SDDC within 10 working days of the transfer or grant, and prior to the exercise of any powers by the transferee, or grantee. And that ensures that SCDC would be informed in all cases of a relevant transfer or grant prior to any powers being exercised by any new Undertaker. So they wouldn't be at risk of being taken by surprise by someone that they were previously unaware of seeking to exercise the powers now that, as I've stressed in fairness to SDDC, has only recently been proposed to them. We believe that that is an entirely fair way to address the problem that has been alighted upon by STTC should address their concerns. But if the parties aren't able to agree that you'll be aware of that, by the time of the next round of representations once they've had a chance to discuss what that might look like in terms of the drafting.

1:01:48

Thank you, Mr. Hill. So Mr. Hanson, I'm not going to put you on the spot. I don't know if you you're aware of this evening. But if you could come back at the next deadline, with comments on the further submissions that the applicant is making, that would be helpful. you consent to do that?

1:02:07

Yes, we are. So thank you, I should say for the record that the applicants did notify us overnight. So we were aware of an imminent change, but we weren't aware of the nature of the change. So we'll take it away consider it.

1:02:18

Thank you very much. Now, I think also an article eights, we have the submissions from the Northeast group, so Mr. Danny green to you to speak on this point. Explain what's in your

1:02:51

yes, certainly, thank you very much. My, my plants have been engaged so far without legal representation, because they have been actively engaged in trying to achieve an agreement. I can't say anything about the details of those obviously. But the the progress of that seems to have grown to a standstill. And I don't think it's any fault of my clans. And therefore they are where they are at the moment. And I've been asked to to represent them. We've taken the invitation in the agenda item to ask questions of clarification. And I would wish to ask questions of clarification of Article eight. I'm not quite sure who I addressed the questions too, but if I put the questions, perhaps Perhaps the the the appropriate person to answer them can then do so. And the first question is this. Is it having regard to the extensive liability of the undertaker under the DCO protective provisions and compensation obligations? Is it correct that there is no financial viability test for a potential transferee? Secondly,

1:04:21

sorry, for you, you. I think,

1:04:25

is it correct that there is no financial viability test for a potential liability?

1:04:34

Okay, can I say before we go on, I think I mean, just looking at the submission that's made I think covers this at this point. As, as Mr. Hill posted earlier, having only had these submissions yesterday and please erasing Well, as you said, Mr. Green, I think your your terminology was it wasn't clear he was providing additional clarification or convenience for the examination. My point is that I think I'm not expecting the applicants to respond immediately on some of these matters. today. I think they need to be taken away. And prepared. This gives the applicants time to do that. Hopefully, that can be done by next deadline. But welcome your responsiveness.

1:05:39

So yes. So far as this particular point is concerned, it might be helpful just to explain the way that article eight deals with this. You'll recall from the previous explanation that there are various ways in which the transfer can take place, there are limited circumstances that are provided within article eight, in which



the Secretary of State's consent is not required. But those are limited to circumstances where the issue of financial standing would not arise. So it's either in respect of certain identified parties. That's paragraph eight, a in circumstance. In other words, parties where we say that issue would simply not arise, because of the nature of what can be transferred and the nature of the party to whom it can be transferred in each case. Secondly, in paragraph eight B, in circumstances where compensation is no longer in issue, where the Secretary of State's consent is required, of course, the Secretary of State has to make a judgement as to whether or not that consent should be given, having regard to all relevant matters, that might bear upon such a judgement, where what is proposed, it engages matters, where the financial standing of the party to whom the interest is to be transferred is irrelevant, then the secretary of state frankly, can be trusted not to exercise that judgement without taking that relevant matter into account and forming a sensible judgement about it without having to be told in advance what may be relevant in a particular set of circumstances. And secular state must take that into account that that's over prescriptive and not necessary, so far as the Secretary of State is concerned. Now, when making a judgement on the content of the development consent order, the Secretary State is entitled to trust him or herself or successor, that they will exercise their judgement in a rational way, having regard to all material considerations, including any financial matters, so that that may assist the NTT group in terms of any concerns they may have about that. But if that is not a satisfactory answer, then we would expect that to be made clear, and then we will respond to it. But I hope that's helpful by way of a

1:08:37

thank you. Send your green.

