

## Hearing Transcript

<b>Project:</b>	Five Estuaries Offshore Wind Farm
<b>Hearing:</b>	Issue Specific Hearing 7 (ISH7) - Part 1
<b>Date:</b>	23 January 2025

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## **Five Esturaries\_Colchester\_ISH7\_23 Jan\_PT1**

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### **FULL TRANSCRIPT (with timecode)**

00:00:05:02 - 00:00:25:00

Good afternoon. It's now 3:00 and it's time for issue specific hearing. Seven to commence. Can I confirm that everybody in the room can hear me? Yep. And can I check with those participating online that you can both hear and see me? If you could indicate please.

00:00:27:03 - 00:00:28:28

Oh, good. Sir. Thank you.

00:00:35:04 - 00:00:40:24

And, um, can I check with the case team that both the live stream is running and the recording is running?

00:00:41:12 - 00:00:44:27

I can confirm that the live stream is up and running and recording has commenced.

00:00:45:06 - 00:00:45:21

Thank you.

00:00:48:05 - 00:01:19:26

I'd like to welcome everybody to this issue specific hearing seven concerning the drafting of the draft development Consent Order accompanying the application for a development consent Sent for the proposed five estuaries offshore wind farm. My name is Graham Gould. I'm a charter town planner, and I'm an examining inspector with the Planning Inspectorate. I've been appointed by the Secretary of State as the lead panel member, comprising the examining authority that is examining this application. I'll now turn to my colleagues to introduce themselves.

00:01:19:29 - 00:01:20:20

This is normal.

00:01:21:10 - 00:01:28:28

Good afternoon. My name is Rebecca Norman. I'm a chartered town planner and examining inspector. I've been appointed as a panel member of the examining Authority.

00:01:30:11 - 00:01:40:06

Good afternoon. My name is Felicity Weber. I'm a shorter term planner and an examiner. An inspector. I have been appointed as a panel member of the Examining Authority.

00:01:41:18 - 00:01:51:24

Good afternoon. My name is Mark Harrison. I am a chartered town planner and an examining inspector. I have been appointed as a panel member of the Examining Authority.

00:01:53:17 - 00:02:30:23

Good afternoon. My name is Matthew Herron. I am a chartered town planner and an then examining inspector. I've also been appointed as a panel member of the Examining authority. So our role is to examine the application and to report to the Secretary of State for Energy Security and net zero, with a recommendation as to whether or not development consent order should be made. At this point, I'd also like to introduce the member of the planning Inspectorate's case team who is supporting us today. You may have already spoken with Mr. Johanson on our left hand side, who is the case manager for this project? Also present at this hearing is another colleague from the Planning Inspectorate, Mr.

00:02:30:25 - 00:02:38:29

Gareth Jones. Mr. Jones is here in the capacity of an observer, and will play no part in the examining authority's making of a recommendation to the Secretary of State.

00:02:40:15 - 00:03:00:19

In addition, technicians from the audiovisual company CVS international, contracted by the applicant are in attendance solely for the purposes of managing the recording and live streaming for this hearing. I'll now cover some brief housekeeping matters. Can everybody please set all devices and phones to silent toilets are located out in the corridor, providing entry to this room.

00:03:02:05 - 00:03:19:22

In the event of a fire alarm, please leave the room and use the marked fire exits at either end of the building or the building's central staircase. Then make your way to Assembly Point A in the main car park, which is on the left hand side of the car parking area. You should then wait at the assembly point until stadium staff advised that it is safe to re-enter the building.

00:03:21:19 - 00:03:53:06

Today's hearing is being undertaken both in person and with some online participation via Microsoft teams. We will make sure that if you are attending online today, you will be given a fair opportunity to participate. The hearing is being both live streamed and recorded for those people participating or observing via Microsoft teams, in order to minimise background noise and disturbance, can you please ensure that you stay on mute unless you are speaking? If you are participating online and you wish to speak at the relevant point in the proceedings, please use the raise hand function.

00:03:53:21 - 00:04:03:13

Please be patient as we may not get to you immediately, but we will invite you to speak at the appropriate time. I would also remind everyone that the chat function on Microsoft Teams has been switched off for this event.

00:04:05:10 - 00:04:29:29

A recording of today's hearing will be available on the five Estuaries Offshore Wind Farm project page of the planning Inspectorate's National Infrastructure website, as soon as practicable after the hearings. Conclusion. With this in mind, please ensure that you speak clearly into the microphone stating your name and who you are representing each time before you begin speaking. If you are not at a table with a microphone, there is a roving microphone. So please wait for one of these to be brought to you before you speak.

00:04:31:22 - 00:05:04:18

If anyone wishes to use social media, report, film or record today's during today's hearing or any subsequent hearing that will be taking place, hopefully then they are free to do so. But please do so responsibly and with proper consideration for other parties. We aim to keep the hearing focused so that it can be conducted efficiently. You will find information about this application on the planning Inspectorate's National Infrastructure Planning Project page for this application, and we would strongly encourage you to continue to familiarise yourself with this website in terms of GDPR.

00:05:04:20 - 00:05:35:05

This hearing is being recorded as well as being live streamed. The digital recordings are retained and published, and they form a public record that can contain your personal information and to which the General Data Protection Regulation applies. Consequently, if you participate in today's hearing, it is important that you understand that you will be recorded and that you therefore consents to the retention and publication of the digital recording. The examining authority will only ever ask for information to be placed on the public record. That is important and relevant to the determination of this application.

00:05:35:19 - 00:05:42:12

I would ask that you try your best not to add information to the public, record that you would wish to be kept private, or that is confidential,

00:05:44:10 - 00:06:12:13

so I'm not going to cover some other introductory matters. I'm now going to ask those of you who are planning to speak at today's hearing to introduce yourselves. Could you please introduce yourself, stating your name and who you represent, along with the agenda item or items that you wish to speak on? If you are not representing an organization, please confirm your name. Summarize your interest in the application and confirm the the agenda items upon which you wish to speak. And please, could everybody also state how you wish to be addressed?

00:06:14:07 - 00:06:22:19

Can we therefore start with the applicant and its advisors, please? If we can hear first from whomever will lead the submission today and then from others who would make regular contributions?

00:06:25:13 - 00:06:28:26

Devin. Sorry, miss Paula. Solicitor for the applicant.

00:06:32:07 - 00:06:34:19

Others may need engineering manager for the applicant.

00:06:35:11 - 00:06:39:14

Julian Boswell, solicitor and partner with Burgess Salmon for the applicant.

00:06:40:14 - 00:06:43:03

Daniel Bates, offshore consents manager for the applicant.

00:06:44:29 - 00:06:47:18

James Eaton, onshore consents manager for the applicant.

00:06:52:05 - 00:06:58:08

Thank you. Is there someone amongst the applicants team that is able to keep a list of action points, please? Thank you.

00:07:01:19 - 00:07:17:08

Now, moving on to other interested parties who intend to speak. Again, please introduce yourself and tell us which agenda item you wish to speak on. I will be covering in these introductions those who are both present in the room today and online via teams. So maybe please start with anybody from Tendring District Council.

00:07:31:26 - 00:07:32:18

If there's any.

00:07:34:20 - 00:07:35:07

Okay.

