

Hearing Transcript

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

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FULL TRANSCRIPT (with timecode)

00:00:05:16 - 00:00:06:29

Hearing is resumed.

00:00:09:16 - 00:00:49:21

As I said before the break. The next item we're looking at is other matters relating to requirements and conditions. And there were draft requirements proposed by the Port of London Authority and London Gateway Port Limited. In relation to dredging depths and the London for the Port of London Authority and the London Gateway Port. They're looking to secure a position that the passage of vessels with drafts of up to 20m should not be precluded by the authorised development.

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So if I take these two agenda items together at London Gateway port in their representation rep 2042D they're of the view that a requirement must be added to the draft development consent order to secure that the seabed within the deep water routes can be dredged to a depth of at least 22m, and they have provided draft wording for a requirement to be added to part three of schedule one, and the Port of London Authority make a similar point at deadline two.

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That's rep 2057J in their comments on the draft DCO, and have also provided draft wording for this requirement. The applicant at deadline three states that its position is that in relation to the burial depth of cables, the proposed requirement is not necessary. However, it continues to engage on cable barrier burial and other matters raised with the Port of London Authority, and there was a technical meeting scheduled for the 19th of March.

00:02:02:17 - 00:02:14:25

So perhaps if I can go first to the Port of London Authority and just check what the present position is and whether any progress was made at the meeting on the 19th of March.

00:02:20:03 - 00:02:57:00

Judy Russell for the Port of London Authority and the technical meeting, as you know, went ahead on the 19th of March. Um, and my understanding is this was one of the points that, um, was discussed, um, following the meeting, um, I think at the meeting, a plan, um, was tabled, um, that showed, um, the deep water routes and the areas for which the Port of London Authority would want this, uh, requirement that they be requested to, um, Effect.

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Um, subsequent to the meeting, um, I think on Friday last week, Port of London Authority was provided with an electronic version of those plans, um, which um, the Port of London Authority are in the process of looking at. And it's my understanding, I think, that perhaps they need to. Um, it was the plans are useful. They need to, um, be in a form that enables a little bit more drilling down into them.

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Um, I think the other point to note, really, in respect of this is that.

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The requirement is crucial for, um, the London Authority to ensure, um, that the water depths of 22m must be maintained by North Falls, um, and that there must be certainty in the application, these requirements will be met. Because if it's not, then it will limit the quantum of trade within the report within the port, and the impact would be significant and detrimentally impacting the future of the UK's largest port, as we've said in our representations.

00:04:14:02 - 00:04:47:07

So whilst some progress has been made, and my understanding is there's not any clarity at present as to what that you know, whether that condition is going to be acceptable, um, and put forward by the applicant. And, um, whether we'll be able to reach a position where we can agree on a plan that will be referred to in, um, in that, in that requirement, although it does look likely if we can get the information requested.

00:04:49:13 - 00:04:58:11

Thank you. I go now to London Gateway port. Have you any additional comments to make on this?

00:04:59:03 - 00:05:31:20

Uh, thank you ma'am. Um, Francis Terrell from on behalf of London Gateway Port. Uh, just I think firstly, just to emphasize and slightly echo the comments on behalf of the PLA. This is an absolutely fundamental point. London gateway port. Uh, we've heard how important the Port of London as a whole, in terms of the ports within that area are. London gateway itself is growing, uh, dramatically. It has currently been functioning, uh, on three berths. Uh, fourth berth has just recently come online and there are another two berths which will also be brought online quite soon.

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Uh, so its key size will double or will have doubled essentially against the figures that were quoted. It's quite probable that in itself, it will provide 15% of the UK's low load on load off traffic, or over 15% quite soon. Um, and I think, uh, I won't go into detail here, but we could provide details to the importance of the 20 metre depth of vessels, which equates to a 22 metre dredge depth

00:06:00:13 - 00:06:37:18

without a requirement. Presently, there is nothing in the order which actually gives any comfort whatsoever about the depth um, we set out in our written representations, which is rep 2041 uh, these matters. But in summary, uh, there's no parameter in relation to the depth of the cables. Uh, the only thing you'll see, ma'am, as you go through is that there is a reference to not decreasing the depth by more than 5%, but obviously that provides no comfort whatsoever. Uh, I was thinking it strikes me it's

a little bit more like, uh, consenting a building on the flight path to an airport and telling the airport, well, don't worry about it.

00:06:37:20 - 00:07:15:04

We'll sort it all out in a plan later on. But the building won't be 5% higher, more than 5% higher than any other buildings around. You'll appreciate, ma'am, that's fundamentally unsatisfactory. Uh, this is the crucial way in and out of London gateway port. So it is, as I said, absolutely fundamental that we see a requirement of this nature that it isn't really suitable for the matter to be put into a plan which will be submitted later on to the MMO. Uh, that means neither London Gateway nor Malm yourself, or the Secretary of State will have any certainty about the effects of the laying of the cables.

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So the fundamental thing was just to say it is an absolutely crucial point. Secondly, just to emphasise, obviously, I think we've added with the portal and an authority on these matters, but it is London Gateway port that has the statutory powers to dredge in the area of the sunk already, and is the London Gateway port that has historically carried out all the dredge activity in this area. So at London Gateway port does need to be dealt with directly and not sort of seen as just being dealt with via the portal and an authority.

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To date, we haven't had any discussions with the applicant. On this point, we have only seen their response in rep 3037. Simply saying a requirement is not necessary, but it doesn't give any reasons for that view. So we do need to have some discussions. And we're hopeful that with those discussions this matter can be resolved. We have seen the plan that was shared at the Port of London Authority, and that looks like a good development, and I think that would be the good basis for a requirement. But obviously we do need to have those discussions and hopefully we can come with a requirement which will replicate essentially the requirement that looks likely to be included in the North Falls DCO.

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And the final point that I'm just to emphasize is the North, the five Estuaries DCO requirement will relate to an area of the sunk and of Trinity, which is immediately to the south of the area that is affected by work. Number three of this order, including such a requirement in five estuaries, is entirely Otto's. If you haven't got the same sort of requirement in this order, because essentially you have a large, you'll have a good dredge depth, but then suddenly you'll meet a sort of the mother of all speed bumps, essentially on the seabed.

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Uh, if these cables aren't subject to a requirement.

00:09:05:07 - 00:09:31:27

Oh. Thank you. Uh, if I can go to the applicant, then, um, so if you have a response to those additional comments that have just been made and can also in terms of drafting, um, as opposed to the principle of including the requirement. Do you have any comments on the draft, additional requirements that have been suggested by both those parties?

