

## Hearing Transcript

<b>Project:</b>	North Falls Offshore Wind Farm
<b>Hearing:</b>	Issue Specific Hearing 2 (ISH2) - Part 1
<b>Date:</b>	08 April 2025

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Created on: 2025-04-08 10:43:41

Project Length: 01:28:40

File Name: NF\_8APR\_ISH2\_PT1

File Length: 01:28:40

**FULL TRANSCRIPT (with timecode)**

00:00:05:20 - 00:00:39:11

Everyone. It's now 10:00 and time for this hearing to begin. I'd like to welcome you all to this issue specific hearing, which will consider the draft development consent order. Onshore and offshore ecology, commercial fisheries, navigation and shipping, and offshore landscape. Visual and seascape for the North Walls offshore wind farm project. Before I go further, please can I confirm that everyone can hear me clearly?

00:00:41:00 - 00:00:51:03

Thank you. Please can I also confirm with Miss Hannigan of the case team that the live streaming and recording of this event has begun?

00:00:53:08 - 00:01:12:26

Thank you. My name is Wendy McKay. I'm a Bachelor of Law and non Non-practicing solicitor, and I've been appointed by the Secretary of State to be the lead member of the panel to examine this application. I'm now going to ask the other panel members to introduce themselves to you.

00:01:14:23 - 00:01:25:16

My name is Matthew Shrigley. I am an inspector and a chartered town planner, appointed by the Secretary of State to be a member of the panel to examine this application.

00:01:28:11 - 00:01:38:15

Good morning. My name is Jonathan Medlin. I am also a chartered town planner, appointed by the Secretary of State to be a member of the panel to examine this application.

00:01:41:22 - 00:01:42:07

Morning.

00:01:42:09 - 00:01:52:28

My name is Helen Van Willingham. I am a solicitor and also a chartered town planner, and have been appointed by the Secretary of State to be a member of the panel to examine this application.

00:01:56:06 - 00:02:05:17

Good morning. My name is Anthony Johnson. I'm a chartered civil engineer, and I've been appointed by the Secretary of State to be a member of the panel to examine this application.

00:02:06:15 - 00:02:38:12

Thank you. Together, we constitute the examining authority for this application. I'll now deal with a few housekeeping matters for those attending in person. Please can everyone either turn off or set their devices and phones to silent during the hearing, so as not to interrupt anyone who may be speaking? Toilets are situated in the public area of the hotel, just outside this room and are accessible. There is no fire alarm testing scheduled for today.

00:02:38:24 - 00:03:05:15

Therefore, if the fire alarm does sound, please leave the building by the nearest clear exit and do not re-enter the building until instructed to do so by staff. The assembly point is on the sunken lawn, or there is an alternative muster point in the main car park, which is opposite the front entrance. Is there anyone present who would require assistance in the event of a fire or other emergency?

00:03:09:06 - 00:03:30:15

A short mid-morning break will be taken around 1130, with a longer lunchtime break at around 1:00 and another short mid-morning mid-afternoon break at around 330. If the hearing is not concluded by that time for those attending virtually, please can I ask you not to use the team's chat function?

00:03:33:03 - 00:04:06:10

Now, this meeting will follow the agenda published on the National Infrastructure Planning website on Thursday, 25th of March, 2025. Examination library Reference EV 601. It would be helpful if you had a copy of this in front of you. The agenda is for guidance only and we may add other considerations or issues as we progress. We will conclude the hearing as soon as all relevant contributions have been made and all questions are asked and responded to.

00:04:07:05 - 00:04:34:23

However, if the discussions can't be concluded, then it may be necessary for us to prioritise matters and defer other matters to further written questions. Likewise, if you cannot answer the questions being asked or require time to get the information requested, then please can you indicate that you need to respond in writing? The next deadline for written submissions is deadline for on the 25th of April.

00:04:36:12 - 00:04:56:18

Today's hearing is being undertaken in a hybrid way, meaning some of you are present with us at the hearing venue and some of you are joining us virtually using Microsoft Teams. We will make sure that however you have decided to attend today, You will be given a fair opportunity to take part.

00:04:58:04 - 00:05:32:16

A recording of today's hearing will be made available on the North Wall section of the National Infrastructure Planning website, as soon as practicable after the hearing has finished. With this in mind, please ensure that you speak clearly into a microphone stating your name and who you are representing. Each time you speak, please ensure that your microphone is only switched on whilst you are speaking. If you are not at a table with a microphone, there is a roving microphone.

00:05:32:18 - 00:06:06:11

So please wait for this to be brought to you before you speak. A link to the planning Inspectorate's Privacy Notice was provided in the notification for this hearing. We assume that everybody here today has familiarized themselves with this document, which establishes how the personal data of our customers is handled in accordance with the principles set out in data protection laws. Please speak to the case team if you have any questions about this.

00:06:07:09 - 00:06:13:22

I'll now ask my colleague, Mr. Medlin to explain the purpose of the issue. Specific hearing.

00:06:16:18 - 00:06:50:21

Thank you. I will now very briefly explain the purpose of the issue specific hearing and how it will proceed on the draft development consent order or draft DCO aspect of this issue. Specific hearing. The draft DCO is a very important document. This hearing is being held on a without prejudice basis. This means that even if your position is that the development consent should not be granted, and therefore that the Secretary of State should not make the draft DCO.

00:06:51:04 - 00:07:00:09

You can make representations in this hearing on the drafting of the DCO, without conceding your wider position that the draft DCO should not be made.

00:07:01:26 - 00:07:48:15

It is important that the examining authority. It is important for the examining authority because we are under a duty to provide the Secretary of State with the best drafted DCO that we can. Even if we end up recommending that the Secretary of State should not make the DCO. This is because we do not decide these applications. We make recommendations to the Secretary of State and he or she makes the decision. So even if our report to the Secretary of State were to recommend that the development consent should not be granted, we must still append a draft DCO, ensuring that the Secretary of State can decide to make the order if he or she wishes for the other topics under consideration.

00:07:49:00 - 00:07:59:21

The issue specific hearing provides an opportunity for the issues raised by interested parties, and in particular, the differences between them, to be explored further by the examining authority.

00:08:01:15 - 00:08:08:24

As indicated in the agenda. Questioning at the hearing will be led by a member of the panel, supported by other panel members.

00:08:10:15 - 00:08:43:11

I would again ask for those present not to interrupt whilst another person is giving evidence. Even though you may disagree strongly with what is being said. It's important that everyone has a fair opportunity to put their case without interruption or distraction. The Dclg guidance for the Examination of Applications for Development Consent explains that the Ex may refuse to hear evidence which is, in the view of the exa. Irrelevant, vexatious, or frivolous relates to the merits of a national policy statement.

00:08:43:24 - 00:09:16:04

Repeats other representations already made or all relates to compensation for compulsory acquisition of land or interest in or over land. Additionally, the Ex may request any person behaving in a disruptive manner to leave the hearing or to remain only if that person complies with specified conditions and there are powers within the Planning Act 2008 to achieve this. I'll hand back to my colleague, miss McKay, who will now take the introductions for issue two.

00:09:18:11 - 00:09:55:21

So I'm now going to ask those of you who are participating in today's hearing to introduce yourselves. When I state your organisation's name, please could you state your name and who you represent and which agenda item you wish to speak on? If you are not representing an organisation, please confirm your name. Summarise your interest in the application and confirm the agenda item that you wish to speak on. please. Could everybody also state how you wish to be addressed? Could I start with the applicant and then any of the advisors who represents the applicant today?

00:09:57:11 - 00:10:15:08

Good morning panel. My name is Gary McGovern. I'm a partner with Pinsent Masons LLP. Representatives to the applicant. North Falls Offshore Wind Farm limited. I'm happy to be referred to as Mr. McGovern. And if it helps you to direct your questions, I will be focusing on the offshore elements of the DCO today. Thank you.

00:10:24:05 - 00:10:53:17

Good morning. My name is Clare Broderick. I'm a legal director at Pinsent Masons LLP, solicitors for the applicant, and I will be speaking to matters relating to the onshore elements of the draft DCO. I am joined by various members of the applicant's team for the first agenda item, and then further members of the applicant team will come forward for further agenda items. I'll let those at the table now just briefly introduce themselves. Thank you.