00:07:40:00 - 00:07:43:18

Maybe come back to Sandra. Is that Suffolk County Council, please?

00:07:46:14 - 00:07:47:07

Um.

00:07:47:09 - 00:07:59:17

Hello, sir. My name is Isaac, town planner, employed by Suffolk County Council on nationally significant infrastructure projects. Um, and I am the county's lead planner for this project.

00:08:03:18 - 00:08:06:27

Thank you. Essex County council.

00:08:10:25 - 00:08:32:24

Um, Mrs. Carol Wallace. Um, I'm the principal planner, um, of national infrastructure. I'm. I'm also joined by two other colleagues, which they will introduce themselves. Uh, we'll be talking about, uh, agenda item 3.1, 3.2 and maybe 3.4 as well. Thank you. Thank you.

00:08:34:22 - 00:08:44:01

Miss Susan. Listed for Essex County Council. And I'll be speaking to item 3.1 and any other items.

00:08:45:03 - 00:08:48:19

Good afternoon Eleanor. Storey, Essex County Council.

00:08:56:21 - 00:08:58:10

The Port of London authority.

00:09:05:21 - 00:09:08:27

London Gateway port limited. Ah, here we go. Back to the port.

00:09:08:29 - 00:09:23:02

Sorry, sorry sorry, sorry, sorry, a slow mouse. Um, it's Mrs. Vicki Fowler. Um, I'm a partner and solicitor at Gowling Wlg. Um, and I'm here with Miss Lucy Owen, deputy director of planning and development.

00:09:27:14 - 00:09:28:00

Thank you.

00:09:30:04 - 00:09:32:01

London gateway port limited.

00:09:34:02 - 00:09:50:03

Good afternoon, sir. Trevor Hutchinson, uh, on behalf of London Gateway Port Limited. Um, we are mainly interested in item 3.2, and we may speak on that if required. Can I just introduce my colleague Paul Brooks, and I'll leave for Paul to introduce himself.

00:09:52:14 - 00:09:58:22

Good afternoon sir. Paul Brooks, DP world, London Gateway harbourmaster. Item of interest is likely to be 3.2.

00:10:02:19 - 00:10:05:12

K National Highways.

00:10:08:12 - 00:10:15:19

Good afternoon, Sir Jeremy Bloom representing National highways. Principally interested in item 3.2.

00:10:19:03 - 00:10:19:19

Thank you.

00:10:24:14 - 00:10:28:01

H. Burlington. I can see Mr. Foster again. Would you like to introduce yourself?

00:10:32:26 - 00:10:42:10

Again? Thank you. So let me stop for you. Uh, Haydon Foster, representing Henry Fairlie and son. Probably interested in 3.1 and maybe 3.2.

00:10:44:07 - 00:10:45:09

Thank you. Thank you.

00:10:49:28 - 00:10:51:15

Yes. The remainder of the.

00:10:52:08 - 00:11:02:10

Tamsin Valley for Tea Valley and Sons. Um, we don't have any specific points at this stage, but may wish to comment at either 3.1 or 3.2. Thank you.

00:11:03:27 - 00:11:08:13

Is there anyone else present in person today who may wish to speak during this hearing?

00:11:13:01 - 00:11:16:24

Is there anybody else joining online today who may wish to speak during. Ah, yes.

00:11:19:01 - 00:11:28:27

Nicholas Gold on behalf of Cobham Limited. I'm interested in the schedule to the DCO regarding compensation for gulls.

00:11:31:02 - 00:11:37:26

Thank you. And just. Just to check. Is there anybody here again from Tendring District Council online? Possibly.

00:11:39:13 - 00:11:41:28

No.

00:11:45:04 - 00:11:51:24

Just to check at Essex County Council. Are you planning on covering matters raised by Tendring District Council?

00:11:54:03 - 00:11:58:28

Um. Kerry Wallace. Essex County council. Yes, sir. Thank you. Thank you.

00:12:02:03 - 00:12:15:27

If anybody else decides that they wish to speak during the course of this hearing, for example, to make comments in response to representation made by other parties, you may do so. Please raise your hand either physically or using the function within Microsoft Teams if you wish to speak.

00:12:20:09 - 00:12:56:09

Turning to the purpose of this hearing. This hearing will generally follow the agenda as issued on the project page on the 15th of January. It would be helpful if you had a copy of this in front of you. You will see the hearing guidance noted in the agenda document. For expediency, I'm assuming that everybody has read this, and therefore I don't propose to spend time reading it out now, but I'll make

some elaborate remarks. The examination of this application will primarily be conducted in a written form. The purpose of today's hearing is for the examining authority to hear evidence concerning the applicant's amended draft development Consent order, the latest version being revision submitted at deadline.

00:12:56:11 - 00:13:03:06

58507 and the accompanying explanatory memorandum.

00:13:04:26 - 00:13:37:22

The matters for discussion during the course of ES seven have been identified by the Examining Authority, based on its consideration of the application documents, the relevant representations made by other interested parties, and the oral and written submissions made during the examination. When you are answering the examining authority's questions, please ensure that you provide succinct answers. Were a question is deserving of a yes or no type answer, then please respond accordingly, followed by any amplification as necessary. Are there any comments or questions anyone wishes to make under agenda item two?

00:13:40:29 - 00:13:47:12

Not seeing any. So that concludes this item of the agenda. And I will hand you over to Mr. Gold for agenda item three.

00:13:59:02 - 00:14:16:21

Thank you, Mr. Heron. So turning to agenda item 31. Um, can the applicant give us a summary of, um, any significant or substantive changes that were made to the DCO since issue specific hearing for

00:14:18:09 - 00:14:23:08

um, particularly in respect of the articles and schedules one and two.

00:14:25:22 - 00:14:56:02

Thank you sir. For the applicant. Um, we do not consider there have been any substantive changes to the articles of the DCO since issue four. Therefore, moving on to the schedules In schedule two, requirement five the substation details. These have been expanded to include. The details to be improved include the colors and materials of the substation and fencing, and to explicitly provide the landscaping is to be maintained for the life of the development. Both these changes were requested by Essex County Council and were made at deadline.

00:14:56:04 - 00:14:56:19

Three

00:14:58:03 - 00:15:29:08

In schedule three, the speed limits to be put in place through the DCO were amended at deadline five following discussion with Essex County Council to reflect the um, the details requested by the council and in the deemed marine licenses at deadline four and as requested by the MMO, we have added the Site Integrity Plan condition and the Marine Mammal Plan condition at deadline four. We also added the Sediment Disposal Management Plan.



00:15:29:27 - 00:15:32:04

Those are all the comments I was planning to make at this time.

00:15:56:16 - 00:15:58:04

Thank you miss miss McGeady.

00:16:07:18 - 00:16:37:24

And then turning to the local authorities. Perhaps if we start with Essex and then followed by Sussex. Um do the local authorities have any comments to make at this stage in terms of the drafting of the proposed articles or schedules? One and two? Um, I'm really thinking in terms of any areas that you have particular concerns with at this stage. So turning to Essex County Council first, please.

00:16:47:01 - 00:17:01:01

Please. Mr.. On behalf of Essex County Council. Um, so with regards to comments on the um draft DCO, we wish to defer to written submissions before the deadline. Six days.