00:09:38:02 - 00:10:13:27

Got them governed for the applicant. Um, the applicant, um, is happy to acknowledge the importance of the deep water roots. Um, and that is why we are engaging with the ports, and we wish to resolve matters to everyone's satisfaction. Hence the recent meetings. We're very happy to meet with London Gateway Port Limited as well. I'm sure that can be arranged to present to them the proposals that the application applicant is coming forward with. And I've we've also noted the request for the map that was shared at the recent meeting to be provided in a slightly different format to enable the interrogation of that map.

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And the update from the applicants side is that the applicant is committed, in principle, to cable burial to a depth that will not impede in future dredging to a depth of 22m chart datum. Um, the discussions are ongoing, and the purpose of the map is to delineate the areas over which that, um, provision would apply. And so those discussions are ongoing, and we await the feedback on the map and the areas identified in the map.

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What the applicant is proposing to submit at deadline for is an outline of the construction specification installation plans. That's not being left to post consent, as I think Mr. Tyrrell was suggesting would be of concern to his clients. So that will be before examination and can be examined and scrutinised and feedback can be provided on that. The plan.

00:11:08:14 - 00:11:10:26

In terms of securing that plan.

00:11:11:02 - 00:11:38:20

The plan will be secured by way of condition that will be in the deemed marine licence. The cable commitment will be in the plan and the Ccep, along with the plan that was tabled at the recent meeting, and it is our position in light of that, that additional securing of that by means of a requirement or indeed additionally, on top of that, by way of protective provisions would be unnecessary. And there's no need to have three separate mechanisms, all doing the same job in our submission.

00:11:40:06 - 00:12:02:06

No thank you. And, um, the examining authority would certainly welcome if you could arrange to meet with London Gateway Port, as well as the Port of London Authority to try and resolve this issue. Um, I will just check if either Port of London Authority or London Gateway Port want to respond to that.

00:12:09:14 - 00:12:13:15

I have yeah, I do have that. Mr. Tirrell.

00:12:14:05 - 00:12:42:05

Ma'am. Thank you. Francis Terrell, on behalf of the London Gateway Port Authority, could I just confirm. Sorry, I didn't perhaps didn't hear quite what the different plans were. Um, the applicant was referring to, um, I think it was said that the outline construction plan would be provided. I think it was also said that the depth would be secured in the cable specification installation plan. I may have

misheard. I would just like some clarity. Quite which plan will specify depths and when it would be provided.

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

McGovern for the applicant. Um, apologies for any lack of clarity on my part. Um, we will be submitting the outline cable specification and installation plan at deadline for. And it will be the cable, uh, outline cable installation and specification plan, the c CIP, which will contain the burial and related commitments. So those will be submitted at deadline for.

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Mr..

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Zero

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one follow up points then. Um, will the DM the deanery license in respect of the offshore works, uh, be amended, therefore, to suggest that the final cable specification installation plan will be in accordance with that outline? One um, because currently there are a number of principles set out. I should just add that in any event, it will remained on the gateway ports position. That fundamentally requirement is necessary and appropriate for the reasons we set out in our written representation.

00:13:48:16 - 00:14:08:17

So just Mr. Terrell, a requirement in addition to a condition because, um, Mr. McGovern did indicate that that plan and the depths were to be proposed to be secured by amendment to a condition.

00:14:09:17 - 00:14:44:21

Uh, if Mr. McGovern will clarify that my understanding was that we will see an outline cable specification and installation plan and that we'll have to see what that says. But that may or may not specify a minimum depth. Uh, that the only relevance of that outline as these things normally proceed, is that the final cable specification installation plan, which will be submitted to the MMO, would need to be in accordance with that plan. If I look at condition 22 H. As currently drafted within the D marine license for the offshore works.

00:14:45:14 - 00:15:12:00

Uh, and I may be missing it, but I don't see that the final, uh, KTP would have to relate to that outline. One, I just see some principles for that kip. And I just see there, for example, the the ability to reduce depth by 5%, which is obviously a worrying factor. So, uh, my point would be the outline. KSP is only a value if we also see relevance changes to the DML to tie it in in some way.

00:15:14:27 - 00:15:27:17

I think all these various queries and points emphasize the need for a meeting. But Mr. McGovern, perhaps you could clarify the changes you are intending to submit for the next deadline.

00:15:27:26 - 00:15:43:14

Gavin McGovern for the applicant. Just to reassure Mr. Tyrrell that, yes, we will be amending the wording of condition 22 each in the marine licence so that it that refers to the final commit being in accordance with the outline clip to give him that comfort.

00:15:48:06 - 00:15:48:21

Right.

00:15:48:23 - 00:15:51:18

I have a hand up from Julie Russell.

00:15:55:06 - 00:16:21:17

Thank you. It's Julie Russell on behalf of the Port of London Authority. Just to come back on a few of those points, if I may. Um, I think the first thing that we would want to note is that we're fully supportive of the submissions made by London Gateway, um, in connection with, with this point. Um, the Port of London Authority's position is that this is so fundamental to, to it that, um,

00:16:23:11 - 00:16:58:24

it should be a requirement that is clear on the face of the DCO rather than, um, being a, um, something that's sort of hidden away in the deemed marine licence License or the, um, the outline, uh, clip, uh, which would then, uh, hopefully, um, but not as currently drafted, come forward um, in accordance. So the outline, uh, the clip then comes forward in accordance with the outline sees it. But at the present time, the draft doesn't, um, doesn't make that specification.

00:16:59:07 - 00:17:28:20

Um, so I suppose my sort of my point on this is that if the requirement is there, we feel that that's the most appropriate mechanism, um, for ensuring the protection required, um, on the face of the GCA, without having to rely on what's in the marine license and the connection between the outline clip, um, and the that eventually comes forward.

00:17:30:29 - 00:17:31:20

Thank you.

00:17:34:02 - 00:17:36:27

Mr. McGovern. Is there anything you want to add?

00:17:38:00 - 00:17:44:09

Karen McGovern for the applicant. I don't wish to add anything and draw at this point any further. We'll make our submissions at deadline for. Thank you.

00:17:44:11 - 00:17:45:15

All right. Thank you.

00:17:48:13 - 00:17:55:20

Right. In that case, I'll move on to the next agenda item under this.

00:17:56:00 - 00:17:56:24

Can I just.

00:17:56:26 - 00:18:03:10

Check if the Maritime and Coastguard Agency are present?