1:08:41

I'm very grateful to Mr. Henderson for that, and I'm sure that will be some clarification for the purposes of my plant. But can I just draw the attention of the examining authority to sub paragraph age? Of course, it is possible that a person under subparagraph eight, a Roman one, a person who holds a licence under Section six may not necessarily be financially viable, and there's no test on that.

1:09:18

To see if that is the extent of the residual concern, that's helpful, we can take that away and respond to it in writing. So I've made a note of that. We'll pick that up. Thank you,

1:09:32

sir. I'm very grateful.

1:09:34

Is there anything further on Article eights you wish to raise? Because then you're going to take that there's no thank you. So then the next item is article 49. Which the agenda first was Article 49 should of course refer to article 50, as well. So these are alternatives. So again, perhaps, just to put it into context where we are. So in summary, since last hearing on DCO, we've had amendments to modify interface agreements instead of disapply. It just set out in revised dcl, it's rep five to blow to article 49, was then replaced by the new article 49 and 50. In the revision of deadline six, which is rep six to below two. And there are no further changes through the article in the latest iteration of the TCL, which is rep eight,

double O three. And then we've also had the second written questions from the examining authority to PD o 16. And questions 2.14, to 2.17. All addressed things, elements of the interface agreement, responses to those who provided I asked that crown estates and the applicants AT T six, and comments on those responses were also provided at deadlines, seven, eight and nine. So I think as the summoning authority, we have now got a very full understanding of the different parties positions, in respect of the interface agreements and the workings of those two articles. And therefore, we don't propose that we spend more time this morning going over things which have already been covered. But we are content for any further comments which the app can source that may wish to make in terms of the current forms of those articles. So can I starts with us that please? And I think, Miss Maria. So if it's you really if there's anything further you wish to add to what's been provided so far?

1:12:28

Thank you, sir. Mr. Meyer, representing our state Hornsey project for and as noted the latest update to the DCO submitted at deadline six split article 49 into two alternative articles. One where the compensation amount is agreed at the date, the DCR was granted and one where compensation is not agreed and is then left to be determined by the Secretary of State within two months of the granting of the DCO. And this did not in our view of change the principle of what was previously proposed in Article Nine, which serve was then which was amended from the original which sort of a total just application of the interface agreement there for Hornsey for its position remains as set out in its written submissions, which I do not propose to set out and Phil given that these have been before he already and but just to summarise, their position is that the best application of the provisions related to BPS liability to Hornsey for under the interface agreement would be to deprive warranty for of its contractual rates. And this would be in an unprecedented manner, which was not in the public interest, and that there are alternative means freely available to the parties to revisit compensation quantum by renegotiation of the commercial terms. And in terms of standing points at deadline name in representation, nine dash 033. Kanzi four has sought clarification from the applicant. On the basis of its deadline, its submission, which was representation 8049, which provided comments on r&d force question being the legal advice from Richard Harwood Casey. And one of the points of clarification that we have sought is that the applicant appears to be suggesting in that submission that none of the infrastructure or the power sought as part of the proposed development would be used to generate transport or store gas which will then be stored within the overlap zone or otherwise adversely affect Hornady project for however, submissions do refer to the storage as being largely outside of the overlap zone rather than completely, which we think introduce some ambiguity. And we're seeking clarification on that. And also the stated avoidance of the overlaps on contradicts submissions made earlier in the examination where it was stated that the there was part of the overlap Dawn was going to be used. And so we'd like to get some clarification on that to sort of finalise our Are possession in relation to the articles because of there is no nexus between proposed development and Hornsey for and if they overlap, so it is not required for the proposed development, then we would question whether this article is in fact sufficiently related to or a matter ancillary to the development to which consent has been granted as required by section 120 of the Planning Act 2008. So, once we have received that clarification on the applicant, on that point, we will be able to consider this fully and report on our final possession on this.

1:15:30

Okay. So, in terms of the clarification you're seeking from the applicants, is this something you're in discussion with them about? Or are you expecting response to your previous submissions? Rep nine oh, 32. How's this working?