00:17:13:23 - 00:17:16:28

You expect those submissions were made at deadline six.

00:17:18:24 - 00:17:20:12

Prior to deadline six?

00:17:26:21 - 00:17:27:06

I mean,

00:17:29:03 - 00:17:57:29

it or anything that you put in writing course won't get published until deadline six. It may, however, be useful, particularly to the applicant if you've in preparing your submissions and whenever you send them to the inspector, you send them or send the applicant a copy. So at least they've got some potential advanced warning of areas that might be of concern, and they can start thinking about that a bit sooner. Is that something that you can facilitate?

00:17:58:23 - 00:18:26:22

Um, yes it is. And with regards to the I'm sorry, may I elaborate elaborate with regards to the the main points, I can provide some high level details. Um, with regards to the draft DCO, um, something that we wish to discuss with the applicant and we have raised previously, we note that it's not agreed is having a phasing or a Grampian style condition within the

00:18:28:07 - 00:18:42:01

um development consent order. That's something that will rage and discuss with the the applicant further, as there have been some discussions outside of these arrangements.

00:18:49:09 - 00:18:52:25

And were there any other headline type points?

00:18:53:12 - 00:18:58:06

Yes. So with regards to um scheduled to

00:18:59:25 - 00:19:32:06

um, part two with regards to um, paragraph five, in relation to fees, we note that the draft DCO has um, been amended to um, provide for fees in respect of, in line with the regulations and had removed um the request for subparagraph two as previously requested by Essex County Council. But um what Essex County Council would like to.

00:19:32:26 - 00:20:33:14

And the applicant to consider is in respect of um and the local authority being able to request additional fees because the regulations, um, provide for minimal fees that may not necessarily be reasonable in respect of the discharging authority. And that's something that we'd like to discuss with the applicant to determine if that can be carved out with regards to, um, the original drafting, plus the addition of considering if bespoke arrangements, the the addition of wording in respect of agreeing bespoke arrangements, if that's agreed by consent, so that the parties can then agree further um fees on top of what what's already um, set out in the regulations And that is preceded in another DCO such as the Bramford to Twin Cities DCO.

00:20:42:05 - 00:20:49:27

And we will be scheduling a discussion next week with the applicant to discuss these points.

00:21:01:06 - 00:21:08:13

Okay. Other matters also are shared by Tendring. Do you understand? Are they of a similar view?

00:21:10:23 - 00:21:16:12

I just need to seek instructions on that from Carol.

00:21:17:08 - 00:21:36:11

And Carol Wallace, Essex County Council. Um, so we have verbal agreement with Tendring District Council that, um, Essex County Council will be the discharging authority on behalf of tendering as well. But at the moment we're just waiting to get some arrangement in place. But we have the verbal agreement from tendering.

00:21:39:11 - 00:21:54:14

And in terms of the bespoke fees that we mentioned earlier, it will be likely to be in the form, um, of extension of the planning performance agreement with the applicant. So this will be discussed further with the applicant.

00:21:59:03 - 00:21:59:23

Thank you.

00:22:01:15 - 00:22:02:13

Thank you, Mr. Wallace.

00:22:06:21 - 00:22:08:17

And then turning to Suffolk.

00:22:11:14 - 00:22:46:00

Good afternoon, Sir Isaac Nunn for Suffolk County Council. Um, I think as the applicant noted, there haven't really been any substantive changes to or there haven't been many substantive changes to the articles and schedules. Um, since I was four. So, um, at most of our points that we made at issue and in written submissions, um, you know, before and since then. Um, still stand. So, um, you know, we're fairly happy with the way that we made our position, um, in those kind of previous oral and written submissions.

00:22:46:16 - 00:22:58:21

Um, so we don't we didn't kind of propose to spend a huge amount of time on it today, unless there was anything in particular that could do with clarifying about our position. Um, that would be of assistance to you, sir.

00:23:01:04 - 00:23:09:16

Um, obviously the the phasing restriction point is, you know, one that we share as well, obviously, but we've discussed that previously.

00:23:11:14 - 00:23:29:06

Yeah. Thank you. Mr.. Um, for the clarification. I think, uh, Suffolk's points are well understood by both the examining authority and for that matter, the applicant. So, Um, recounting what you've already previously said. It won't progress things much.

00:23:30:09 - 00:23:30:24

Exactly.

00:23:30:26 - 00:23:41:26

So, yeah, I do think we do need to briefly touch on the Grampian requirement. Grampian condition point. Um, now,

00:23:43:12 - 00:24:22:09

the applicant has previously indicated it's doesn't think it's appropriate. Um, and it explained, I think perhaps as far back as issue two, which was the first DCO hearing, um, that this project has a large capital tag to it. Um, I think everybody's aware that there is reliance on, um, the substation, um, that National Grid will provide as being the means of transmitting electricity that The north.

00:24:22:15 - 00:24:59:10

Sorry. Five estuaries generate. Um, and if I remember correctly, the applicant's position is that if and that substation doesn't proceed, then five estuaries as things currently stand, does not proceed because there's no way of getting a little over one gigawatt of electricity from offshore into the transmission system. The only way, uh, if National Grid don't progress, it can potentially would it would seem, um, that five estuaries would have to tap into an interconnector.

00:25:01:04 - 00:25:19:06

Um, and it is extremely unlikely, I think, from what the applicant was saying, that they're going to start work on a project unless they've got clarity about how they transmit electricity from the arrays, uh, in ultimately into the transmission system. Um, so

00:25:20:24 - 00:25:35:20

Perhaps looking at the applicant to clarify that that's that's your position that the, the the undertaker is not going to commit vast sums of money on a project where it doesn't have the ability to get the electricity from A to B.

00:25:43:16 - 00:25:53:12

Because I think if there's clarity on this point, then that perhaps isn't potential for much more dialogue as to whether or not the applicant might accept a Grampian type requirement. Miss McGeady.

00:25:54:15 - 00:26:08:22

Well, I think you do that again. Um, our position, sir, is. No, we don't think the requirement meets the test, that it's not necessary. And it's, um, I, I'm slightly thrown by the references to interconnectors that that's certainly not something we've been proposing.

00:26:08:24 - 00:26:34:22

And I raise it as if there's not an option to get the electricity from the arrays, um, into, To, um, somewhere in the vicinity of where the econ node is proposed. Then it would appear the only other way that the electricity from the arrays could be brought into the UK system would be by some sort of offshore interconnector.

00:26:37:06 - 00:27:09:29

With the greatest respect, sir, I think you're making some assumptions there about decisions that are for National Grid, not us. Um, we have a signed connection agreement with National Grid. It is on National Grid to then comply with that. We strongly believe and are happy to put in a further submission at deadline six, setting out why we our position as it is, is NPS compliant and this proposed condition would not be in accordance with the drafting of the NPS. I do not think we could go much further forward than that in this hearing.

00:27:47:23 - 00:28:05:05

I think the submission of the note you've suggested may assist particularly, I think, the local authorities, who still are anxious, I think, to progress, um, the Grampian requirement for a better way of describing it or the feeding requirement.

00:28:20:05 - 00:28:27:05

Was there anything else that you wanted to say in terms of what you've heard from either Essex or Suffolk?