00:18:11:18 - 00:18:41:26

This this agenda item covers the drafting of any proposed requirement or condition that might be included within the draft DCO and relating to the removal of the galloper recommended route as a prerequisite to the grant of consent. Um, it may be that they're coming tomorrow and we can But this, um. Consider this in more depth tomorrow. Um, it's.

00:18:42:02 - 00:18:57:01

If I just say I did have some questions for them on this. Um, but I just wondered if the applicant had any response to make, including specifically on the need for and drafting of the proposed requirement.

00:18:59:13 - 00:19:31:02

Gary McGovern for the applicant. I think you're right, ma'am, that this might be something that is better discussed tomorrow with the MC present, um, and the need or otherwise, for a condition I think. Does, um, uh, relate to the evidence around the nature of the route? Um, I can say that the applicant is looking to also arrange a meeting with the MCA after these hearings to further discuss the galloper recommended route and hopefully push forward with the removal of that route. But as I say, I think it's probably better that we discuss all of those matters in the round tomorrow.

00:19:31:04 - 00:20:01:22

Yeah, we do. We do need them. Yeah. Um, right. So if I leave that for now, I move on now to schedule three traffic regulation. And that was whether any amendments are required in relation to speed limits to ensure consistency with the five estuaries offshore wind farm drift DCO. It may be that this has already been dealt with, but if I can go to Essex County Council, uh, to see if there's anything they want to say on this.

00:20:06:20 - 00:20:20:28

Er, Wallace, Essex County Council. Um, we don't require any further amendments because we're aware that the applicant has made changes at deadline one. So we are content and this has set out in our day two submissions.

00:20:21:04 - 00:20:33:27

Thank you. No, thank you for confirming that. Right. Um, I'll now pass over to my colleague, Mrs. Van Milligan, to raise questions relating to the deemed marine licenses.

00:20:36:20 - 00:21:12:04

Thank you. So now moving to schedules eight, nine and ten of the DCO d marine licenses. The first bullet point, um, both Natural England and the MMO have indicated they are seeking amendments to the draft wording of schedules eight, nine and ten dealing with the deemed marine licenses. And please, can the applicant provide a brief update on the progress of discussions with both of those organizations in agreeing the wording of the relevant provisions for those schedules in the DCO?

00:21:15:00 - 00:21:57:12

Gary McGovern for the applicant. Um, having reviewed um, the deadline, three submissions by the MMO and the additional submission, um, by the MMO S-051. Um, the applicant would like to note that there does appear to be good progress, and a number of the comments that have been raised by the MMO earlier deadlines have now been closed out, either with their agreement or no further comment. Um, insofar as there are some outstanding discrete points, uh, the applicant is actively considering those points and is planning some further updates, um, to address some of those points at deadline for um, I think probably the key issues the MMO raised are the transfer of benefit um, drafting, which we've discussed earlier.

00:21:57:15 - 00:22:30:16

Um, there's a point in relation to the force majeure condition, which I think is, uh, on the agenda to come on to, um, later on. Um, but we will be addressing all of the outstanding comments from the MMO deadline for um in relation to Natural England. Um, we note there are now no red flags, um, in their Risk and Issues log. They've welcomed the commitment in relation to monitoring of piling and cessation of piling activity. If impact levels significantly exceed what's been predicted.

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We've also noted the National England's request for without prejudice schedules for the species where the applicant's position is no adverse effect on integrity. And we're drafting those schedules with a view to submitting those into examination no later than deadline five. So in summary, we feel that good progress has been made. We're addressing many of the issues, although there are some that will remain unresolved at deadline for where we still do not agree with comments that have been made. Thank you.

00:23:00:27 - 00:23:01:18

Thank you.

00:23:03:12 - 00:23:14:11

Moving on to the second bullet point. Um, the drafting of condition 20 in schedule eight and ten and condition 21 in schedule nine

00:23:15:29 - 00:23:22:22

have the outstanding points in relation to those schedules been resolved with the MMO. Um,

00:23:24:07 - 00:23:32:06

so I, I think you have just referred to the force majeure position. Um, but whether you're able to provide an update on that, please.

00:23:33:18 - 00:24:08:15

Gary McGovern for the applicant. Um, our position is unchanged on this drafting. Um, we're not aware that the Mo's position has changed, um, either. Um, suffice to say that we maintain that this is a, well, precedented standard condition to find an offshore wind farm. The marine license is indeed the ramping to the marine license. Um, granted, on Friday has the equivalent provision in it. Um, it does not, in our view, alter, amend or apply the statutory offense and defense that are in the Marine and Coastal Access Act.

00:24:08:17 - 00:24:26:10

It's a notification mechanism, and we're struggling to understand why the MMO will have a concern about it for that reason. It's a means of bringing to their attention, um, circumstances which may engage the statutory provisions and require them to investigate. So our position is unchanged on that one. Thank you.

00:24:27:07 - 00:24:34:21

Thank you. That's noted. Unfortunately, we don't have the memo here to, um, to ask for their comments on that position.

00:24:42:05 - 00:24:43:29

Moving to the third bullet point.

00:24:47:25 - 00:24:58:21

The MMO has sought changes to part one, paragraph nine of the MLRS. Um, and this is set out in their representation rep zero for three.

00:25:01:17 - 00:25:27:23

And then we've had your response. The applicants uh, at rep 3038 uh, indicating that this is not something that the applicants agree with and not in a position to make those changes requested by the MMO. Uh, again, is this something that you're able to provide an update on as to whether any of those points can be resolved with the MMO.

00:25:29:17 - 00:26:10:03

Gary McGovern or the applicant. Um, unfortunately, no. Um, for the reasons set out in rep 3-038, we maintain our position that the drafting, um, in our version is the more appropriate drafting for the reasons that we've set out. Uh, we do think changing, uh, materially greater to materially different is different and more imprecise. Um, so we don't propose to change that. And I suspect that will be a continuing disagreement, which will be left, um, to be resolved by the secretary state, ultimately, that we're not looking at other um, granted, uh, the marine licenses, different forms of words have been used by the secretary of state.

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So we have our preference and we maintain it. Thank you.

00:26:18:12 - 00:26:36:21

Thank you. And moving to the fourth, uh, bullet point, and we've already touched on this issue with regards to schedule nine and the, uh, comments, uh, or amendments requested by Port of London Authority. Um,

00:26:38:20 - 00:26:51:06

and you've already, uh, updated us as to the discussions with the Port of London Authority. Uh, and whether at this stage you want to add anything further on that.

00:26:53:14 - 00:26:59:07

Gary McGovern for the applicant. Um, I don't wish to add anything further to my earlier submissions. Thank you.