1:15:49

Not we have any direct discussions ongoing so that we are anticipating that those would be provided and writing in response to our deadline nine submission. Okay, thank you. But we're open to discussions, that would be our preferred approach.

1:16:00

Thank you.

1:16:04

Thank you, sir. So there are two matters that have been raised in also as deadline nine submissions, which have just been touched on now. The first matter are human rights at issues related to articles 49 and 50. And you'll have seen they take the form of a response. So a response to in the form of submissions to the opinion that was provided by Jason Koppel King's Council counsel. At that opinion, your recall was submitted to the HP for examination, but copied to you and your colleagues as annex one two rep. 6121. That's the first issue. The second issue raised as has just been alluded to is the degree of nexus between net zero T side and HP for now, we will respond to both matters in writing at deadline 11. But if it's helpful to you, I can provide some sort of overview at this stage so you can understand where we say matters line are likely to develop. I'll try and deal with it reasonably succinctly. So far as the first matter is concerned. So these are the Human Rights Act issues, there's an important preliminary point to note, which is that the submissions that all stood make on this issue, and don't raise any issues which are unique to the net zero T side context. They're all points that arise, and will need to be dealt with by the examining authority and Secretary State in determining the HB four application. That that's reflected in the fact that Orsted are responding to a document that was submitted to the HP for examination. And for these purposes, articles, 49 and 50 reflect the substance of what BP has proposed in the HP for examination, they're not dealing, they're dealing with it in a different format, that are the principal is not different. And that brings me back to the key submission, you'll recall that I've made before both orally and in writing about the very limited extent to which these issues for to be dealt with in this examination. Now, the applicants will be submitting both the austere deadline nine document and its own deadline 11 response to it directly to the Secretary of State for bays in the context of his forthcoming decision on the HP four application, so that he has the benefit of that exchange, alongside the examining authorities report on HP for when he's considering that scheme. Now, in the periods since we discussed this at the last issue specific hearing, the HP for examination has concluded it concluded on time on the 22nd of August, and there's no indication of any likely delay in the submission of the report to the Secretary of State. And so in all likelihood, the Secretary State will be determining this application approximately three months after the decision on the HB four application. And or at least approximately six months after receiving the examining authorities report in relation to HB four. And we've already addressed the alternative scenarios. We will provide a written response to the submissions made by James merici Kings counsel in due course, so I'll keep my points brief for the purposes of today. Three short points. First of all, that what you'll see is that there is a judgement that the Secretary of State will need to make in the HB four context about

whether the proposed interference with Austin's contractual rights is justified I'd and proportionate. There doesn't seem to be a dispute that that's ultimately a matter of judgement. And we don't see it being disputed. From what we've read, that it would be rational for the Secretary of State to conclude, the current compensation provisions should be changed because they pose a significant risk to the ECC plan. There is a dispute between the two parties as to how that judgement ought to be resolved. But it's a matter of differences of judgement on the merits as opposed to a rationality point. It needs to be kept in mind, this issue only arises at all, if the Secretary of State is persuaded by BPS evidence, both that coexistence is not practical in the overlap zone. And that the effect of the interface agreement will be to put an unacceptable risk.