00:10:57:20 - 00:11:09:12

Good morning. My name is David Reid. I'm the engineering manager for the North Falls Offshore Wind Farm project. I'm a chartered engineer with the Institute of Engineering Technology, and I can be referred to as Mr. Reid. Thank you.

00:11:13:03 - 00:11:15:29

Good morning. My name is Mr. Daniel Harper.

00:11:16:01 - 00:11:25:10

I'm a chartered surveyor. Um, and I'm the consents manager for North Falls Offshore Wind Farm Limited. I can be referred to as Mr. Harper. Thank you.

00:11:28:28 - 00:11:29:22

Uh. Good morning.

00:11:29:24 - 00:11:49:06

Uh, my name is Gordon Campbell. I'm a principal environmental consultant with Royal Alaskan DHB, providing support to the applicant. Um, I chartered environmentalist with the Institute of

Environment, uh, environmental management assessment. and I'm speaking to I'm sure that is today. And I can be referred to as Mr. Campbell. Thank you.

00:11:51:20 - 00:12:04:16

Good morning, Miss Rasheen. Giles. I'm an associate with Pinsent Masons LLP. I'm supporting the applicant and my colleagues today, throughout the day, not speaking to any specific points. You can refer to me as Miss Giles. Thank you.

00:12:04:28 - 00:12:18:28

Thank you. I'll now move on to the organisations and individuals that have given notice of their intention to attend in person and to speak. So firstly, Suffolk County Council.

00:12:21:00 - 00:12:42:22

Thank you ma'am. My name is Graham Gundy. I'm national infrastructure planning manager at Suffolk County Council. And you can refer to me as Mr. Gumby or Graham as you please. Uh, I'm accompanied by other members of the team, and I'll let them introduce themselves. Um, but overall, we would like to speak on both 3.1 and 3.2.

00:12:48:04 - 00:12:55:08

Uh, Zachary Farndon, Suffolk County council. I'm an enterprise planning officer. I'm supporting my colleague Graham today. Thank you.

00:12:58:15 - 00:13:06:09

Good morning. My name is Clara Pearson. I'm a graduate project officer at Suffolk County Council. Happy to refer to as Clara or Miss Pearson. Thank you.

00:13:06:20 - 00:13:07:11

Thank you.

00:13:09:08 - 00:13:13:12

Sir. And we got somebody online as well. Tim. Tim, do you want to introduce yourself?

00:13:20:06 - 00:13:31:29

Yeah. Good morning. Um, my name is Tim. Tim. I am Suffolk County Council ecologist. Um, and I'm here to support my colleagues. Um, I'm happy to be called Mr. Apple. Thank you.

00:13:45:03 - 00:13:51:03

Thank you, Mr. Gumby. So have I. Move on now to Essex County Council.

00:13:52:28 - 00:13:53:17

Thank you. Melvin.

00:13:53:19 - 00:14:19:12

Good morning to both yourself and the remainder of the panel. My name is Mark wood. And I'll spell that for you. For the purpose of the record, the w o g e r. I'm the technical and operational lead on Essex County Council, and I'm a chartered member of the Chartered Planner. And you can refer to me

as Mr. Roger or Mark as you see fit. Thank you. And I've got some obviously colleagues with me and I'll let them introduce themselves. Thank you.

00:14:21:11 - 00:14:35:18

Good morning all. My name is Carol Wallace, and I'm the principal planner of Essex County Council. I'm also a chartered town planner. And, uh, we'll be speaking on agenda 3.1 and 3.2. Thank you.

00:14:38:00 - 00:14:56:28

Good morning. My name is Eleanor Storey. I'm a senior planner at Essex County Council. I would also like to introduce two of our colleagues that we have online. Um, Susan Moussa from our legal team, who'll be speaking on topic 3.1, and Sue Hooton, who will be speaking on 3.2. Thank you.

00:15:08:06 - 00:15:09:02

Thank you.

00:15:11:08 - 00:15:11:28

And.

00:15:14:23 - 00:15:23:22

Do we have anyone from Ardley Parish Council here today? Thank you. If you'd like to both introduce yourselves, one after the other.

00:15:24:08 - 00:15:25:24

My name is James Blythe.

00:15:26:05 - 00:15:39:15

Um. Oh, the parish councillor. Um, first generation farmer in the parish. Um, so I know the village quite well. um. And I'd like to speak about ecology.

00:15:43:15 - 00:15:49:20

Thank you. Good morning. Just to point out, Mr. Blythe, it may not be until this afternoon that we get to that stage.

00:15:52:22 - 00:15:57:27

Good morning. I'm Jane Marshall Ardley parish council. I'm here for, um, overall.

00:15:57:29 - 00:16:10:04

Interest in today's hearing. I have nothing, um, definite to speak, to speak about. Just like to take an interest and represent our community. Thank you. I could be referred to as Jane Marshall. Thank you.

00:16:11:12 - 00:16:24:11

Thank you. Um, can I just check if there was anyone else in the room that was intending to speak? I did have Councillor Zoe Fairlie down. Thank you.

00:16:28:18 - 00:16:31:05

We're just. We're just getting the microphone brought to you.

00:16:34:29 - 00:16:35:24

Thank you. Good morning.

00:16:35:26 - 00:16:50:28

Everyone. Yeah. My name is, um, Zoe Fairlie, councillor Zoe Fairlie. I'm the ward member for Ardley and Little Bromley, and my family also farm at Norman's Farm and various other areas along the route. Thank you.

00:16:52:05 - 00:16:57:26

Thank you. Can I just check if there is anyone else in the room that was wanting to speak today?

00:17:01:00 - 00:17:20:05

No. All right. I'll move on to those virtual attendees that have not yet introduced themselves. Um, I don't know if they're here yet. I think they are. Environment agency, Barbara moss. Taylor. Perhaps you could introduce yourself.

00:17:23:02 - 00:17:57:24

Thank you. Ma'am. Good morning. Uh, my name is Bob Moss Taylor. I am the project lead for this Particular application. Um, I'm interested in agenda item 3.1 in specifically the protective provisions and the requirements. And I may be referred to as Mrs. Taylor. And my colleague, Mr. Cooper is also here in the capacity to observe.

00:17:58:06 - 00:18:05:11

Uh, she will be taking over the project when I meet the organization. Thank you.

00:18:08:16 - 00:18:23:00

Thank you, Miss Taylor. I just mentioned that the sound quality wasn't as good as. Perhaps we heard from you last week. I don't know if there are any adjustments you might make to your, um, to your microphone in the meantime.

00:18:25:15 - 00:18:26:11

Alright. Thank you.

00:18:27:28 - 00:18:32:05

Uh, Faber District Council, do we have Kathryn Bailey?

00:18:37:28 - 00:18:56:05

No. Um. Suffolk County Councillor Tim Outlaw has already introduced himself. Um, Essex County Council, which you did mention the virtual attendees. I just wondered if they wanted to formally introduce themselves if they are available online.

00:18:59:18 - 00:19:14:05



Good morning ma'am. Good morning. Panel and, uh, participants in the room and online. Uh, my name is Sue Hooton. I'm principal ecologist for and representing Essex County Council and Tendring District Council today. Um, and you may refer to me as Mrs. Hooton. Thank you.

00:19:14:18 - 00:19:15:11

Thank you.

00:19:18:24 - 00:19:28:10

Good morning. Panel. My name is Susan Mesa. I'm the legal services manager at Essex County Council, and I will be speaking to item 3.1. And you can refer to me as Miss Mesa.

00:19:31:20 - 00:19:32:24

Thank you very much.

00:19:42:05 - 00:19:50:23

Right. Thank you. I think that completes, um, the list. Can I just check if the Maritime and Coastguard Agency are present? Virtually.

00:20:00:06 - 00:20:03:29

So if I move on, do we have the London Gateway port?

00:20:07:04 - 00:20:07:27

Good morning, ma'am.