00:27:00:24 - 00:27:05:29

Thank you. And does the Port of London wish to come back on on that and add anything further?

00:27:07:20 - 00:27:40:26

Thank you. Julie Russell for the Port of London Authority, only to say that, um, the changes that we've requested, um, here, um, are the same changes that have been agreed with the MMO in connection with five estuaries. And so we would want to use secure parity. Um, here with that. Um, the first point, the second point is I'm not sure that we've heard from the applicant about whether or not those points can be agreed or not at this stage.

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Thank you.

00:27:56:27 - 00:27:58:19

And Mr. Terrill.

00:28:00:08 - 00:28:31:24

Thank you ma'am. I just wanted to flag. Obviously, we have concerns about the conditions. Uh, both condition 13, uh, and the other conditions. Um, and just obviously emphasize that, uh, although we agree, largely the Port of London Authority doesn't speak on behalf of London Gateway Port. So we do need to be dealt with individually and separately on those points. Um, I also just wanted to flag because we have now seen since, uh, the written representations gone in.

00:28:32:10 - 00:29:12:08

Uh, the applicant has produced, um, the outline offshore operations and maintenance plan, and I think this is just relevant, uh, really in terms of the point we're making earlier about, I suppose, the unreliability of relying on plans that will come into being under the marine licence. Uh, we've raised the point, uh, in relation to maintenance, and this is looking at condition 13, uh, of the authorised development, um, in relation to there's no restriction on those maintenance activities in terms of the depth other than saying the they won't reduce water depth by more than 5%, are less agreed with the MMO in writing.

00:29:12:22 - 00:29:45:06

Uh, and we also know that works of maintenance under condition 13 should, because of condition 1304 be carried out in accordance with the operations and maintenance plan, that is going to be substantially in accordance with the outline Offshore Operations and Maintenance plan that's been made available as at deadline three and it's rep 3025. If I look at that, I see nothing at all that deals with cable depths. Um, so that would give us no confidence or reassurance whatsoever.

00:29:45:08 - 00:30:15:18

There's no reason to suggest, or we have no reason to know, that the ultimate operation and maintenance plan, which obviously won't come into being until sometime in the future, because we're talking here about maintenance, not the actual construction activity, would have anything included in

it in relation to depth, because I see nothing in the outline plan that relates to depths. Uh, so for these reasons, we know we're not confident about what we'll see in the, um, the outline CCP that but and we come back to our fundamental point about the fundamental requirement for a requirement. Sorry, that was lots of fundamentals and lots of requirements in that sentence.

00:30:15:20 - 00:30:29:24

But, I think you'll get the point. A requirement is fundamental. Um, I think that just demonstrates, uh, our ongoing concerns on the gateway about the DML and the conditions, but also the need for requirement.

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Thank you.

00:30:35:03 - 00:30:37:04

Thank you, Mr. McGovern.

00:30:39:15 - 00:31:10:13

Gary McGovern for the applicant. Um, we note, uh, Mr. Submission, and, uh, we are of the view that the submissions that we'll be making at deadline for, um, will hopefully address the concerns that have been raised. And the Northfield project is certainly working towards a position where there would be a commitment to the cable bill depth, as I've outlined. And that would also ensure that water depths would not be reduced as a result of the project. Um, so we hope once we have set all of that into examination at the deadline for the picture will be much clearer.

00:31:10:18 - 00:31:17:18

We accept that all of the pieces of the jigsaw are not in the existing documents. So I can understand Mr. Hill's observations. Thank you.

00:31:21:12 - 00:31:31:09

Thank you. So unless either Port of London or London Gateway want to come back on on that. I'll move on to the next bullet point.

00:31:39:12 - 00:32:04:26

So with regards to the recommended amendments to the draft marine licences proposed by Natural England, including schedule eight, part three condition 20 11M to give an individual timing requirement for the Site Integrity Plan, please can the applicant provide an update as to any progress with the discussions with Natural England on the proposed amendments?

00:32:06:23 - 00:32:54:08

Gary McGovern for the applicant. We haven't had any direct discussions with Natural England in relation to their position. It's fair to say that their position on this is not specific to the North Falls project, and this is a position that they've made on a number of offshore wind farm projects. And we have included within the Outline Site Integrity Plan indicative timescales indicating that the site Integrity plan would be prepared. A consultation draft around 12 months prior to foundation installation and submission of the Site Integrity Plan would be made by six months prior, and so we

believe that the timing, um, is already covered within the outline CIP, and we're not proposing to include that in the marine licence condition.

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Thank you.

00:33:02:24 - 00:33:04:08

Moving to the next point.

00:33:10:04 - 00:33:27:16

The amendment sought by the Maritime and Coastguard Agency. In respect of the emails contained in schedules eight, nine and ten. Please can the applicant provide any update as to the progress of discussions with the MCA on their proposed amendments?

00:33:28:09 - 00:33:58:27

And McGovern for the applicant. We have carefully considered the amendments requested by the MC. And I'm pleased to say that we will be updating the DCO at deadline for to address the majority of the requests that the MCA has made. And we note in relation to one of the conditions, the model also commented, and this relates to the dropped objects request, and the Moz suggested wording differs slightly from the MCAS.

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Um, we will be proposing our preferred wording, which we hope will address both the MC and the Moz comments at deadline for in relation to the timing of the reporting of dropped objects. So we hope we will have cleared that issue with our deadline for submission. Thank you.

00:34:16:21 - 00:34:17:10

Thank you.

00:34:18:25 - 00:34:42:21

Um, moving to the next point, um, which was amendment sought by Port of London Authority and London Gateway Port Limited. Uh, I think maybe we've already covered that point in, uh, an earlier part of this section. Unless either of Port of London or London Gateway want to come in on that.

00:34:47:05 - 00:35:03:21

Uh, hello there, Julie Russell for the Port of London Authority. Um, just just to say, um, that Mr. Cyril has already made the points in relation to, uh, condition 13 three. Um, and that Port of London Authority, um, shares the same concerns as he's expressed.

00:35:04:19 - 00:35:05:12

Thank you.

00:35:19:05 - 00:35:26:12

Moving on to the final point in this section, um, regarding the progress of discussions.

00:35:29:13 - 00:35:53:10

Between Port of London Authority and the MMO, uh regarding amendment. Amendment sought to the DML to reflect the requirements relating to Deepwater routes. Uh, though I think maybe this is something that we've already, uh, covered in earlier questions, unless LR wants to come in on that point.