1:20:59

The delivery of the ECC plan and or full development of the injured stall the issue only arises in those circumstances. And in those circumstances, you'll have seen the applicants case as to why it's appropriate and proportionate in those circumstances to make the sort of provision that we have identified, we say the balance justifies the interference in those circumstances, also take a different view. They say no. In short, preventing the development full development endurance store frustrating delivery of the ECC plan price worth paying. The Secretary State will need to decide between those two points. But the submissions which have come in at deadline nine we say don't add anything of substance to that debate, which is new, will respond in writing to what is said that essentially, the matters that are raised will need to be addressed by the Secretary of State and the HB four contexts. The balance is no different when you look at it in the context of this decision. And those are not points therefore that needs to be re litigated in this examination. I would also ask you to note that the position that also takes on the one separate issue that does arise for consideration here, you'll recall, I explained this at the last hearing, which is whether articles 49 and 50, should be included. In the end Zed T DCO. If the Secretary of State accepts the applicants case, on the underlying points of principle niche before contest, that issue is one where author's position I say remains opaque. We explained that issue, issue specific hearing three, and you'll recall from that hearing, and also from our summary of it and ret 5025, internal page 10 that we specifically asked Ofsted to make its position clear on that matter. Its deadline, nine submissions don't include a clear statement of his position on that point, or grapple with the adverse public interest implications of not including articles 49 and 50. In those circumstances, so that remains opaque. Hopefully that will be clarified. So that's the first issue unless there's anything more you'd want me to say about it. The second issue is the question raised by Ofsted in their deadline eight submissions as the need or otherwise, for the NSAID T development to make use of those parts of the endurance store which sit within the overlap zone. And they say that if storage for the NSAID T proposed development does not require use of the overlap zone. They asked whether the applicant would be agreeable to a restriction being inserted in the DCO to prevent use of the overlap zone for the storage. That seems to be where it. That's the first of the issues that they raised on the back of that query. And then there's a second question that they raise just been alluded to whether in those circumstances the two articles are sufficiently related to the proposed development for the purposes of section 120. So far as the first question is concerned, the applicant did respond to a previous formulation of the same question by Ofsted in Section 8.4 of rep 6122 where we said this, we said it's anticipated the carbon emitted and captured from the proposed development would largely settle at the crest of the endurance store outside of the overlap zone following offshore transportation and injection. This residual area outside the overlap zone represents approximately 30 percent of the

technical storage capacity of the endurance store. Storage within the overlap zone is anticipated to occur in subsequent stages of the NTP project, in line with the timescales programme advised by bays for implementation of the ECC plan under the cluster sequencing process, to which details submissions have previously been made in the Hornsey project for examination, it's not proposed to repeat the same in this examination.

1:25:29

The term that's the end of the quote from that, that that document, the term of the use of the term largely settled or largely outside in the deadline, six submissions and repeated and what was said that deadline eight and rep 8049. That reflects the fact that the storage settlement of the co2 is based on forecasts modelling at this stage, and the eventual actual settlement will only be capable of being definitively confirmed following detailed monitoring, terms of which will be governed pursuant to the relevant offshore consent. However, having sought instructions and BPS technical team, my understanding is that the crest of the endurance store within which it's anticipated the co2 would settle sits outside of the overlap zone, and has ample capacity to accommodate the rate and volume of co2 emitted and captured from the proposed development. And that means to the extent there's any potential for some of the co2 to extend into the overlap zone as it settles, that would be de minimis and not material for present purposes. But the applicants will provide a fuller explanation in writing of that technical matter. But the short answer is that Austin's apparent concern about the way this is phrased in the DA response is not well founded. There's no underlying point of substance that affects the arguments in this case. It's phrased that way simply because it's based on modelling but as a matter of substance, the extent to which it could settle there is de minimis and not not material for present purposes. And we've been consistent in the way we've expressed that throughout the examination. The request for restriction to prevent storage in the overlap zone is misconceived for two main reasons. First of all, the issue for you and the Secretary of State is not what we are or are not agreeable to. It's whether Austin has demonstrated through its evidence that the criteria for imposition of such a requirement is satisfied, including necessity and reasonableness. And we say all sorts evidence has not attempted to satisfy those criteria, which their submissions don't even acknowledge, let alone address. Secondly, if Forrester did wish to argue for the necessity of such a requirement, it would at least first need to produce technical evidence sufficient to persuade the secretary of state that the development and powers that will be authorised by this DCO would be a real threat to its ability to implement HB four in the absence of such a requirement. Now, not only would that require wholesale rejection by the Secretary of State of its technical case in the HP for examination, it would also require also to go further than BPS technical case in the HP for examination and demonstrate the development and powers authorised by this DCO. That's the Enza T DCO are incompatible with HP for going ahead. That's not our case. And there's no technical evidence from either side that could support such a conclusion. And thirdly, it's striking that in the context of the HB four application and examination, also at no stage indicated secretary of state that the development and powers proposed to be authorised by the NSAID T DCO. represent any threat at all, to the development and operation of its wind farm with or without the associated offshore elements. If it wanted to invite the Secretary of State to conclude that in the context of this examination, it would then need to deal with the adverse implications of that and the HP for examination in terms of its own ability to implement a scheme, any associated compulsory acquisition powers potential obstacle to implementation matters of that sort. far as we're aware, it hasn't done that. But in any event, as you I know, you and your colleagues are well aware, there is no infrastructure or