00:20:07:29 - 00:20:40:06

Uh, my name is Frances Tyrrell. I am a partner at Goddard LLP. I'm happy to be referred to as Mr. Tyrrell. Uh, I represent London Gateway Port Limited. I'm also joined by two members of London Gateway Port, and I will ask them to introduce themselves very shortly. Uh, we will be speaking exclusively in relation to the offshore elements. In particular, we're speaking on item 3.1 as to requirements as to the marine licence for the offshore elements, as to the protective provisions.

00:20:40:27 - 00:20:45:11

And we will also speak to item 3.4 as might be useful or necessary.

00:20:47:02 - 00:20:52:20

If I could just turn to, firstly Mr. Trevor Hutchinson to introduce himself and then Mr. Paul Brooks to introduce himself.

00:20:54:23 - 00:21:10:29

Good morning ma'am. Good morning panel. My name is Trevor Hutchinson. I am director of planning at London Gateway Port Limited. I'm happy to be referred to as Mr. Hutchinson or Trevor. And as Francis mentioned, our interest is matters 3.1 and 3.4 of today's agenda.

00:21:11:22 - 00:21:12:14

Thank you.

00:21:14:21 - 00:21:16:21

And hopefully we have Mr. Paul Brooks too.

00:21:18:24 - 00:21:28:15

Good morning everyone. Good morning. My name is Paul Brooks. I'm the harbour master at DP World London Gateway. I'm happy to be referred to as Paul Brooks. Thank you.

00:21:29:00 - 00:21:36:08

Thank you. Thank you. Thank you very much. And the. Moving on to the Port of London Authority.

00:21:40:16 - 00:21:43:23

At downer? Yes. Please. Go ahead.

00:21:44:06 - 00:21:45:03

Sorry. Good morning.

00:21:45:05 - 00:21:46:12

My name is Julie Russell.

00:21:46:14 - 00:21:46:29

I'm a.

00:21:47:01 - 00:21:48:03

Principal associate.

00:21:48:05 - 00:21:48:28

At Gowling.

00:21:49:06 - 00:21:49:27

Wlg.

00:21:50:12 - 00:21:51:02

And I'm.

00:21:51:04 - 00:21:51:19

Joined.

00:21:51:21 - 00:21:52:15

This morning.

00:21:52:28 - 00:21:54:04

By Lucy.

00:21:54:06 - 00:21:54:21

Owen.

00:21:54:23 - 00:21:55:29

Who is the deputy director.

00:21:56:01 - 00:21:57:09

Of planning and development.

00:21:57:11 - 00:22:02:12

For the Port of London Authority, and also by Lydia Hutchinson, who is.

00:22:02:14 - 00:22:03:14

The marine manager.

00:22:03:16 - 00:22:04:03

For the Port of.

00:22:04:05 - 00:22:04:21

London.

00:22:04:29 - 00:22:17:14

Authority. Um, we will be speaking to you. Um, agenda item 3.1 and 3.4. Um, you can address me as Miss Russell. Thank you.

00:22:17:28 - 00:22:19:00

Thank thank you.

00:22:26:10 - 00:22:35:10

Right if I move on now. And Louis fell. On behalf of Stratton Parker Farms Limited and Leona Enterprises Limited.

00:22:47:15 - 00:22:56:00

No, he's he's showing on the list. But, um, I'll move on and see if Tamsin Fairley is present.

00:23:02:12 - 00:23:10:03

All right. Is there anyone else attending virtually that I haven't come to yet? Who would like to introduce themselves?

00:23:15:16 - 00:24:07:12

No. Hands up. So if I move on. Uh, thank you all for those introductions. We'll now move on to the substantive part of the agenda. The first item concerns the draft development consent Order, and that is the agenda item 3.2. And the first bullet point relates to article two, the interpretation. Um, now the Port of London Authority in their deadline, two comments on the Draft Development Consent Order have identified several matters of concern in relation to the draft DCO and in particular, under this agenda item, the definition of commence and the definition of maintenance.

00:24:07:27 - 00:24:27:26

So, could I ask the Port of London Authority to explain further their concerns in relation to these article two definitions, and also to provide any alternative wording either for those definitions or elsewhere in the draft DCO that might overcome their issues.

00:24:30:12 - 00:25:10:24

Yes of course. And it is truly Russell for the Port of London Authority. Um, in order to amount to commencement, um, under the proposed definition, an offshore work needs to be a licensed activity authorized by the Dean's marine licenses. Um, we note that the definition of commencement carves out pre-construction surveys and monitoring from the definition of commence. Um, the Port of London Authority notes that the applicant has confirmed in its reply to the relevant representation of the MMO, which is document PD 4-006.

00:25:11:06 - 00:25:14:27

Um, in relation to um m

00:25:16:21 - 00:26:01:10

dash relevant representation 21 that there is was proposed monitoring to be carried out prior to the commencement of licence activities, and the Port of London would want to be consulted about any surveys or monitoring activities that affect the deep water routes. In um, in line with the process for the five estuaries offshore wind farm DCO um, in which we um, the Port of London agreed um protective provisions um, which meant that um, any licence, any pre-construction survey and monitoring, um, was was covered.

00:26:01:25 - 00:26:52:14

Um, my client's point is that we need they need to be careful, um, as to how commencement is used. Um, and in the context of protective protective provisions for the PLA, um, within schedule 14, the definition of commencement we've got here may not be appropriate. Um, I know that you I think in answer to your second question, which was how how can, um, the Port of London authorities concern be addressed? Um, to answer that, we would, um, request that the point is covered, um, with protective provisions, um, which would mean we would be comfortable with, with the definition as it stands.

00:26:54:03 - 00:27:21:07

No. Thank you very much for clarifying that point. Um, I'll just go to the applicant. So, yes, I know from your deadline three submissions that you intend to submit a full response to the protective provisions sought by the Port of London Authority at deadline for. But is are you able to respond now in relation to the concerns that they've expressed.

00:27:23:15 - 00:27:58:06

Gary McGovern for the applicant, and yes, the applicant's understanding is that the particular issue with the definition of commence that's been highlighted. Um, relates to how that may be defined for the purposes of any protective provisions that would be included in the order, and therefore the issues raised do not relate to and should not result in any changes to the definition of commence as it sits in

article two of the DCO, because that, of course, governs the whole of the order and and the drafting which is contained therein, which does carve out preconstruction services as well.

00:27:58:08 - 00:28:30:00

Precedented. And it does that for good reason, um, that the pre-construction surveys will be needed and required in order to inform all of the management, detailed management plans that then are required to discharge all of the pre commencement conditions. So there is good reason why article two needs to remain the way it is, and we wouldn't propose to adjust that. Um. The applicant appreciates the concern about consultation in relation to pre-construction surveys. And in our deadline three response rep 3-037.

00:28:30:03 - 00:28:52:27

We did confirm that the PLA and other port authorities would be consulted as a matter of course, in the context of preparing such surveys. However, as you've flagged, madam, our position at the moment is that we do not agree to the need for protective provisions. Um, did you want me to come on to that now? I know it's down as a future agenda.

00:28:52:29 - 00:29:05:18

Item, down as a later item. I just wondered if if this you were able to provide more information. Ah, you'll be able to provide more information at the later stage as opposed to deadline for. I mean, I appreciate that.

00:29:05:25 - 00:29:07:04

We can do it now or later.

00:29:07:12 - 00:29:44:01

We'll wait until later. I think we'll move. We'll move on now. But I think the Port of London Authority of have clarified the position that this is an issue that could be dealt with to their satisfaction by protective provisions. Whether or not those can be agreed is, of course, another question. Um, can I just check again with the Port of London Authority? You referred to the definition of comment. You'd also raise the definition of maintenance. And I'm assuming that the same approach applies to that as far as you're concerned.

00:29:46:10 - 00:30:25:06

Uh, Julie Russell for the Port of London Authority. Um, no, it is a slightly different point. Um, in connection with the definition of maintenance. Um, the Port of London authorities issue with the definition of maintenance is that as drafted, it includes adjusting and altering. Um, so in the context of the export cable works to adjust or alter could result in a change in location and or depth, which wouldn't be acceptable to the port of the London Authority.