00:35:56:09 - 00:36:18:18

Julie Russell for the Port of London Authority. Um, yes, I think we've already covered it. We have got a mock up of the the marine licence in circulation between ourselves and, um, the know. We're hopeful that we'll have something to submit to to deadline for that. Certainly the deadline we're working towards, um, in relation to those, uh, amendments.

00:36:19:23 - 00:36:28:14

Thank you. I'd now like to move on to section 14 and protective provisions.

00:36:36:11 - 00:36:36:26

I'm.

00:36:39:20 - 00:36:48:24

Sorry, Francis, on behalf of the report, just in relation to that latter point, obviously, just to reemphasize, we'd like to be part of those discussions on the DML.

00:36:52:20 - 00:36:57:08

Thank you. Mr. McGovern, do you have any anything further to say on that point?

00:36:57:27 - 00:37:09:08

Gary McGovern for the applicant? Um, we would also like to be part of any discussions that the marine management organization may be having, you know, bilaterally with the ports and we're not aware of those discussions. Thank you.

00:37:25:06 - 00:37:48:02

So back on to protective provisions. Um, firstly, uh, to the applicant, whether they're able to update, uh, the panel on the progress of any negotiations relating to the agreement of protective provisions, noting that we've already had some discussion on this point this morning. But if there are any other negotiations and discussions that you want to update us on at this stage, please.

00:37:54:03 - 00:37:55:12

Uh, Clare, project for the.

00:37:55:14 - 00:38:17:00

Applicant, um, I wonder if it might be helpful for us to just give a brief overview of the status of particular provisions relating to onshore matters and then discussion in relation to protected provisions for offshore matters with those um, uh, representatives who are attending can then can then take place afterwards, if that would be of assistance.

00:38:17:12 - 00:38:18:01

Yes. Thank you.

00:38:18:25 - 00:38:57:12

Um, just in relation to the Environment Agency, we obviously already gave the update earlier in the hearing that the protected provisions will be updated, um, for deadline for to include the agreed version on, uh, the five estuaries uh project. The same position applies in relation to a number of other, uh, protective provisions. Although noting that the final version, including in the Five Estuaries draft, Eco, wasn't necessarily agreed with each of the um uh statutory undertakers, and negotiations are ongoing and will be continuing throughout the North Wales examination.

00:38:57:14 - 00:39:43:08

And that is the position with um, Affinity Water where um, there are a number of matters outstanding and negotiations are continuing. Um, that relates to both, uh, technical matters and also a number of commercial matters relating to costs and indemnity, etc.. We're continuing to negotiate in a conjoined manner with five estuaries. And to the extent that an agreed version is reached within the North Wales examination, then the intention would be that five estuaries would make an update to the Secretary of State to include in a request to include that agreed for within their draft DCO um in respect of Anglian Water.

00:39:43:15 - 00:40:14:03

Um those protected provisions are almost in an agreed form, but there are a couple of points outstanding. One is a technical point relating to the distance um for works um in proximity to pipelines over 400mm. Um, and there's some work on going to establish Whether a prescribed distance can be included within the protected provisions, and then there is a commercial point outstanding in relation to the amount of the indemnity in relation to cadent gas.

00:40:14:19 - 00:40:44:25

Um bespoke protective provisions and an associated side agreement are in an agreed form. A deadline for version of the draft DCO will include that agreed form of protected provisions, and an agreement version of the side agreement will be being prepared for signature. So we are hopeful that Cadent gas will be able to withdraw their objection shortly. Um, in relation to Essex County Council, there are two relevant sets of protected provisions.

00:40:44:27 - 00:41:25:09

One is in relation to their role as um local flood authority, um protective provisions in relation to um. Those matters were agreed on the Five Estuaries uh project. And that agreed form of protected provisions will be included in the draft eco, the North Falls submitted at deadline for. And the same is the position for um, the protected provisions for the benefit of Essex County Council as local highway authority. Again, those protected provisions were agreed on five estuaries, and the same version of the protected provisions will be included in the deadline for draft DCO for North Falls.

00:41:26:04 - 00:41:59:20

Uh. Similarly, um, protected provisions for uh National Grid electricity transmission have now been agreed, and those will be included in the deadline for version. Um, that is also the case in relation to the protected provisions for National Highways. And they will also be included in the deadline for version of the draft DCO, um, in respect of Network Rail. Um, negotiations are ongoing, both in terms of um, their protected provisions and a related framework agreement.

00:42:00:10 - 00:42:37:02

Network rail confirmed earlier in March on the 10th of March that the technical clearance had been issued, which meant that heads of terms for the voluntary property agreement could be progressed. One of the outstanding matters on the particular provision is the restriction on the use of compulsory acquisition powers and the applicant's position, as it can't agree to that until progress has been made on the voluntary property agreements. But now that technical clearance has been issued, the applicant is very hopeful that sufficient progress can be made on that particular point so that the protected provisions can be agreed by the end of the examination.

00:42:38:15 - 00:42:48:24

I think that deals with all of the provisions relating to onshore matters. And I'll hand over to Mr. McGovern in terms of offshore protective provisions. Thank you.

00:42:52:08 - 00:43:27:21

Madam McGovern for the applicant. Um, there are no active And discussions or negotiations at present with the ports in relation to offshore protective provisions. And our position, as I've already outlined earlier, is that we do not consider the protective provisions that are necessary, appropriate in the circumstances of this case in relation to the offshore assets. And we will set out our position on that in full in writing at deadline for and other parties will be able to respond to that without prejudice to our primary position.

00:43:27:23 - 00:44:04:19

We note that Port of London Authority submitted its examination at deadline to its preferred protective provisions and then subsequently, at deadline three, lodged a copy of the protected provisions and submitted by five estuaries late in their examination. And um, there is no agreement or there was no agreement in the Five Estuaries case and significant differences between the two protected provisions that were tabled. Um, there has been no indication, um, for Port of London Authority that there would be any scope to negotiate away from the protective provisions that they say are required in this case.

00:44:05:01 - 00:44:14:28

Therefore, we do question whether the utility of having negotiations, where it seems to us that it's quite clear what their position is and bottom line is in relation to protect provisions. Thank you.

00:44:17:04 - 00:44:21:25

Thank you. Do I the Port of London or London Gateway want to respond on that?

00:44:23:27 - 00:44:54:04

Yes. Julie Russell for the Port of London Authority. Um, there's a couple of points to pick up from, um, from the Port of London Authority's perspective. Um, the first point is that, um, in our in the Port of London Authority's view, it's fundamentally wrong, um, that we can't have those protective provisions, given that, um, the scheme has a fundamental impact on the UK's largest port.