00:28:31:10 - 00:29:03:08

Oh, goody. For the applicant. Um, on the points made by Essex County Council, um, we were aware of the ongoing discussion between Essex and Tendring as to the identity of the discharging authority, and we look forward to getting confirmation, by the way, of that, so we can propose some appropriate drafting in the DCO. Um, we the fees point was raised in earlier hearings and discussion on that has

not really progressed. So the offer of a meeting that has just been made would be very welcome, especially off the back of agreement between the councils as to the identity of the discharging authority.

00:29:03:14 - 00:29:10:08

But it's yes, that fundamentally has not progressed since the previous hearings. We are aware of the point.

00:29:33:28 - 00:29:59:12

Just on the, um, the, the discharge requirement point. Um, perhaps Essex could explain is the intention that, in fact, you would act as agent for tendering through the discharge process? Or is it envisaged that, in fact, the applicant or the undertaker submits its various requests for discharge directly to Essex

00:30:01:10 - 00:30:07:17

because presumably statutorily tendering should be no. Okay.

00:30:09:07 - 00:30:40:22

Perhaps I can assist. Sorry if the applicant. The Planning Act 2008 prescribes the enforcing authority for DCO. It does not prescribe a discharging authority that is actually able to be drafted into the DCO. So in the way that many, many highways discos go to a unit that acts on behalf of the Department of Transport and the Secretary of State as discharging authority, it is entirely open to the parties having agreed that one council can be the discharging authority, even if that would normally be the local planning authority for those particular matters.

00:30:42:00 - 00:30:46:04

If it's of assistance, I can find the statutory references for that in the oral summary.

00:30:48:13 - 00:30:55:05

I think your explanation is fine. Um,

00:30:56:22 - 00:31:34:17

but it does seem to assist that potentially the final drafting of the order. Clarity is needed about that process, and that really is for Essex. And tendering to assist the applicant as quickly as possible so that, uh, the applicant knows what it might need to do in terms of its final drafting. Um, so our SES is able to give an indication as to how quickly they think they will be in a position with tendering potentially to meet and or provide written assistance to the applicant to ensure that that all happens smoothly.

00:31:39:28 - 00:32:00:07

Powerless Essex County Council. Um, we will discuss with the consent manager um, verbally like yesterday. We have been saying we will try to schedule a meeting at the end of next week. Um, because we all have to attend no falls hearings. So yeah, it it will have to be like either Thursday or Friday next week.

00:32:37:07 - 00:32:54:22

Thank you, Mr. Wanless. Is that depending on how, um, things work for the applicant? Does that time sort of timescale start to assist the applicant in terms of progressing matters? Whether a meeting can actually be arranged next week or shortly thereafter?

00:32:56:03 - 00:33:03:15

Well, I think on the DCO drafting side, this is not complex drafting. It's the definition of the schedule. So once we get written confirmation from the council.

00:33:03:17 - 00:33:04:19

So I think.

00:33:04:21 - 00:33:06:15

You know what you need to do.

00:33:06:19 - 00:33:12:08

And then when we have the discharging authority, we can then have the PPA discussion, as Mrs. Wallace indicated. So.

00:33:30:20 - 00:33:46:29

Before I turn to, um, a series of questions, restarting with schedule one and going on. Does anybody else want to raise any matters? Um, of a more general nature. Before we get into some more detail.

00:33:49:06 - 00:33:50:07

Yes, Mr. Foster.

00:33:50:21 - 00:34:23:14

Thank you very much indeed. And apologies if this isn't quite the right moment, but I, um, do my best. Uh, Hayden Foster, representing Henry, uh, Valiant unlimited. I just wanted to make comment on the fact that, um, I'm a practical man. So correct me if I, um, I'm not quite technical enough, but I understand that within the DCO, uh, there for this project, there is a proposal and a preference to, uh, have the opportunity to install ducts for North Falls at the same time.

00:34:24:03 - 00:34:55:03

Uh, I would just like to say representing my landowner client, and I hope I believe others who are not represented today, that is something that will be very much supported by the landowners. If there were possibilities to do that, it would protect our, uh, local asset and our national asset, the soil. The damage would, in our view, be significantly reduced. Uh, and that will contribute to food sustainability and, uh, climate issues as well.

00:34:55:05 - 00:35:09:17

So I'm sorry if it's not quite the right time to say it, but I just wanted to say for the record, that installing both sets of ducts at the same time, even if the order is a bit out. Would be something that we'd be very supportive of. Thank you.

00:35:13:21 - 00:35:31:06

Thank you, Mr. Fossa. Anything else of a more general point, before I dive into a series of, say, more specific questions for elements of the order. Not seeing anything in the room. Not seeing anything from anybody online.

00:35:39:12 - 00:35:59:08

So turning to schedule one and particularly works number 44A and 5:05 a.m.. Most of the linear works that follow. 555A so from six, six eight onwards

00:36:00:27 - 00:36:27:24

um Indicate approximate links for each of the works. So x number of metres um. But for four and five that approach has not been adopted. Any reason um or potentially is that something that should be added in the interests of precision. Because there are amongst four and five, uh, some linear works.

00:36:30:03 - 00:36:47:09

Well, let me give you that, uh, work body is not a cable section. Um, it was originally work for B, and we were asked to amend it to four A. So just to be very clear, and it is explained in the explanatory memorandum at 2.2 54A is not a cable section. It's temporary construction compound. So length would not be appropriate.

00:36:48:03 - 00:36:54:16

Uh, yeah. And actually I've misread my question because I actually had four and then five, five a.

00:37:08:03 - 00:37:22:10

Uh. Could you do that again? Um, I think five has just been excluded because it was it was a short link between two other works. We could add that if it would assist the examining authority on clarity. It wasn't one of the long cable sections. I think it's just not been put in the same category.

00:37:23:20 - 00:37:38:04

It's potentially, I suppose, more for the local authorities. Would the introduction of a distance assist you in terms of any enforcement, um, considerations at a later stage? I suspect it would.

00:37:42:26 - 00:37:51:06

But there's Essex County Council potentially on behalf of tendering in that role because tendering would be the enforcing authority. Um, I have anything to say.

00:37:54:12 - 00:38:20:04

Um, Kerry Wallace, Essex County Council, um, the verbal agreement we have with Tendring tendering. District council is Essex County Council will be the discharging authority and also the monitoring and enforcement authority as well. So I need to take this back to discuss with with Tendring before I can come back. But yeah, I think it would be helpful from initial point of view. Thank you.

00:38:28:25 - 00:38:35:24

We're not hearing strong opposition to the suggestion, so I think it it would assist if a linear distance was added.

00:39:00:08 - 00:39:18:03

And then in terms of the definition. Definition of works for and for a um, are they complete because they um, allow, in effect for one set of cable ducts to be laid, but not for the second set.

00:39:20:06 - 00:39:44:22

Up from the for the applicant? Yes, sir. Again, as explained in explanatory memorandum at paragraph 2.25, the the second set of ducts only start from work number five. So each project is bringing its own ducts onshore. And work number five onwards is the point where the second set of docks would start seaward of work number five. North walls would be carrying out their own works, and we wouldn't be carrying out a second set of, um, ducting works.

00:40:06:28 - 00:40:07:13

Thank you.