00:30:25:22 - 00:30:59:00

And so, whilst the definition is broadly the same as that for five estuaries, um, the five estuaries DCO, um or the draft DCO was clear in the offshore design parameters requirement that the cables must be installed and maintained at a level. And so I suppose our concern with the definition is that the cables are installed at an acceptable depth, but then they're not.

00:30:59:14 - 00:31:29:26

Um, you know, by adjusting and altering their they're not maintained at that level, which then obviously causes a knock on impact for, um, In the deep water route. Um, also for five estuaries. Um, there was we had um, an outline cable specification and installation plan. Um, and that was clear on the specific commitments in relation to cable installation and maintenance.

00:31:30:04 - 00:32:01:08

Um, and also that specifically referred back to the on the offshore design parameters requirement. So in answer to your question as to whether it's the same concern. Um, I suppose the answer is it's a different concern here. And um, we were comfortable previously because we had a requirement and we don't have that requirement, um, in the North Hills DCO at present.

00:32:03:03 - 00:32:16:14

So, so just to clarify, but that is a matter that you feel could and in your view, should be included within those offshore design parameters. And that would satisfy you.

00:32:17:00 - 00:32:36:19

That's right. Yes. Yeah. Um, the the port's main concern is, as I've said, that the cable can't be installed at one level and then maintained at a different, shallower level. But we would, um, be content if we could have a requirement that gave us that confidence then in that respect.

00:32:38:19 - 00:32:40:21

Thank you. Mr. McGovern.

00:32:42:04 - 00:33:21:00

Gary McGovern for the applicant. Um, just focusing with the narrow point. Um, I'm not jumping ahead to future agenda item. Um, just to be clear, the definition of maintain as it is in the five estuaries, DCO is the same as it is in the North Falls DCO. And it includes a just and alter. And again, for similar reasons that I've given in relation to definition of commence. That's an overarching definition that governs all of the DCO and DML, and we would resist any amendment to that. What I would say is that that definition has to be read in the context of all of the requirements, conditions in the mills and other litigants that are secured elsewhere.

00:33:21:12 - 00:33:51:04

So it's not open ended. It is constrained by other commitments that are made. And we have had some constructive discussions in recent weeks with the port about Cairo cable burial depths, and we will be submitting a package at deadline for including an outline cable specification and installation plan, which will include commitments in relation to cable burial depths, which we hope will go a long way, if not all, of the way to addressing lots of the concerns that are being raised. Jumping slightly ahead on the agenda.

00:33:51:06 - 00:34:04:10

That's that's right. We have a number of items on the agenda in various parts that do cover that. Yeah, thank thank you for that. I just checked with the Port of London Authority. Want to add anything on that?

00:34:06:27 - 00:34:07:14

No.

00:34:07:26 - 00:34:08:26

No, not at this time.

00:34:08:28 - 00:34:16:13

Thank you. No, thank thank you. Um, I'll just check if anyone else has any comments. Mr. Tyrrell.

00:34:18:06 - 00:34:45:12

Ma'am. Thank you. Uh, Francis Carroll, on behalf of the London Gateway Port Limited, I just wanted to flag that we share concerns in relation to the aspects of construction and maintenance that's been raised on behalf of the London Authority. But I note, for example, there is a separate definition of maintaining in the marine licence. Um, and we'll be raising those issues in relation to the requirements and in relation to the offshore marine licence. We don't have issues for the moment in relation to the definitions in article two.

00:34:48:00 - 00:34:50:10

Thank you very much. Thank you for clarifying that.

00:34:52:26 - 00:35:26:02

Right. There are no more hands up. So if I move on now to the next bullet point, which relates to article five, uh, that's the benefit of the order and the objections raised by the Marine Management Organization. So the Marine Management Organization in Rep 2043B2 and G to eight to H. They do raise numerous issues in relation to article five and the transfer of the benefit of the order.

00:35:26:20 - 00:36:08:01

They also questioned the drafting of article 53B is seeking to make provision for a D marine license to be granted by the undertaker to another person for a limited period of time. The applicant provided a full response to those criticisms at deadline three. And in addition, the applicant changed the word grant in article 53B to transfer in the latest draft DCO. So the applicant submits that this issue has been considered by different Secretaries of State on multiple occasions in the past, and has identified the Hornsea Four project as being an example of that.

00:36:08:27 - 00:36:35:06

So if the Marine Management Organisation had been in attendance, then I would have asked them to respond and further explain their position in relation to this article and specifically why they object to it in this particular case, as they are not present. Can I ask the applicant whether there is anything they would like to add to their deadline through submission on this issue?

00:36:36:25 - 00:37:17:03

Gary McGovern for the applicant. Yes. Just briefly, madam, as you have already highlighted, the applicant has responded very fully to all of the detailed submissions by the MMO that were made at deadlines one and two and in the relevant rep, and you have those documents from the applicant rep 1045 and rep 3038. I don't propose to repeat those submissions. I don't want to blow a hole in And you are programming for today. And there was one thing I did want to draw to your attention, and that

relates to the fact that the MMO has been seeking to ventilate its arguments by suggesting that the issue hasn't been properly considered by the Secretary of State.

00:37:17:05 - 00:37:56:28

So notwithstanding, he hasn't found in their favour he or she hadn't found their favour. I would just like to draw your panel's attention to the ramping two offshore wind farm decision, which was issued on Friday, the 4th of April. Um, and, um, we can submit this into examination. But just in particular, I would draw your attention to paragraph 623, um, of the decision letter, which deals specifically with this point. Um, and then there it summarises the various arguments that the MMO has made in this regard, and it notes that the MMO stated at issue that it wanted the Secretary of State to consider this a test case of its argument.

00:37:57:14 - 00:38:23:06

The EXR then set out the Mo's arguments in full in the examination report. And the Secretary of State specifically says, I have considered this position and disagreed with the memo's position on this. So having set out submissions in full and treated that as to be treated as a test case, I would suggest that this is not an issue that should really be, um, featuring much more in the remainder of this examination. The points have been put and found against. Thank you.

00:38:24:01 - 00:38:24:24

Thank you.

00:38:29:08 - 00:39:01:02

That on article five as well, the Port of London Authority Limited have also made comments in their comments on the D draft. Eco rep to 057, and the Port of London Authority would, in line with the position agreed at five estuaries, expect its protective provisions to contain a requirement to notify them in writing within seven days of any sale, agreement or other transaction Section under article five.

00:39:01:22 - 00:39:45:13

The applicant has made a deadline three response, and their response is that the protective provisions are not necessary to safeguard the Port of London Authority statutory undertaking. So if I could go first to the Port of London and the Port of London authority will be coming to the question of protective provisions later on in the agenda. But could you explain, take the opportunity to explain why you seek the notification of any sale, agreement or other transaction, specifically under article five? And has there been any progress on this following the latest meeting with the applicant?

00:39:50:00 - 00:40:43:18

Thank you. It's Julie Russell for the Port of London Authority. And the short answer to your question is that there hasn't been any progress, um, further to our, um, deadline to relevant representation. Um, I suppose our, our issue is, um, that if appropriate, we're going to talk about protective provisions later on. Um, but if we don't get protective provisions, um, then how would there would be no requirement to consult the Port of London Authority in the event that the benefit of the order was, um, was transferred? Um, which leaves the Port of London Authority in a position where by they're not consulted upon and they, they're sort of in the dark, I suppose.



00:40:44:02 - 00:40:47:06

Um, as, as to, um, as to what's happening.

00:40:49:13 - 00:40:51:18

Thank you. Mr. McGovern.

00:40:54:04 - 00:41:23:10

McGovern for the applicant. Again, just for the avoidance of doubt, the, um, article five, uh, transfer of benefit provisions in the five estuaries DCO have not been amended and do not require any notification of the Port of London Authority where there are provisions, require notification are again in the protective provisions that were being discussed in the context of that examination. Um, and our position would be that similarly, there should be no amendments to article five of the DCO.