powers proposed to be authorised under this DCO which could physically interact with or present a physical impediment to the project proposed to be authorised under the Hornsey for Project DCO and such interface is limited to the development or use of the endurance store itself, which is subject to a separate consenting process still to come. And that's the appropriate forum in which those battles can be resolved.

1:30:19

We don't believe that it can properly be suggested to the Secretary say that the offshore consenting processes and eight unable to address such matters if necessary, that it's not fit for purpose, and D, we say it's much better placed to do so. So the second and final point that Ofsted make is the question of virus. You'll recall, we've provided extensive justification as to the need for the inclusion of these articles in rep one, zero 35, Appendix seven, e pages 173. And following the summary of oral submissions from issue specific hearing three, that's rep 5025, electronic pages 11 to 16. And that justification has consistently been based on the risk posed by the interface agreement to the full development of the endurance store and the viability of the wider ECC plan, of which the NZ and Zed T forms part not on direct interaction between the storage of emissions from the proposed development and HB four, and we've always made our position clear on that don't believe that Ofsted submissions properly acknowledged or grapple with that we've explained the limited issue that arises in so far as Secretary state's decision on this application is concerned. And if any of the scenarios in which articles 49 and 50, would be engaged, which are now embedded within the drafting of the articles themselves, as you've seen, we've explained it's appropriate to reproduce the provision in this DCO because of the risk to full exploitation of ensuring store the viability of the ECC plan of which this form is part and that's clearly brings the provisions within the scope of section 120, subsection three of the Planning Act. And so we say that there is really no issue of virus that arises. So I hope it's helpful, not just obviously, to you but also to Ofsted, who said they wanted to understand our position on that so that they can make their position clear now hopefully it deadline 11.

1:32:38

Thank you, Mr. Phillips, a lot second, both in itself, and we'll have more in your written submission. So did I tell them to send the Alaska course that if they wish to come back on anything, but I suspects that the issues are really to be dealt with in writing from here on? Miss Maya?

1:33:01

Yes, thank you, sir. The majority of those points, we will take away and consider the written submissions and respond fully once we've had a chance to take instructions on those points. But one point I just wanted to pick up very briefly, was the first point Mr. Phillip point made about re litigating in this DCO examination. We've been quite clear in our possession on that previously. But just to summarise, our state's position is very much that this article and article 50, as well must be considered as part of this DCO examination and its acceptability must be thoroughly tested as part of best examination, rather than leaving it to the examination of the Hornsey for DCO. And our reasons for that are as set out in our previous written submissions, which I'll not repeat. In the interest of time.

1:33:51

We fully understand that points. Thank you very much. Thank you. I think we go to a break, we'll virtually finished

1:34:00

the articles. But just one final point, please. Mr. Hill. And this is something that's Ofsted have raised? I can't remember the specific submission, but it's the reference to the exclusion zone rather than the overlap zone. Because the interface agreement refers to an overlap zone, I think. In the applicants submissions, this examination is referenced to an exclusion zone. Can you just explain why different terminology has been used?

1:34:37

So in order to get that, right, can I take instructions over the break and just pull together the references and then I have some luck

1:34:44

with it after that all come back in writing.

1:34:47

It might be better we can deal with it and write it in the sentence doesn't need to be dealt with orally.

1:34:50

I think it's a mind that points but there is a distinction that is drawn there. But I think we need to understand that difference in the

1:34:59

world. We'll make that clear. We'll put it into our deadline 11 summary as a sort of post hearing, actually,

1:35:07

thank you okay, the time is now 1135 I suggest we take a break for 15 minutes. Bring us back here to resume at 1150. Thank you