00:44:54:12 - 00:45:28:16

Um, We've heard much this morning about how unsure they will be. Parity, consistency, equivalence, um, with the five estuaries. Um, and effectively that's all we're asking for here. Um, it's understood that, um, the applicant's position is that, um, protective provisions aren't required for the Port of London Authority because, um, the, uh, scheme is not within it, within the Port of London Authority's jurisdictional limits.

00:45:28:29 - 00:45:35:17

Um, but neither was five estuaries. Um, and, um,

00:45:37:07 - 00:46:00:17

we know that the impacts of this scheme could potentially have a fundamental impact on our operations. Um, there's two more things I'd like to pick up on, if I may. Um, the first thing is, uh, the applicant's assertion that there are significant differences between the five estuaries and

00:46:02:10 - 00:46:34:03

protective provisions as submitted, and the protective provisions put forward by the Port of London Authority at five estuaries. Last deadline. And we accept there were differences, but not that those differences were significant. And is the first point. And the second point is that the applicant. I think, if I understood correctly, is saying that, um, Port of London Authority, I'm open to having further discussions and that's simply not the case.

00:46:34:05 - 00:47:12:14

We would, um, welcome any opportunity to, um, to further discuss the protected provisions and perhaps understand why parity with um, five estuaries is thought to be inappropriate in this case. Um, so I suppose in summary and to conclude, Um, we think that, um, having some form of protected provisions, ideally ones that reflect the ones we've agreed, um, in connection with five estuaries, um, is is fundamental and absolutely required, say that the Port of London Authority can effectively discharge its general and specific statutory duties.

00:47:17:24 - 00:47:22:29

Thank you. Does Mr. Tirrell want to make any comment before we move?

00:47:24:11 - 00:47:54:26

Thank you. Madam Frances Chair, on behalf of London Gateway Port Limited, uh, I just well, I'd like to hopefully just clarify one thing. I think Mr. McGovern hopefully misspoke. He suggested that protected provisions were not appropriate for the ports, plural in general. Um, we already have within the draft eco protective provisions for the benefit of London Gateway port, which my client is glad of, um, and would obviously maintain the the importance and need for those we have flagged in our written representations.

00:47:55:05 - 00:48:28:14

Uh, and also in our response to, uh, written questions. One. Um, the need for some slight amendments to those, uh, those amendments we would like to discuss with the applicant, but they're largely to put them on the same footing as the, uh, protective provisions for five estuaries or that we have submitted for five estuaries. Uh, and I note, uh, in their response to the comments on XQ1, which is rep 3036.

Uh, the applicant does say it will continue to engage with London Gateway on the matters raised in relation to that.

00:48:28:16 - 00:48:42:03

So I'm hopefully hoping that is still the case. And just putting down a marker that we have got a few amendments for that. Uh, they're not uh, I think none of them are particularly material. Um, so hopefully they'll be acceptable. And we look forward to discussing those with the applicant.

00:48:46:00 - 00:48:46:25

Mr. McGowan.

00:48:48:28 - 00:49:18:28

And Gary McGovern for the applicant. Um, in relation to, uh, differences between five estuaries. And I don't want to be drawn into, um, commenting on um matters from another examination that the panel can look at the differences and form their own view, um, as to whether they mature or not. I would just add that clearly, since the two parties were unable to agree, um, to agree provisions there were clearly deemed to be material enough that they wouldn't reach agreement on them.

00:49:19:09 - 00:49:56:07

Um, I did note Miss Russell, um, said that we're very open to discussions, as are the applicants. Um, but her she also then went on to say, um, she would be looking for parity, which reinforces my point that there is no scope to deviate away from the Port of London Authority's preferred protected provisions based on that comment. Um, in relation to Mr. Turtle's comments, we are very open and would be happy to meet with London Gateway Port Limited to discuss the mitigation cable video requirements and technical requirements in relation to the protected provisions that are currently in the order.

00:49:56:15 - 00:50:29:09

Um, those um were included originally. Um, to relate to what number three, insofar as it would be within the jurisdiction of London Gateway. Um, and having reflected on that. Um, it's clear that the export cable corridor is not within the jurisdictional limits of London Gateway Port Limited. So, again, we would not be of the view that protective provisions would be included for London Gateway Port on that basis. And I can see Mr. Turtle's hand has immediately gone up, so I will pass back to him.

00:50:30:14 - 00:50:31:20

Thank you, Mr. Tyrrell.

00:50:33:15 - 00:51:05:22

Thank you ma'am. Obviously, this is an interesting development. We hadn't been informed before that, uh, the applicant was proposing to remove the protected provisions already in the draft order and that have been in the draft order for a number of iterations. Uh, as to the point about jurisdiction, I think that's fundamentally a misunderstanding of how our particularly the London Gateway Harbour Empowerment Order 2008 works. It defines quite a narrow area of jurisdiction, and that essentially is the area within which London Gateway Port exercises its functions as harbour authority over vessels.

00:51:07:08 - 00:51:37:27

It has no correlation to the area in which London Gateway Port exercised its powers under the order, in particular its powers to dredge under article 13 of that order, which extends significantly out, and they do extend directly to the area of the sunk. And the reasons are for that are to it allows the port to function. So it is slightly. It's either misunderstanding or it's perverse to say, well, you're not in your jurisdiction, so we're not bothered.

00:51:38:09 - 00:52:22:05

I mean, essentially, the Secretary of State gave powers under the 2008 order that were necessary to make the port function and those powers extend quite some way out into the area that we're now concerned with. So we do fundamentally maintain the need for a protective provisions. I think if there are no protective provisions, then our concerns about the entire lack of detail or certainty about the dredge depth is just multiplied further. Um, we would then have to take it entirely on trust that a plan to be produced in the future and to be submitted to the MMO in accordance with another plan, which we haven't yet seen, which will have probably relatively vague provision in it about depth, uh, protects gateways interests, and that is fundamentally not suitable.

00:52:25:29 - 00:52:26:23

Yes. Russell.

00:52:31:29 - 00:53:02:00

Russell, on behalf of the Port of London Authority. Um, I just wanted to come back on the applicant's comments. Um, and just make it clear that whilst parity with five estuaries is now a clear preference. And that's not to say that we wouldn't be open to a further to a further discussion. In fact, we would, um, welcome further meetings with, um, the applicant, particularly in light of the fact that to date, we've only met them once on the 19th of March and not since then.

00:53:02:12 - 00:53:03:02

Thank you.