00:41:39:07 - 00:42:02:18

Is it in terms of I know we're coming to protective provisions later on, and I don't want to stray too much into that. But I understand there was a latest meeting with the Port of London Authority. How was any Progress made on this particular issue in relation to potential amendment of protective provisions or drafting of protective provisions.

00:42:02:24 - 00:42:32:18

Gan McGovern for the applicant. No. The recent meeting was focused very much on technical matters. In order to understand the technical requirements of the ports, in order to come forward with a package of mitigation. As I say at deadline for which would address the cable burial depth issue and the related issues around sediment, boulders and so on and so forth. So the focus of that was on the primary issue of how can we mitigate the concerns that there was no discussion of then how those litigants are secured?

00:42:36:28 - 00:42:37:22

Thank you.

00:42:41:02 - 00:42:54:14

Could I just. I'll just go back to the Port of London Authority on this. And could you explain to me the mischief as you see it if you weren't Notified of of a transfer.

00:43:01:03 - 00:43:33:27

Julie Russell to the Port of London Authority. Um, I think the the. The mischief is that, um, if the benefit of the order is transferred. Um, if if we were not notified, um, of that I suppose from, from the Port of London Authority's perspective, we're not going to we're not going to know who the Undertaker is for the purpose of the project.

00:43:34:12 - 00:44:10:02

Um, and it sort of all goes towards the the picture of it not being consulted on, um, you know, various items that may well affect our, um, you know, deep water, deep water roots, which obviously will have a knock on impact on, um, the Port of London and its ability to, um, to trade. Um, so I suppose it's sort of an administrative point, really.

00:44:10:18 - 00:44:55:14

Um, and just to come back, um, on what the applicant is saying. I think the we're not necessarily asking to be clear. We're not asking for article five, article five to be amended. Um, we're it sort of comes back round to the protective provision point. Um, and if if we don't have those and we're in and article five was allowed to remain, then um, what protection do you the Port of London Authority have in connection with with Egypt water routes and the impact that that might have.

00:44:58:21 - 00:45:04:02

Yeah. Thank you. Thank you, Mr. McGovern. Is there anything you want to respond on that or

00:45:05:27 - 00:45:07:27

otherwise respond in writing?

00:45:08:01 - 00:45:31:02

Gary McGovern for the applicant. Just very briefly, I heard Miss Russell say that it relates to an administrative point. So it's not really about protection in my submission that the conditions and requirements transferred would continue to be enforceable against the new undertaker. Um, so there isn't a lack of protection, and the transfer does not affect the degree of protection. The commitments around burial would be equally enforceable against any future undertakers. Thank you.

00:45:37:14 - 00:45:41:19

Right. I'll just check if there's anyone else that wants to speak on this item.

00:45:44:06 - 00:46:21:09

No. Hands up. So I'll move on to article six. That's the application and modification of legislative provisions. And the relevant representations of the Environment Agency are 091 indicated that the applicant had not at that time engaged with it regarding the content of protective provisions or in relation to this application of the provisions of the Environmental Permitting Regulations in respect of flood risk activity permits required for crossings of main rivers.

00:46:22:02 - 00:46:37:15

And the Examining Authority also asked a question Q 6.1.13, asking the Environment Agency to provide an update on that point, and.

00:46:42:02 - 00:47:04:01

The Environment Agency stated they consider it's very important that the facilities cease and consented, activities included, and have provided their standard wording for this. So could I ask the Environment Agency just to let me know their current position on this and explain further why you seek this specific protection?

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

Thank you ma'am. The Environment Agency, can I just check? Can you hear me any better?

00:47:15:21 - 00:47:18:15

That does sound better. It does. Thank you.

00:47:19:01 - 00:47:19:16

Good.

00:47:21:06 - 00:47:44:20

Um, but we have not yet heard anything. We've been approached by the applicant regarding the protective provisions. Um, we consider this to be vitally important because the protective provisions would apply both to the crossing of main With this

00:47:46:16 - 00:48:00:03

um, and uh, both by HDD and also for the haul road and for the crossing under sea defences at landfall.

00:48:03:02 - 00:48:03:28

Firstly,

00:48:05:24 - 00:48:14:24

they would need consent from the Environment Agency, either by a flood risk activity permit or by protective provisions.

00:48:17:21 - 00:48:21:16

There are two reasons why the need to.

00:48:24:01 - 00:48:35:08

Be able to cease require ceasing of activity is important. Firstly for the crossing of the

00:48:36:24 - 00:48:39:01

sea defences. Um.

00:48:41:06 - 00:49:00:14

If it's. to be hoped that there would not be nothing less likely to go wrong. Um, but if there were anything to go wrong during the drilling process, this is an important defence for the safeguarding

00:49:02:13 - 00:49:05:18

of people and policy.

00:49:07:16 - 00:49:17:01

Similarly, uh, in the crossing of main rivers by HDD, experience has shown that.

00:49:19:04 - 00:49:35:06

Blackouts can occur. That is the escape of bentonite, which can cause environmental harm to the water body being pulled under both by the mobilization of sediment, but also by the smothering of riverbeds.

00:49:38:07 - 00:50:00:01

It is therefore, if that There's also one other factor, and that is the mobilization of sediment from runoff. And so it is important that we can require that activity is ceased whilst these environmental matters are

00:50:01:16 - 00:50:04:16

being pursued and mitigation sought.

00:50:13:27 - 00:50:14:20

Thank you.

00:50:17:25 - 00:50:19:08

I'll go to Mr. McGovern.

00:50:22:02 - 00:50:23:08

Claire. Project for the applicant.

00:50:23:14 - 00:50:24:21

I just responding a bit.

00:50:24:26 - 00:50:25:13

Relates to.

00:50:25:27 - 00:50:26:12

Your.

00:50:26:14 - 00:50:26:29

Offer.

00:50:27:06 - 00:50:28:18

Thank you. Um,

00:50:30:08 - 00:51:06:24

as a general point, um, to protect the provisions, um, the applicant has been working with the Five Estuaries team to negotiate, um, Agreed forms of protected provisions, with all statutory undertakers affected onshore that are in the same form, on the basis that the cable corridor on shore follows the same route. Um, and the ability to for one project to duct for the other project. It was felt that it was, um, appropriate to have consistent protected provisions across, um, the suite between both discos.

00:51:07:00 - 00:51:42:20

Um, so the applicant has been involved in the negotiation of the protected provisions with the Environment Agency for the five estuaries, uh, DCO and the um, protected provisions included in their final version of the draft DCO that was submitted just before the close of their examination were agreed with the Environment Agency. So the intention is to update the protected provisions that were included in the final version of the draft DCO for five estuaries, um, and incorporate those within the deadline for a version of the draft TCO for North Falls.

00:51:43:08 - 00:51:50:24

Um. Those agreed forms of protected provisions for five estuaries do. Pick up a number of the points that were mentioned by

00:51:52:13 - 00:52:25:26

Taylor in relation to specific provisions for sea defences, etc.. Um, it's probably worth, um, further discussions taking place outside of, um, the hearing. I'm not sure whether Taylor was aware of that scenarios that we were involved in, in the negotiation of those protective provisions given given the comments made about having having no engagement at all. So there might have been just a miscommunication there between, um, between the officers and the projects, um, if that was the case.

00:52:25:28 - 00:52:57:00

But the intention is to submit those agreed protected provisions, um, on five estuaries into, into North Falls. And we're not aware of the need for any additional protective provisions that are very bespoke to the North Falls um, crossing at landfall. But if that's the case, then the applicant remains willing to discuss the need for any additional protected provisions to, um, relate specifically to the the sort of slight difference in location at the landfall locations between the two projects.

00:52:57:02 - 00:52:57:21

Thank you.

00:52:59:24 - 00:53:16:19

I just check with Miss Moss Taylor. So it does seem that we are having protective provisions submitted at deadline for, uh, and obviously you be able to look at those and comment on those. I just wanted to check there was any if there was anything you wanted to add before we move on.

00:53:19:07 - 00:53:27:12

No, nothing to add. I will be checking with the project, the Environment Agency project manager for that extra development.