00:40:19:09 - 00:40:39:16

I'd like then to move on to requirement two. Um, and this is just really a point of clarification. Um, in respect of, um, the distance between the rotating blades. Um, that's quoted as 20m. 28m. Sorry, I should have said

00:40:41:08 - 00:41:12:05

rotating blades and the. See, that's quoted as 28m mean high water. Now, when, um, the bundle of other made orders were submitted, some of those use either highest or lowest astronomical tide as as the judging point. Is there any reason for a distinction between using mean high water and. Either high or low astronomical tide?

00:41:17:28 - 00:41:21:11

Or is this something you might just want to do in writing if it's going to be?

00:41:21:20 - 00:41:45:17

No, no. Um. Uh, not for the applicant. Um, you just need a reference. Um, we've used mean high water springs. Um, if we used, uh, latte, the number would be bigger. And it's just because we're talking about. It's just a relative. We need a reference level to quote two.

00:41:46:11 - 00:41:55:27

So it's almost coming down to individual preference between projects and how they reflect that, because it did seem to be quite varied as as to the approach.

00:41:57:09 - 00:42:02:21

Correct. I can convert that number to lat or highest and just normal tide. It makes no difference.

00:42:02:23 - 00:42:15:24

It doesn't really matter. It's more again, in terms of the Secretary of State and consistency and what happens on the consenting side if an order is made, it's what is the preferred approach. But it doesn't seem that there is a preferred approach.

00:42:37:10 - 00:42:51:23



Um, yeah. My colleagues just pointed out that, uh, yeah. As long as it's consistent between the, the relative levels that we're giving. So tip height and tip height and this height, you know. Yeah. Within the order itself.

00:43:32:10 - 00:44:37:06

Right. This question is for applicant portal London Authority and London Gateway Port Limited. Um, one way or another, we've heard quite a lot about burial depths within the deep water routes. And the best way of ensuring that is secured. Um. And I'm just wondering whether there is potentially a way that that is set as a parameter within table one of requirement two or a standalone requirement, or finds its way into, um, schedule 11, which is the deemed marine licence for the transmission assets, so that there is no doubt and that potentially might address, I think, particularly the Port of London's concern about whether or not, um, it's a matter that might need to be covered by, um, protective provision.

00:44:43:28 - 00:45:15:04

Uh, for the applicant. So we have been working with especially the Port of London Authority to secure this through the Ccep with reference to a plan, because the plan is quite important. Um, if it if the examining authority were to feel very strongly that you did need a parameter on this, there would need to be a certified plan to go with that parameter, because it wouldn't make sense without one. There would need to be a defined area on a plan. We think since that's already in the ccep and the plan is going along with that, there's no real necessity to add it to schedule two as well. But it

00:45:16:19 - 00:45:18:29

we would consider it if you felt very strongly.

00:45:22:04 - 00:45:29:19

Apologies, as Mrs. May are very fond to tell me it's not a burial date. That's a level. This is quite an important distinction in engineering terms.

00:45:30:09 - 00:45:52:18

But really the the wording I was tinkering with last night actually was more about ensuring that whatever wording that there might be ended up with the situation that, um, it would be possible to dredge to a depth of 22m within the deep water routes.

00:45:54:16 - 00:46:01:11

And I think we agreed in the shipping and navigation section that we would make sure the wording in the Ccep was very clear on that point in the next revision.

00:46:01:16 - 00:46:30:04

Yeah. Uh, I'm, I'm just thinking again, perhaps more from an enforcement point of view. Um, having dealt with lots of conditions and things, um, in, in other contexts, it's just the most efficient and effective way to make sure that everybody knows, um, that that limit or that parameter is built into the process. And there is no doubt from any party about how how it's delivered.

00:46:32:28 - 00:46:53:29

For the applicant. So if the concern is enforcement, then we would strongly advocate for it staying in the case if under the deemed marine licence, because that is how the MMO would enforce, they wouldn't very commonly enforce under requirement if it was also ended, the doomed marine license, because they're much more familiar with that marine licensing process. It may be a point that it would be worth taking a view from the MMO on.

00:47:09:09 - 00:47:15:01

Perhaps turning then to the Port of London Authority. Any observations on on this point?

00:47:17:20 - 00:47:28:05

Sorry. Are you essentially content that the applicants have preference of dealing with the matter through the CIP? Would you address your concern in this regard?

00:47:29:23 - 00:48:01:13

Mrs.. Vicki Fowler on behalf of the Port of London Authority. So so no. And actually your question on requirement to, um, made us think about this and, um, in in prep for the hearing today, um, I plan to raise my hand and say that we felt that this was the perfect spot to include that reference to the depth, and I think we would follow your point. I think the trouble is with the marine license and and we'll come on to amendments to the marine license is that there is some confusion, confusion. And I think this sets it up.

00:48:01:15 - 00:48:30:12

Absolutely. I don't see the issue with producing a certified plan or having, um, reference to, um, the um, the ccep. But, um, yes, we'd very much welcome this. I think the only thing we need to be careful of on the requirements, and I haven't checked the position, is that sometimes there's the ability to move away from parameters where it wouldn't cause a materially worse, um, or materially different effect. And this has to be an absolute. So.

00:48:36:26 - 00:48:43:18

Um, before I ask the applicant to respond, London Gateway, do you have any views on this point?

00:48:47:11 - 00:49:20:24

Um, Trevor Hutchinson, London Gateway Port Limited. Um, we um, um, to this point of, um, depending upon discussions about protected provisions. Um, later on today, um, were happy for matters up until this point to be covered in the CIP. However, um, just listening to the Port of London Authority's views, and we've had the opportunity to consult with Mr. Brooks. Um, I would imagine we may take a similar view to the Port of London Authority, but, um, we'd need to consider that and perhaps cover that in written reps.

00:49:21:01 - 00:49:21:16

So,

00:49:23:09 - 00:49:27:15

uh, Mr. Brooks may wish to add something or give him the opportunity.

00:49:32:14 - 00:49:32:29

No.

00:49:33:29 - 00:49:43:16

Oh, Brooks, DP world, London gateway. Um, and, Trevor, you've covered the points there very well. And I do think we need to just take this point away and and sit down and discuss it further.

00:49:58:08 - 00:50:00:00

Just turn up. If,

00:50:01:20 - 00:50:19:26

um, this was something that found its way into a requirement, would it also need to find its way into schedule 11? The the marine licence for um, the export cable asset.

00:50:27:02 - 00:50:41:21

For that position would be no, sir, because it's, it's that drafting would remain in the sea. So it would still be in the outline with which the final step has to comply. So it would still already be controlled to remain in license as well. I think having it in three times is probably unnecessary.

00:50:43:12 - 00:50:49:19

Now I'm trying to simplify things. Not not make it more difficult. Um.

00:50:58:19 - 00:51:32:28

I'm just wondering. I mean, we're due in the not too distant future to produce our schedule of potentially recommended changes to the DCO. Whether we use that as the opportunity to put some words in, uh, and that would then give both the applicant MMO Port of London Authority and um, London Gateway, and for that matter, Harwich Haven. Uh, the opportunity to all look at the wording and what might be suggested and comment on it.