00:53:05:21 - 00:53:08:12

Mr. Gavin. I Gavin, do you want to make any further comment?

00:53:08:29 - 00:53:39:15

Gavin McGovern for the applicant. Um, yes. Just very briefly, um, I would just like to reaffirm the applicant's willingness to meet with all of the port representation representatives and to continue the discussions that we've been having were very open to that. Um, just secondly, in relation to Mr. Turtle's point in relation to the Harbour Empowerment Order, where we are of the order and the dredging powers extend out beyond the jurisdiction. My understanding of those is that they allow dredging to a current depth of 16.5m.

00:53:39:17 - 00:53:47:18

They do not allow dredging to a depth of 20m datum. At the moment, that's my understanding. If I have that wrong. I'm sure Mr. Tyrrell will correct me.

00:53:54:08 - 00:53:56:05

Mom, should I just briefly come in on that point?

00:53:56:28 - 00:53:57:22

Yes, please.

00:53:58:06 - 00:54:37:11

Thank you for your answer. And on behalf of London Gateway Port. It's correct that the dredge depth goes down to 60.5m plus a one metre deviation, which will give 17.5. Um, I'd be interested to understand whether the point in principle is whether or not we're arguing about the depth to be specified in the requirement, uh, or whether or not essentially from what the applicant is saying is any of London gateways, business or not, what depth is maintained out there because it's outside their jurisdiction? I think there's a point of principle here. Um, we can explain at length and be happy to do so about the additional depth and how that reflects the need for, uh, deeper vessels that, um, are defined by the depth of the Malacca Straits, in a sense.

00:54:37:20 - 00:54:49:11

Um, but I think there's a fundamental point of principle here about whether or not the applicant concedes that we have any business being concerned about the debts in the bank at all, which it now seems they are residing from.

00:54:56:07 - 00:54:56:27

McGovern.

00:54:57:19 - 00:55:03:03

McGovern for the applicant. I don't wish to draw out this exchange any further. We'll make our submissions in writing.

00:55:05:18 - 00:55:06:19

Thank. Thank you.

00:55:08:24 - 00:55:29:04

Moving on to the next point on the agenda, um, which was regards to Essex County Council and the protective provisions, uh, as the highway authority, I think the applicant has already addressed that, but it was whether Essex County Council wish to make any comment on that.

00:55:38:00 - 00:56:06:13

Carol Wallace, Essex County Council. We welcome the applicants approach in terms of providing the protective provisions for highways. I just want to point out that for the drainage, um, protective provisions. Um, the caravan, one version submitted at that line three is not the latest version that we have sent to the applicant. So we would like the applicants to to tell it to the latest, um, wording provided.

00:56:15:11 - 00:56:54:24

For the applicant. Um, my understanding is the version that was submitted in the final version of the draft DCO for Five Estuaries was the agreed form that the version put in the deadline three version for North Falls hadn't incorporated any further amendments just because of the the timings of those two

deadlines, but the version going in at deadline four will be the version that was included in the final five series. Um, if there are further points, then we will liaise with Essex outside of the hearing if the if that is not their understanding, but that that was our understanding of the position.

00:56:57:03 - 00:56:57:25

Thank you.

00:57:00:27 - 00:57:18:15

I think the applicant has already given us a sufficient update on negotiations with other undertakers. Uh, unless anybody has any further comments. I'll now hand over to miss McKay for the next part of the agenda.

00:57:20:25 - 00:57:21:17

Thank you.

00:57:23:17 - 00:57:55:03

So this topic relates to schedule 15 compensation to protect the coherence of the National Site Network and Natural England. Uh, deadline three. Their risk and issues. Log rep 3064.82. Uh, sort of makes this point. And they seek provision for compensatory measures for relevant features to be included in the draft DCO on or without prejudice basis. So turning to the applicant.

00:57:55:05 - 00:58:07:09

We don't have Natural England present question on this, but can draft wording be provided on or without prejudice basis for the next deadline?

00:58:09:06 - 00:58:45:18

And McGovern for the applicant? Um, yes. We are preparing draft wording for those schedules on a without prejudice basis, and we're currently working towards being able to submit that for deadline five. Um, if we can do it any further, then we will. Um, reason being, we have obviously just had um, consultation published by Defra, um, with further detail in relation to the Marine Recovery Fund. We've had a further decision on Friday and release to ramp into, and we would like to take the time to consider whether there any implications for the drafting that we're working on as well.

00:58:45:23 - 00:58:51:11

Um, so we will submit that as soon as we can. But at the moment, the deadline five would be the best we would commit to.

00:58:52:06 - 00:59:10:00

So thank you for that indication. Right. I've no more questions on that topic. So I'll now pass back to Mrs. Van Gilligan for the next questions. That's relating to planning obligations and other agreements.

00:59:13:26 - 00:59:33:25

In the local impact report received from Essex County Council, uh, there's reference to a framework highways agreement setting out the details of how the DCO, if granted, would be exercised. Uh, and I'd be grateful if Essex County Council could give an update on that agreement.

00:59:36:20 - 01:00:09:14

Howard Wallace, Essex County Council and the council has provided the Draft Framework Highways Agreement to the applicant on the 19th of March. Um, the applicant just said they are considering it and having come back with with more specific wording. Uh, so it will be an ongoing matters to be discussed as part of the Statement of Common Ground. Um, I would like to take this opportunity to explain why the county council insist to have a framework highways agreement.

01:00:09:25 - 01:00:50:02

The reason being, because the framework highways agreement, we need to read alongside with the highways protective provisions, because it provides details regarding um, Highways Authority processes for highways works, which are not currently included within the, uh, the protective provisions itself. Um, we consider that having a framework highways agreement will strike a balance between the protective provisions and the section 278 agreement for the delivery of the highway works, which will be to the benefit of the developer and the subsequent contractor dealing with the works.

01:00:50:24 - 01:01:22:21

In reality, um, our experience was that with other DCO projects, if a framework highways agreement not agreed at this point, later on when a subcontractor deal with the highways method, they will still come back to the Highway Authority and will still need to enter into a legal agreement with the Highways Authority. So having a framework Highways Agreement agree at this stage will actually speed up the process and make everybody aware of the necessary process to deal with the highways works.

01:01:23:09 - 01:01:23:28

Thank you.

01:01:26:15 - 01:01:29:12

Thank you. The applicant.

01:01:30:20 - 01:02:06:04

Clare project for the applicant. Um, yeah. So the, the need for and the provisions of any framework, um, agreements are being considered. Um, we will also need to liaise, um, with both estuaries on the drafting of that. I don't believe that was agreed by the end of their examination, but please do correct me if I've got that wrong. Um, and, um, article 15 of the draft DCO does provide for agreements to be entered into between, um, the Undertaker and the Highway Authority.