00:53:28:28 - 00:54:09:08

Thank you. All right. So we move on to the next article. And this is in part three of the DCO streets. So article 12 temporary restriction on the use of streets. So Essex County Council uh local impact report um is concerned with the proposed timescale of 28 days, which is not considered to be acceptable. And they say that 56 days would be more appropriate to minimise inconvenience and to ensure coordination across the highway network and point out the five estuaries.

00:54:09:10 - 00:54:37:24

Article 14 six. The equivalent article does provide for 56 days. Okay, I'll go to Essex County Council first. Could you explain why the substitution of the fixed 56 day period in this article is sort. Perhaps you could just give me, um, a little more explanation about the practical consequences of 28 days as opposed to 56.

00:54:42:14 - 00:55:22:21

Thank you. Mark. As its county council. Um, as we heard at the hearings last week, which is obviously as a matter of public record, um, there may well be significant activity taking place in this location. Should, um, Inspector Watson, the Secretary of State. Beg your pardon and grant consent for for this the five estuaries development and also potentially for Norwich to Tilbury. We've heard about coordination of those schemes moving forward, which is a real potential. Um, we we will then be faced as the highway authority for Essex, with potentially multiple submissions happening at the same time.

00:55:23:24 - 00:56:07:07

Um, we think that 28 days is onerous to get responses back, bearing in mind that this particular article sets that deadline. If we don't meet it, then consent is automatically granted. Uh, and we would like to, um, achieve some parity with the Five Estuaries development, which, um, had a requirement of 56, 56 days. Um, it's all about, um, how we respond to potentially multiple submissions at once with, um, a lot of workforce looking at other developments in Essex and other proposals in the Tendring district.

00:56:07:14 - 00:56:12:24

And we would request that the 28 days extent is increased to 56. Well.

00:56:15:06 - 00:56:26:25

And uh, the next agenda item, article 14, covers a similar point. Uh, the the same considerations apply to that. Or is there anything else you want to add on that one?

00:56:27:00 - 00:56:48:02

Ma'am. Thank you again. Mark Wood Essex County Council. Uh, the same provisions apply. This really is about timing and about us being able to deliver an effective service for the benefit of both the applicants and also the local residents. The rural highway network here is extremely sensitive to change, and we want to treat that sensitivity with due concern. Thank you.

00:56:48:18 - 00:56:51:07

Thank you. Go to the applicant.

00:56:53:00 - 00:57:14:01

Claire project for the applicant. Um, whilst we consider that 28 days is sufficient and is standard, and the applicant has agreed to amend the draft DCO at deadline for to make it consistent with five estuaries. And so we'll be amending both of the provisions referred to in article 12 and in article 14 to be 56 days.

00:57:14:26 - 00:57:17:15

Thank you for that update.

00:57:22:18 - 00:57:57:03

Right. In that case, I'll move on to schedule one part three requirements. And the first requirement on the agenda is requirement five and um. Essex County Council deadline three comments. Um and in response to question 9.2.7, um, they do say that their previous response um to eight to deadline one is still relevant.

00:57:58:02 - 00:58:30:15

Uh, although they do note and welcome that the design vision has been included in the draft DCO as a certified document. So I'll go again to Essex County Council. Could you explain any further drafting changes to requirement five that you see and also indicate whether, given that the design vision is a certified document, and that makes provision for the design guide that you are content That the design guide is appropriately secured.

00:58:34:28 - 00:58:54:22

Carol Wallace, Essex County Council. Yes, we are happy we have content with the wordings and given that the applicant will be required to come back to this church with the design details. We are happy that the design guide itself doesn't need to be secure for the DCO. Thank you.

00:58:55:10 - 00:59:01:21

Thank thank you. I'll just check if anyone else wants to comment on this requirement.

00:59:03:26 - 00:59:13:19

All right. That doesn't seem to be any comments. The Essex County Council are content with the drafting, so I don't expect a response from the applicant.

00:59:15:26 - 00:59:23:06

So if I move on now to requirement 11, that's onshore archaeology. Um.

00:59:25:12 - 00:59:43:26

Can I just go to the applicant requirement? 11 two. Includes provision for consultation with Historic England. So can I check if this. The drafting of this requirement is now agreed with Historic England. Or are you still in discussions with them.

00:59:45:09 - 01:00:16:22

Clare project the applicant I think as was mentioned last week at issue specific hearing one, this requirement is going to be updated further at deadline for to make it consistent with the final version of the five estuaries um requirement relating to onshore archaeology. And the first two sub paragraphs are the same, but then there is some additional wording added to be added to um subparagraph three um and then sub paragraph four will be amended more substantially.

01:00:16:28 - 01:00:47:01

Um to be consistent. So I think those further amendments should then mean that the drafting of that requirement is agreed. However, we note that the draft plans are with. Essex County Council for comment at the moment. So should there be any further changes as a result of their feedback on on the written scheme of investigation and the archaeological integration strategy, then we can obviously consider further amendments, um, if required.

01:00:47:08 - 01:01:03:07

Uh, those documents we'd mentioned last week were due to be submitted at deadline five, to ensure that there was sufficient time for Essex County Council to review them, um, and provide comments. Um, but if it can be done earlier, then obviously we will do so. Thank you.

01:01:06:10 - 01:01:37:20

Right. I think in the light of those comments and what was discussed last week, I will just check with Essex County Council if they want to add anything on the second bullet points, um, Of this requirement 11. So that's whether any amendments are needed to ensure consistency with the five estuaries. But um, it does seem that progress is being made on that. But is there anything you want to add?

01:01:38:18 - 01:02:04:22

Um, thank you, Madam Chair. Wallace, Essex County Council. Um, at that line three, we have made specific requirements to the wording of this requirement that we want, uh, a new specific paragraph five to refers to the archaeological mitigation strategy and the weighting scheme of investigation. So if this will be included in in the final wording then will be satisfied. Thank you.

01:02:05:12 - 01:02:14:13

Thank you. I'll just save the applicant um, and respond to that and perhaps confirm that particular point. Uh, collaborating.

01:02:14:15 - 01:02:22:06

With the applicant. Yes. It will include the new, uh, subparagraph five, which will be consistent with the equivalent provision in the Five Estuaries draft. Okay.

01:02:22:19 - 01:02:23:10

Thank you.

01:02:31:06 - 01:03:05:26

And then the final bullet point under requirement 11, which is whether the draft Eco requirements would secure adequate measures to ensure that archaeological, geo archaeological and paleo environmental remains would be appropriately safeguarded. Um, so ethics in their local impact report, um did provide criticisms of there being insufficient measures to ensure those uh remains were appropriately considered.

01:03:06:15 - 01:03:15:18

Um, can I just check the current position with Essex County Council and whether they do still seek any further changes?

01:03:22:14 - 01:03:58:15

Wallace, Essex County Council. We mentioned last week an issue specific hearing, one that we're not happy with the level of intrusive investigation, but, um, this is a matter that I don't think we'll get agreement with the applicant. So, um, in in the worst case scenario, we are happy with content with the wording that if the subparagraph five will be introduced into the draft DCO, that will provide adequate post consent, um, investigation.

01:03:58:17 - 01:03:59:07

Thank you.

01:03:59:18 - 01:04:02:28



Thank you. Just check if the applicant wants to add anything.

01:04:04:06 - 01:04:34:18

Uh, Claire? The applicant? No. It's noted that obviously the comments are made without prejudice to Essex County Council's sort of principle point that they don't consider sufficient. Um, pre pre consent trial trenching has been undertaken, but in terms of post consent trial trenching, as we as we mentioned, those further commitments will be set out in the um, archaeological mitigation strategy and the Outline and Scheme of Investigation, which are documents that are currently being updated at the moment.

01:04:34:20 - 01:04:35:07

Thank you.

01:04:35:14 - 01:05:09:02

Thank you. So I've move on now to requirement 19 onshore build options. Um, so this is considering the intended purpose and scope of requirement 19 and whether any amendments to this requirement are sought by the discharging authority being Essex County Council. So Essex County Council did provide comments on EXC 9 to 17, three and four in relation to requirement 19.

01:05:10:02 - 01:05:13:16

Um in relation to.