00:51:42:01 - 00:52:08:04

Uh. Well, maybe the reason there's some hesitation on this side of the table, sir, is that we are currently trying to set up a meeting with the PLA, which looks like it's going to fall in the same week as the issue of your DDC ordinance was a point that we were hoping to pick up in a discussion with them. So you would, if we have yours in time for that meeting, that we could discuss that instead of ours, it'd be very helpful, but I'm a little bit worried there's going to be ships passing in the night on this point, and we're going to come back with different wording.

00:52:10:15 - 00:52:11:15

Okay. Well.

00:52:14:08 - 00:52:17:28

Just before I take Mrs. Fallon, you've you've got your hand up.

00:52:24:02 - 00:52:54:26

Yes. Mrs.. Vicki Fowler, on behalf of the Port of London Authority. Um, so we we we we would welcome, um, your, your input in terms of the drafting just on the marine. Um, sorry, d marine license we are suggesting, and we have proposed wording to the MMO in terms of condition three, um, in

terms of the um design parameters for the depths. And then also we've also put forward um amendments to condition four.

00:52:54:29 - 00:53:03:21

And this is where this 5% reduction in water depth comes in. So again we've suggested that the depths do need to be picked up there as well.

00:53:17:26 - 00:54:00:26

From what miss McGeady said, it might at this stage be better then that the discussions between PLA and applicant take place before the examining authority weighs in, with a possible another way of dealing with the matter. Because it may well be that, um, applicant and the PLA get to a point of resolution that deals with the point. Um, but I suppose at least the examining authority is tabled another way that might, um, deal with the matter, albeit in doing so, we might have perhaps have muddled the waters a bit in trying to simplify things rather than making it more difficult.

00:54:04:12 - 00:54:07:10

Would that be a sensible way to go forward?

00:54:08:28 - 00:54:49:23

So Vicky Fellow, on behalf of the Port of London Authority, um, so I would I would say we are having very grave difficulties with the applicant in terms of some of our negotiations and some of our discussions. And um, so, for example, the amendments that we are seeking to the marine management licence, we're having to do that through the um, MMO, um, in the hope that they come on board. So I think any intervention and any suggestions you can provide and assist. Um, the main concern with the Port of London Authority is that this. These parameters are in somewhere where it is, um, you know, it's fixed and settled and can't be moved and and that, you know, clearly we have a, have a role in.

00:54:50:05 - 00:55:15:11

So, for example, the reference to the outline, um, sorry. Um, the, the key set up is when the detailed C cip is brought forward, there's reference to it being, um, I think it's in accordance or in accordance with the principles. And we would want substantially in accordance with the principles. If we have a design parameter, then that is fixed and that can't move. And that's what the PLA needs to see.

00:55:55:17 - 00:55:59:18

Interest. Um, there are ongoing discussions.

00:56:01:15 - 00:56:37:05

Perhaps, I suppose, another way that the examining authority could get this better before all of those with an interest in it, I applicant the Port Authority, and for that matter, the MMO, is that we issue a rule 17 with some potentially suggested wording as a way forward. Uh, that then uh, would speed up the process, um, because it wouldn't delay things until past deadline six in terms of us then in reacting. Is that possibly a route? I'm getting some nods, I think, from the applicant's side.

00:56:38:09 - 00:56:48:15

Mrs. Fowler, is that something that you might welcome on, on your side? That, um, we take the bull by the horns and issue some wording through a rule 17?

00:56:49:27 - 00:56:54:12

Uh, Mrs. Vicki Fowler, on behalf of the Port of London Authority. Yes, sir. We would welcome that very much. Thank you.

00:57:13:03 - 00:57:24:06

Is the applicant content to bet on that matter? In the ways just suggested that we will issue something that for discussion.

00:57:36:06 - 00:57:52:23

Uh. Let me get you up again. Yes, sir. We are. Um, if at all possible, if it could come out either as soon as possible or definitely by the date that's in the examination timetable of the 3rd of February, when your potential changes. So that would be very helpful because we are due to meet in that week.

00:57:53:12 - 00:58:13:09

I suspect this is something that can be issued very early next week. I, I was tinkering with words last night, which I need to discuss with my colleagues, but I don't think that will take us very long. So, um, it's likely that something will either get issued on Monday or at the latest Tuesday.

00:58:21:05 - 00:58:32:01

Mr. Harrison is just whispering my, the intention is that we would issue this rule 70 to the applicant, to Port of London Authority, London Gateway MMO and Harwich Haven.

00:58:50:01 - 00:59:28:05

If I can then move on to requirement three, which is aviation safety. Um, my query here is not that there's any issue with the need for lighting. It's just whether or not, um, reliance on the navigation or air Navigation Order 2016, um, as the control is appropriate because it seems, having looked at the order, um, that it talks about, um, Sea with limits and territorial sea.

00:59:30:08 - 00:59:34:03

Itself, I think, is relying on

00:59:35:23 - 00:59:48:26

the Territorial Sea Act 1987, which again talks about territorial sea up to I think it's, um, 12 nautical miles. Um, it's really

00:59:50:13 - 01:00:19:25

the, the issue, I think in the navigation order there's reference to adjacent to Eu-uk. What does adjacent actually mean? Um, and therefore is it appropriate to rely on the air navigation order, or should there be reliance on some other legislation that potentially is of a more international nature, which no doubt the Air Navigation Order 2016 also relies on?

01:00:22:09 - 01:00:26:21

But it might come down to how adjacent is being interpreted.

01:00:28:15 - 01:01:07:06

Uh, I'll give you for that. Okay, so, um, section 223 of the ordered lighting of wind turbines in the United Kingdom, territorial waters where the word adjacent appears. Um, the wind turbine generator, which is situated in waters within or adjacent to the United Kingdom, up to the limit. So it's the water that's adjacent to the land I think is, um, I think the crux of this is that compliance with this order is, um, and you will have noticed in the written representations from the Ministry of Defence for so it's requested by normally the Ministry of Defence and the Civil Aviation Authority.

01:01:07:19 - 01:01:37:08

So if the wind turbine is within the um territorial waters, then they have to be marked and lit in accordance with this order. If the wind turbine isn't and the other marking and lighting provisions in the DML still apply, the directions of Trinity House still apply the Marine and Coast Guard to agencies and it would still be required. It's not that no other requirements apply, is just that this one applies as well, because it stores an objection from the Ministry of Defence and the Civil Aviation Authority, who both request it to be noted on the face of the order.

01:02:10:19 - 01:02:18:23

Because the word the wording in the draft order is um, as required by law. I'm just wondering whether there's,

01:02:23:13 - 01:02:27:08

I mean, is the applicant content that the order does apply?

01:02:52:25 - 01:03:28:07

Well, I think so. My understanding from the more practical side of this is that if the wording says that under the air navigation order as directed and the direction is normally, do it as if they are navigation order applied. So that is always the starting point for where we would start on air navigation lighting, even if it wasn't in the territorial sea. So as I say, the compliance within the territorial sea, it's a matter of law, but it's always requested by the Ministry of Defense and the CEA. They then, as directed by my understanding, practically as they they directed us to do what we would have had to do under this order.

01:03:28:09 - 01:03:32:18

So as the order is updated, their requirements are the same across all the wind turbines.

01:03:40:14 - 01:03:40:29

And.

01:03:43:15 - 01:03:52:02

Is there potentially a need to add something in there to make sure that if your order is amended, uh, that that's caught.

01:03:53:26 - 01:03:57:16

Up against the Interpretation Act 1970, it would already provide for that.

01:04:10:19 - 01:04:38:07

Okay. Then I'd like to move on to, um, requirements or five and ten. So requirement five is the onshore substation works and requirement ten is the landscape and ecological management plan. Um and and really this is for applicant um Tendring and Essex to deal more with the situation. If for any reason

01:04:39:22 - 01:04:44:10

five estuaries is consented but North Falls does not proceed.

01:04:45:26 - 01:05:18:22

Um the wood as we stand at the moment, we there are some in effect draft um details shown in the um landscape and ecological management plan, which are based on the two schemes. Um, but if, as I say, only the one scheme uh proceeded, does that drafting allow for a scenario where Potentially the the, um.

01:05:18:24 - 01:05:50:08

Olim had to change to accommodate a one scheme solution. Yeah. One scheme being taken forward because the wording, um, basically requires, uh, in the draft order that the, the scheme be implemented broadly in accordance with what's in the outline plan. And it's the difficulty there that potentially a one scheme or one substation is potentially departing quite markedly from what would be in the imp.

01:05:51:10 - 01:05:52:25

Uh.

01:05:53:06 - 01:06:30:23

Could you for the applicant, um, I, we do not agree that it would be departing from not only, sir, this has been structured so that the project could be delivered in isolation, as I think was covered in the two specific hearings earlier this week. The perimeter planting would stay the same. Some of the, um, planting within that might not be necessary or might not be. You know exactly where it's currently shown on the indicative layout and the outline. All but all the principles of that and all the commitments and that all would still apply and could be delivered for five estuaries without North Falls coming forward.

01:06:31:05 - 01:06:34:02

And there would not be a non-compliance issue at that stage.

01:06:50:20 - 01:06:55:22

Uh, turning to Essex, do you have any comments to make in that in respect to this question?

01:07:00:20 - 01:07:09:14

Sir Wallace, Essex County Council, um, we will defer to submission. Um, because we need to discuss amongst ourselves internally first. Thank you.

01:07:45:15 - 01:08:23:28

He's staying with requirement ten. So that's the. Oh, limp. Um, with respect to the undertaking of onshore site preparation works under subparagraph three. Would it be appropriate for those

preparatory works as defined in article two of the draft order, to be undertaken in accordance with the outline limb, rather than a final version of the limb, which would ultimately prove pursuant to subparagraph one of requirement ten.

01:08:24:29 - 01:08:38:22

And because potentially included in preparatory works are things like the diversion and laying of utility services, which potentially might be quite significant.

01:08:46:08 - 01:08:48:15

So turning to the applicant first.

01:09:09:02 - 01:09:41:29

Of all Paula McKinney for the applicant. So um, requirement ten, subparagraph three does require that onshore site preparation works are undertaken in accordance with the outline. We are currently amongst the other outline updates we are doing following the hearings this week. Um, trying to pull out the commitments that need to apply to such works and to a clearer list in the way that we have done in the COC, so that it's clearer that these do apply to these preparatory works ahead of the final being approved. Does that address your concern at all? So.

01:09:48:10 - 01:09:55:12

The easy answer is I'm not entirely sure at this point. Um.

01:09:58:09 - 01:10:16:12

Because certainly it did appear, um, that some quite substantive work could be done as preliminary work, which potentially, Um, under a draft document. It seemed a little bit, um, cart before horse.

01:10:19:21 - 01:10:51:05

Let me give you for that. Okay. The site preparation works or though are limited in their extent and they're limited the activities that that can appropriately be done. So I'm not sure that I agree that they are extensive. And I, I understand what you're saying about the diversions, but at the moment we have not actually identified any major diversions that need to be carried out there. That's and there is a fallback. Should we find something that's not expected or something else comes along that we don't currently know about? We're not anticipating needing huge diversionary works.

01:10:58:27 - 01:11:13:17

Uh, so it would also cover other things that we need to do, such as archaeological investigations that we could do without controls because our site investigative work. So even in those circumstances, the controls about the outline are more than would normally be imposed on survey work.

01:11:32:16 - 01:11:50:27

It might then be that actually it's the definition of preparatory work under article two that might need some sort of revisit. Um, I mean, do the do the local authorities in Essex, um, have any observations to make on this point?

01:11:54:29 - 01:12:00:24

Towards Essex County Council. So we don't have particular comments on this point. Thank you.



01:12:18:15 - 01:12:45:28

I think the way to progress is you've. You've heard our potential concern, I think, as a post hearing submission. Um, if you can just indicate why you're of the view that actually this is not potentially as significant as the examining authority has potentially identified. Um, and then we we can take a view on that, um,

01:12:47:24 - 01:12:51:23

as to whether or not we think we might wish to suggest some

01:12:53:13 - 01:12:56:18

changes to the, the order when we issue our schedule.

01:13:18:06 - 01:13:24:25

Then moving on to requirement six, which the code of construction practice um.

01:13:27:01 - 01:14:00:20

At deadline five, some changes have been made, including the addition of an entirely new section for 11, which was water resources, and some fairly significant changes to the archaeological section, which is four seven. Now, at the start of the examination, we were clearly told this is a final document. Um and Essex County Council indicated that they also content that the document be handled um, as a final, um, version.

01:14:01:13 - 01:14:29:12

But as I say, some quite significant changes were made to it at deadline five. The examining authority continues to have reservations about whether this document should be treated as a final. At this stage, and certainly in our experience, variously, we've not encountered a situation where a code of construction practice is treated as a final document at the consenting stage.

01:14:31:17 - 01:14:46:00

So does it either or? Do either the planning authorities or the applicant have any views about the appropriateness of the extant version of the code being treated as a final document? I'll start with Essex first, please.

01:14:52:26 - 01:15:10:08

Um. Kerry Wallace, Essex County Council. Um, the previous discussion with my colleagues was were saying, we want the comfort of this document to be a full document so that we can have the certainty of how it will operate during construction period.

01:15:19:05 - 01:15:38:21

Yeah, I think the point that the examining authority is raising is, is this document in a state that should be treated as the final version or should, prior to the commencement construction work, the applicant seek approval to a final version before those works commence.

01:15:49:26 - 01:16:04:05

So I will need to go back to my, um, colleagues to double check whether they're happy. But so far we are working towards the the the idea that it will be a final version at the end of the exam examination period. Thank you.

01:16:04:17 - 01:16:41:14

Yeah, I mean, to to assist you perhaps in those discussions. Certainly. I think it was probably during issue specific hearing two, which was the first, um, DCO hearing. Uh, my recollection is that Mr. Wood, who was appearing for Essex at that hearing, I think he was clear in his mind, um, that he was content that the document, the the code as it was at that point be treated as a full document and there would not be a requirement for, um, submission of a final version, that it was a final version.

01:16:42:02 - 01:17:07:15

Um, the project would proceed with. But certainly the examining authority's concern is that we've already seen, say, a deadline five a bit of a rewrite, um, which does raise a concern to us as to whether or not this is a complete document and should be relied on as and when any consent might be issued, and then works proceeded.

01:17:25:15 - 01:17:27:24

For the applicant. Any observations?