01:05:16:09 - 01:05:52:10

9 to 17. Three. That asked please explain how it is intended. The requirement 19 should operate in the event that the five estuaries DCO were to be made and commence development before North Falls, or the alternative. Vice versa, and whether the requirement needed amendment to preclude other options in those circumstances, and the Essex County Council response was to the effect that it would continue to review this question and would respond by deadline four.

01:05:52:25 - 01:06:03:01

We're not yet at deadline four, but has the council had the opportunity to consider this? And are you in a position to let us have your views on this point now?

01:06:10:02 - 01:06:40:16

Karen Wallace, Essex County Council. Um, we found that the the wording is slightly confusing. Um, the the reason is because, um, the applicant here use different definition for the bill option one and two. So it's the other way around compared to five three. So we would appreciate if the applicant can consider to to tell you with five asterisks as well. But um, other than that we do not have any specific comments to be made at this stage.

01:06:40:18 - 01:06:41:06

Thank you.

01:06:41:08 - 01:06:43:00

All right. Thank you very much.

01:06:44:25 - 01:07:21:25

Uh, and then the second part of the question was 9 to 17 for and that asked to provide clarity in the event that build option one is the chosen option. Should a revised set of onshore works plans also be submitted to the relevant local planning authority to indicate precisely the land requirement to implement the lesser option in landscape terms. And Essex County Council response was, um, to the effect that currently the submitted onshore works plans indicate the worst case scenario.

01:07:22:07 - 01:07:48:13

In the event that only build option one is to be proceeded, the council's would expect the applicant to split a material change application of the DCO should it be consented. So I was actually asking you to explain that response. Were you expecting a formal material change DCO application to be made? Or if you could just clarify that for me, please?

01:07:52:18 - 01:08:32:02

Karen Wallace, Essex County Council um, the reason why we say we expect the applicants is that we, um, a change request is because if there's only one substation to be built at the end, um, we're not clear about what's going to happen with the loan for um, the the the sorry, the footprint area for the other, uh, substation. So we consider that there's quite a significant change in terms of, like, maybe landscaping or whether land should be reserved for, for future, another substation to come forward.

01:08:32:11 - 01:08:39:13

So this is quite a material change. And we consider that it should be dealt with by a change request. Thank you.

01:08:41:20 - 01:08:56:00

All right. Thank you for clarifying that. Um, so you've made your position clear on that. Otherwise, your position is that no drafting changes to requirement 19 assault. And you're content with it in its present form.

01:08:57:26 - 01:08:59:15

Yes. That's correct. Thank you.

01:08:59:29 - 01:09:04:12

Right. I'll just go to the applicant if you want to make any response to that. Uh, Claire.

01:09:04:14 - 01:09:37:04

Project the applicant. Um, just in relation to the first point, in terms of the fact that the build option one and two are, um, the other way around in the, in the five estuaries. Um we weren't whilst I appreciate that does cause a small amount of confusion. We weren't proposing to change that because all of the suite of um DCO application documents, including the environmental statement, utilises, um, those references to build option one and build option two. So it's not a simple exercise in terms of changing it.

01:09:37:06 - 01:10:10:21

And we would rather the um, drafting of the DCO was consistent with the other, uh, documentation that's referred to um, and certified within the DCO. So we're proposing not to make, um, that

particular, uh, change, um, in relation to the point being made about whether, um, there would be a need to make some sort of change application. Obviously, the draft DCO is seeking, um, consent for, um, both scenarios.

01:10:10:23 - 01:10:33:20

So, um, build option one, which is the authorized development, which includes all the works for North Falls, but then also, um, the ducting for um, the five estuary uh project and then um, also um, build option two, which is um,

01:10:35:06 - 01:11:11:20

which doesn't include those, those additional elements. And so it's just trying to um, we don't consider there is a change to be made because the DCO does include optionality to build both the works plans themselves are, um, designed to be certified documents, so they are fixed at the point that the DCO consent is made. Um, they are then not updated. Um, uh, post post DCO consent and they're not proposed to be updated post and the notification that's referred to in requirement 19.

01:11:11:22 - 01:11:47:06

However, all of the management plans that are secured, um, under the DCO, uh, would be um, containing the relevant elements depending on which build option is selected. So if you were to take, um, landscaping for example, then if the um five estuaries DCO, um either was not granted or that project didn't go ahead, then the final landscape management plan that would be submitted, um, for approval would contain only the landscaping, uh, required for the North Falls project alone.

01:11:47:18 - 01:12:09:09

Um, so the further requirement to discharge and produce those final management plans, um, we consider would give Essex County Council, uh, the comfort and the certainty over what is actually going to be built out. Um, and there isn't a need to include additional wording within the draft That particular point. Okay.

01:12:10:14 - 01:12:11:07

Thank you.

01:12:14:02 - 01:12:20:18

Just the final point on the intended scope and purpose of requirement 19.

01:12:23:12 - 01:12:41:25

Um, looking at the explanatory memorandum, AP 006 that states that the undertaker may only commence or exercise powers of compulsory acquisition in relation to onshore build options one, two, A and two be presented in the application.

01:12:44:06 - 01:12:50:15

And in response to the examining authorities. Question nine 217

01:12:52:03 - 01:13:27:17

um which said following notification to the local authority under requirement 19 two, should it be specified that thereafter no other option may be commenced? In response, the applicant said it did not

consider it appropriate to specify that the other build option cannot then be commenced in other circumstances. I'd just like you to explain that response a little further to me. And why, after notification of one option, you need to be able to commence another, which is how I was reading that.

01:13:35:00 - 01:14:18:14

Claire project for the applicant, as we had, um, stated, the sort of the rationale for this particular requirement was to try to give some sort of, um, certainty over the um, uh, build option. Um, that was being selected. I think the feeling was that, um, there could be circumstances, um, which might necessitate a reconsideration of that point, potentially, um, in which case a further notification could be required and therefore, um, a complete prohibition on um, utilizing another build option didn't feel appropriate, um, at this point in time.

01:14:18:19 - 01:14:50:09

Um, however, obviously the, the the intention fully is that once a one build option has been selected, then that would be carried through. And for the reasons I've stated, obviously all the management plans would be discharged on that basis and any changes to those management plans would either need to be approved, um, once they've been discharged, would need to be approved by the discharging authority or a non-material change made at that point in time. But this this requirement was intended to be a notification only rather than a notification only.

01:14:50:11 - 01:14:54:18

So not notifying. Commence notifying again.

01:15:00:06 - 01:15:50:29

Uh, clear project for the applicant. Um, no. It's drafted as only being a notification. A pre commencement. There was just one further amendment that was made to the five estuaries DCO at the at their final version, which was to exclude from that restriction on commencing works prior to notification to um enable the Bentley road uh works to be carried out, which is work number nine in the North Falls draft DCO and that was done on the basis that there was, um, a view that there may be a need to make a start on those works before it had been decided, um, how the main construction works were going to be carried out, whether it was build option one or build option two, and we would be seeking to make the same change at deadline four to ensure that there's an alignment.

01:15:51:01 - 01:16:05:05

And that's, um, just on the basis of the programming of the works and the fact that those particular works may be may be done very early in the programme program before final decisions have been made in relation to other aspects of the onshore elements of the project.

01:16:05:15 - 01:16:12:07

No thank you. I think we're being interrupted by building work expressly. Someone's gone to try and, um,

01:16:13:29 - 01:16:17:08

persuade them to take a long tea break. Right.

01:16:21:17 - 01:16:22:08

Yes.

01:16:24:00 - 01:16:51:20

Jane Marshall, Ardley parish council. Could I just make a comment on the applicant's, um, last, uh, last statement, please, regarding, um, wanting work to commence prior to a decision? Surely that's like putting the cart before the horse. Um, it really should be. We feel that, uh, any work should be carried out once consent has been granted. Not before. Thank you.

01:16:54:26 - 01:16:55:23

The applicant.

01:16:56:02 - 01:17:33:01

Clare project for the applicant. So, just to clarify, this is obviously after the draft DCO has been granted, so consents been granted for all of the works. What I was referring to is at the moment there is a requirement that says we need to notify the discharging as to the build up, which build option has been selected prior to commencing works. Um, for all of the onshore elements. And um, the clarification is that those Bentley Road improvement works could be carried out before it's been decided whether build option one or build option two is, um, is selected.

01:17:33:03 - 01:17:43:26

And that is on the basis that those Bentley Road improvement works are required for, for each of the projects and also for um, uh, National Grid as well. Thank you.

01:17:46:06 - 01:17:46:27

Thank you.

01:17:48:25 - 01:17:51:03

Right. Mr. Blythe.

01:17:52:00 - 01:18:34:27

Um, on the same point, um, I think it's possibly motivated by the fact that we've got starting work at the moment in Italy. Um, National grid, um, digging work that's going on. Uh, to find out what archaeology there is there before. And there is no permission granted for that yet. Um, and yet the machinery is in the field. Um, so there's a certain amount of skepticism going on, uh, within our parish, uh, as to whether the cart had been put before the horse in on many occasions.

01:18:34:29 - 01:18:36:25

And that's mission creep going on.

01:18:40:27 - 01:18:42:02

Thank you, Mr. Blythe.

01:18:45:07 - 01:19:21:27

Uh, Clare project for the applicant. We obviously discussed at issue specific hearing one. Um, the reasoning for, um, these being dealt with as individual Jill DCO applications and that there are in the applicant's position. There is a need for the applicants for any of the individual applications to be um,

withheld or conjoined with the National Grid scheme. So I don't propose to add anything further, because I think that's the point that Mr. Blythe was making in terms of the need for, um, one project to wait for the other project to be consented.

01:19:21:29 - 01:19:22:19

Thank you.

01:19:23:14 - 01:19:24:07

Thank you.

01:19:27:11 - 01:19:28:07

Mr. Blythe.

01:19:29:00 - 01:20:00:05

It's just that the cumulative effect of these various, um, applications is much greater than the sum of its parts. And, um, you know, Ardley is being severely attacked. It feels like, by various agencies, um, and thousands of acres are going to be Ultimately, if the if this is all granted dug up and, um, it won't go back to how it was.

01:20:01:19 - 01:20:07:00

Thank you, Mr. Blythe. And your points on that topic were noted last week.

01:20:09:25 - 01:20:41:02

Right. If I move on now, there are various requirements listed under the next agenda item requirements eight, 12, 14, 15, 22 and 23. And if I go to the Environment Agency. So you're not currently a named Consultee for this. These requirements Natural England are for some and for most approval is required by the discharging authority, which is defined as Essex County Council.

01:20:41:23 - 01:21:00:00

Um, I also noted that you don't appear as a named Consultee for equivalent five estuary five estuaries requirements. Please could you explain why you should be a consultee on all or any of these particular requirements? So if I go to the Environment Agency.

01:21:02:12 - 01:21:39:09

Thank you ma'am. Bob Taylor for the Environment Agency. Um, first of all, if I can turn my attention to requirement eight, the code of construction practice, um, within that, one would expect to see, um, water crossings, uh, and horizontal direction drilling technology, um contaminated land, invasive species and flood risk. These are all areas that fall under the responsibility of the Environment Agency, in full or in part.

01:21:40:21 - 01:21:41:12

Um,

01:21:43:11 - 01:21:50:01

whilst we are not seeking to host a requirement. We do seek to amend conflicts to.

01:21:50:03 - 01:21:52:26

Embrace, which is in common with.

01:21:55:11 - 01:22:01:01

At least five other offshore wind farms that I've dealt with, uh, in this area.

01:22:02:12 - 01:22:15:15

Um, can I just say, could could you, um, in your deadline for written submission, if you could, um, list those and draw my attention, our attention to any relevant aspects.

01:22:17:17 - 01:22:20:15

Of the Environment Agency. Thank you. I'll make a note of that.

01:22:25:08 - 01:22:27:00

Would you like me to expand on that?

01:22:27:02 - 01:22:29:09

Yes, please. Yes, please. Yeah.

01:22:29:13 - 01:22:47:18

Um, again, in particular, uh, the water crossings and HDD methodology. Uh, assuming that protective provisions are consented or indeed, if they were, if they had to the applicant to use the um.

01:22:49:15 - 01:23:00:07

But activity permits would require approval by the Environment Agency. Therefore, it's important that any methodology

01:23:01:27 - 01:23:15:27

is consistent for both parts of the discharge process both the protective provisions of discharge and the discharge requirements. Um.

01:23:18:17 - 01:23:32:03

We have a primary responsibility for contaminated land, um, to ensure that any processes for dealing with contaminated land are satisfactory. But.

01:23:34:26 - 01:23:45:20

The code of construction practice should also deal with invasive species, which is an area, uh, that the Environment Agency is

01:23:47:08 - 01:24:08:00

Seems very important is being closely involved with, uh. And that risk should be addressed as well. Uh, and this is in respect of, addressed to operational sites, um, from previous flooding and also from uh tidal flooding.

01:24:09:17 - 01:24:23:13

So again, it's important to make sure that these are consistent both with the Environment Agency's standard practices and with any other processes that we are involved with within.

01:24:27:25 - 01:24:50:23

The climate change ecological management plan. The Environment Agency has responsibility for the aquatic mammals and waterfowl have been identified and reports relevant to what the environmental agency to be a named consultation. Um, And notice that requirement 23 is and horizontal.

01:24:54:03 - 01:24:55:25

I believe it's horizontal

01:24:57:23 - 01:25:08:07

statement. So again in view of the consistency with any discharge protective provisions it's important for our named concepts and programs.

01:25:11:14 - 01:25:32:25

Thank you. Just so the sound quality's, um not so good. Um, if you could just. I got and I hope the applicant got the points that you were making. But if you could make sure that those points are made in writing as well, just so that we can be absolutely clear on them. Thank you.

01:25:35:21 - 01:25:36:11

Thank you.

01:25:37:08 - 01:25:39:27

So if I can go to the applicant, please.

01:25:42:00 - 01:25:43:29

Clare Blodgett, the applicant. Um,

01:25:45:15 - 01:26:22:21

so the applicant is not proposing at the moment to add, um, the Environment Agency as a, as a named Consultee, um, in those specific, um, requirements that have been mentioned. However, um, there have been a number of updates to, um, the outline management plans that specifically refer to the need to consult with the Environment Agency in relation to the production of further, more detailed, um, documents. And that deals with a number of points, um, that were mentioned by um, Miss Moss Taylor in relation to, uh, water crossings, contaminated land, invasive species, etc..

01:26:22:23 - 01:27:03:05

So the applicant feels um, that that um, obligation to liaise and consult with the Environment Agency is in relation to those particular topics, is already covered in the wording of the outline management plans. Similarly, we don't feel that there's a need to duplicate, um, provisions that will be included in the protective provisions because the applicant will need to comply, um, comply with those. And therefore we'll need to ensure that there is a consistency of approach so that it doesn't breach either the code of construction practice or the protective provisions or any documents that are approved pursuant to those protective um provisions.



01:27:03:11 - 01:27:03:26

Um,

01:27:05:17 - 01:27:38:27

there are a number of specific points that were mentioned, um, and updated in the most recent version of the Outline Code of Construction Practice, including, um, a commitment to consult with the Environment Agency in relation to the development of a risk assessment. Um, was one of the points that that was mentioned. So at the moment, the applicant's position is that it feels the drafting of the outline management plans is sufficient to address the Environment Agency's points. We don't typically list all of the potential consultees, um, in the wording of the draft, uh, requirements.

01:27:39:01 - 01:27:59:24

Um, obviously the discharging authority will carry out consultation as part of the approval of any documents that go through that process anyway, so it is likely that the Environment Agency will be consulted, um, as a matter of course. But, um, we're not proposing to list them as a named Consultee, um, in those requirements. Thank you.

01:28:00:15 - 01:28:30:08

Okay. Thank you. All right. That brings us to the end of that agenda item. The next item relates to other matters relating to requirements and conditions. Um, basically, that's covering the dredging depth. Um, because it's, uh, nearly 11:30. I won't proceed with that now. I'll, we'll take a break now, and we will resume at 11:45.