01:17:28:03 - 01:18:05:15

Uh, for the applicant. Um, sir, we would submit that the changes made during an examination show that the process is working. We never intended the first draft of this put before you to be the final document. Bill is perhaps a better. It was intended that the final version at the close of exam, which would become the certified document, was a full cock. Um, the fact that the comments on that document have come in and changes have been made. We would submit assuring the process is working and that parties who are interested in the contents of this document are raising those points now, so that this document, by the end of examination, is appropriate and full and covers everything it needs to cover.

01:18:05:20 - 01:18:13:22

So we remain of the view that at the close of examination, the version which would become the certified document is of rules, not an outline.

01:19:36:19 - 01:19:37:10

Mr. Foster.

01:19:38:26 - 01:20:17:21

Thank you, sir. Uh, Haydon Foster. Uh, representing, uh, Henry Ferry and Son Limited. Um, this was something I wanted to talk on because there is overlap with the discussions we had this morning and the conversations around ongoing discussions about an agreed solution, which it was agreed this morning. Everyone wanted. To achieve. Um, there is a great deal of overlap between the code of construction practice, as it's referred to in the documents here, and the documents that tend to be landowner agreements, which we see on most of these projects where one gets an agreed solution.

01:20:17:27 - 01:20:51:00

Most recently, we tend to refer to them as the landowner interface document. Um, the heads of heads of agreement provided so far refer to a construction code or a landowner interface document to be agreed alongside the option documents, which are now commencing. Drafting only for a few and A and A number are still ongoing with the heads of agreement, as you suggested this morning, that we should try and accelerate that process.

01:20:51:27 - 01:21:29:08

Um. I'm not wishing to be critical. I might have hoped that we would have had a draft interface document thus far, so that in a detailed form, so that these discussions could have been continuing simultaneously for various reasons that hasn't occurred. The items that would normally be covered under such matters are, um, agricultural liaison officers, records of condition, land drainage, soil management during construction, water supplies, irrigation, reinstatement, and soil aftercare are all part of national policy and important to our clients on other projects.

01:21:30:21 - 01:22:04:20

This has been negotiated with the help of specifically, um, Louise Staples at the NFU. You asked for specific examples this morning as a arbiters, the wrong word, but as a as a sense checker as to reasonableness and has been agreed, uh, with ease. And I'm not saying it can't be agreed here. I do think there's situations where that document, to avoid contradiction and conflict, may need to feed into the code of construction practice. And certainly I wish to be wish to be careful.

01:22:04:24 - 01:22:35:00

Um, following on from, um, what Julian said this morning about talking about other schemes and whatever, but it's important to landowners that contractors are bound by such things. Uh, at the next stage after your, your involvement. So my view would be that whilst it would be great if a final document could be included, the ongoing discussions that you wish to to have from a landowner perspective, it will depend whether that's possible, how far those have got.

01:22:35:04 - 01:22:39:18

I'm certainly not saying this isn't something that can be agreed. Thank you for your time.

01:23:12:09 - 01:23:13:14

Any observation.

01:23:13:27 - 01:23:49:19

Are you the applicant? So that this LCP is a project wide document that applies to all of our works? It has already been updated to reflect some points in the Construction Practice addendum, which is a document that has been given to the landowners. The landowners specific points, as and when they are negotiated would not go, then go back into the COC. Because the COC is a project wide document that is enforced by the planning authority and approved by the planning authority. It does not go landowner specific. So we don't think that it would need to be revisited and updated as the individual negotiations are ongoing.

01:23:50:04 - 01:24:11:07

There are also a number of outlines in there for detailed plans that come forward later, such as soil management. It's not that there are no details to follow. It's that we think everything that needs to be in

that document can be put in that document now. And we had understood that to be the request of Essex County Council, and we were comfortable trying to accede to that request.

01:25:29:29 - 01:26:00:18

I think it would be useful if Essex and or Tendring councils, um, certainly for their deadline. Six submissions undertake a review of the Code of Construction Practice, and if they've got any concerns about its content. They need to identify them at that point, because, um, we will be getting closer to the conclusion of the examination.

01:26:01:16 - 01:26:22:16

Um, and if this document is to be treated as a complete version, um, then certainly the examiner authority needs to be clear of that at the point the examination closes. So, um, is that something? Mrs. Wallace? Um, you'll be able to, uh, address through your deadline six submissions.

01:26:24:11 - 01:26:41:14

In effect, a review of the deadline, five version of the code, and then an indication as to whether you are content with its contents at this stage, or whether there's a view that anything else might need to be revised in it. know.

01:26:43:07 - 01:27:23:15

Um, Carol Wallace, um, Essex County Council. Um, so we didn't mention within the statement of common ground with the applicant that we are broadly happy with the content of the code itself. So, um, uh, we certainly can ask, um, our colleagues to have a look in terms of the inserted text, but as far as I understand, some of the changes, uh, update within the document itself is as a reflection of the ongoing discussion between the county council and the applicant, so as to the exact wording, I need to to double check with my colleagues, which they are currently being consulted on.

01:27:23:17 - 01:27:53:02

So we are confident that we can come back at that line six to say whether we are happy with the the document in its current form. If not, then we will. We'll definitely put it in writing about if there's anything that needs to be reflect. But otherwise we we welcome that like, um, the soil management plan and, and the cook itself has been updated. As for some of the minor comments that we have flagged up at deadlines three and four.

01:28:19:17 - 01:28:20:14

Thank you, Mr. Wallace.

01:28:39:08 - 01:29:13:01

Now like to me. Well, it's not really a requirement nine, but it's the closest we can get to at the point at the moment. Which requirement? Nine deals with onshore archaeology. Um, the applicant in responding to Essex and tendering deadline for submissions in rep five, hyphen zero 73, indicated that an overarching onshore archaeological mitigation strategy will be prepared and submitted at deadline six.

01:29:14:03 - 01:29:27:17

Um, how does the applicant intend that compliance with that archaeological mitigation strategy would be secured? Would that be a matter through expanding requirement nine or some sort of standalone requirement?

01:29:33:15 - 01:29:51:07

For the applicant? We are in the process of seeking to agree an amendment to requirement nine. To address that and the ability the County Council has put forward some drafting to us. And and we are due to pick that discussion up with them after these hearings, sir. Well, not immediately after, but following these hearings.

01:30:12:18 - 01:30:16:27

Is it that a matter that you're aware of in terms of how it's progressing?

01:30:19:24 - 01:30:29:02

Carol Wallace, Essex County Council. Yes, sir. We are in ongoing discussion with the applicant. So we are finding the wording that's helpful.

01:30:29:04 - 01:30:29:19

Thank you.

01:30:30:03 - 01:30:30:20

Thank you.

01:30:38:01 - 01:30:59:08

But what I think that concludes my questions in respect of agenda item three one, we've been sitting for about an hour and a half. Next section is Protective Provisions. I think this probably would be an appropriate time for a short adjournment. Um, before.

01:31:01:26 - 01:31:04:14

We have a discussion about protective provisions.

01:31:08:06 - 01:31:19:01

Um, are people happy with 15 minutes, which would bring us back at 4:45, getting nods from the applicant.

01:31:20:20 - 01:31:30:16

Um, are other parties content that we can resume at quarter two? Yes. Okay. The hearing is therefore adjourned until 4:45. Thank you.