01:02:06:06 - 01:02:25:01

So, um, the DCO process does, um, uh, foresee the need for, um, further agreements that do typically deal with matters that you would find in a, in a section two, seven, eight agreement. Um, so, yeah, that is a matter that continues to be under negotiation. Thank you.

01:02:25:08 - 01:02:29:08

Is there something that we will get an update on deadline for.

01:02:31:05 - 01:02:36:14

Claire Blodgett for the applicant. And yes, we can definitely include an update for deadline for.

01:02:37:12 - 01:02:38:03

Thank you.

01:02:41:04 - 01:03:09:24

Moving on to the second, uh, point in this section, uh, whether there are any further agreements being put forward in connection with, firstly, uh, National Grid electricity transmission, uh, to put in place a future crossing agreement to govern the offshore crossing in respect of the Sea Link project and the proposed development, uh, referred to in rep 2047.

01:03:14:06 - 01:03:28:17

Clare project, the applicant? Um, yes. There is a form of agreement, um, in circulation. Um, it is almost in an agreed form. So we anticipate, um, engagements being prepared shortly on that basis. Okay.

01:03:33:03 - 01:03:51:15

Thank you. And, uh, second arm of that, uh, whether any other planning obligations or agreements to secure mitigation, enhancement or other matters are required and intended to be completed prior to the close of this examination.

01:03:53:09 - 01:04:11:10

Uh, clear project for the applicant as the applicant understands it. At the moment, there isn't a need for any further agreement or planning obligation. However, I note that Essex County Council took away an action from the hearing last week to consider that point further. Thank you.

01:04:13:23 - 01:04:17:15

Essex County Council wish to make any comment on that. Mr. Wiltshire.

01:04:18:08 - 01:04:37:03

Thank you. Mark. Essex County Council, um, at this present moment in time, we are seeking to negotiate the community benefits package with the applicant, which would be covered by a section six agreement. But I'm not aware that there is any need for that to be timetabled within the hearing itself, but the discussions on that will be ongoing.

01:04:37:26 - 01:04:38:12

Thank you.

01:04:38:18 - 01:04:49:26

Thank you. Unless anybody else within the room or online has any further comments. Um, I'll now pass back to Miss Mackay. Thank you.

01:04:55:20 - 01:05:26:00

All right. Thank you. We're now moving on to a few other matters. So the first item was whether any other amendments are required to the draft DCO to ensure consistency with the five estuaries, offshore wind farm, draft DCO and common aspects. Um, just looking briefly at those requirements

requirement for deadline three that now seems to be consistent with five estuaries following the removal of the words and approved by from for two.

01:05:26:09 - 01:05:30:19

I just wanted to check that. Essex County Council were content with that.

01:05:43:28 - 01:05:46:10

Thank you. Mark. Was it Essex County Council? Yes.

01:05:46:12 - 01:06:17:17

Yeah. Thank you for that confirmation. Um, then others requirements that appear to be in common with, uh, requirement five onshore substation works, design and landscaping that appears to be largely consistent. Um, with and the parameters are largely consistent. Say for one height parameter. But, um, the examining authority are not suggesting that that should be changed.

01:06:18:01 - 01:06:49:09

Uh, likewise. Requirements 16 the equivalent requirement climate 14 that appears to be consistent and requirement 17. The equivalent is requirement 15. There are just some slight discrepancies in the noise levels there. For example, um, for five estuaries at Norman's farm, the figure was 31 DB and 33 for North Falls.

01:06:49:13 - 01:07:17:01

Um, and then obviously different properties are referred to, except that the substations are um, you know, they are different positions or those co-located. Um, I just wanted to check with Essex County Council that they were consent content as regards consistencies of requirements that may potentially be enforced in the future.

01:07:18:28 - 01:07:54:19

Carol Wallace, Essex County Council. in terms of requirement 15 on groundwater monitoring. Um, the current draft DCO do not have a trigger point. So, uh, for five years we have requested to be a pre commencement requirement for, uh before onshore works. So we would like this to be incorporated entirely with five Ashrae. And in terms of requirement 17 um the noise level, we have no objection due to um the slightly locational difference.

01:07:54:24 - 01:08:21:20

So we have no objections to, to the level of um decibel specified in the requirement. But we mentioned um under issue specific hearings previously that in terms of subsequent noise, um, investigation protocol, uh, when discharging subparagraph two, we will be looking for a joint panel approach within the protocol itself to be discharged. Thank you.

01:08:22:24 - 01:08:30:07

Thank you. Right. I'll just go to the applicant now for any response to that.

01:08:32:27 - 01:08:33:12

Okay.

01:08:33:29 - 01:09:10:17

Claire, object for the applicant. Um, yes. In terms of the ground monitoring, groundwater monitoring requirement. Um, we're just reviewing the final drafting in the, um, five estuaries draft eco to consider whether that's appropriate to to carry off. We carry across. We did mention, um, at the issue specific hearing last week that various ongoing works were being and assessments were being done in terms of groundwater monitoring. Um, and then in terms of requirements 17 which relates to noise, as was mentioned, issue specific hearing one each of the draft eco.

01:09:10:19 - 01:09:40:11

So the north was um five estuaries and the national grid Norwich Tilbury um will have different um noise limits because then cumulatively, those, um, add up, as it were, to, um, an acceptable, uh, noise limit. And the detail of that was set out in the, in the, in the noise protocol document that was referred to in the hearing last week. So it is it is by design that they are all slightly different. Thank you.

01:09:42:26 - 01:09:43:29

That thank you.

01:09:45:17 - 01:09:46:09

Right.

01:09:49:21 - 01:10:23:01

That case I'll move on to the next bullet point, which is whether any additional draft DCO, DML provisions, requirements or amendments are necessary to ensure that the required mitigation, including for HRA, would be secured. So there are a number of DCO drafting points still outstanding and resolved as outlined in the Natural England Risk and Issues Use log rep 3064. These can of course be responded to in writing.

01:10:23:19 - 01:10:33:27

But I just wanted to check whether there are any other additional requirements or other provisions that interested parties are seeking that have not yet been covered.

01:10:38:00 - 01:10:42:13

No, and I don't. Oh, right. Sorry. Sorry to miss you.

01:10:43:04 - 01:11:16:07

Uh, Zachary founded the Suffolk County Council. So there's a couple of points that we've made in relation to, uh, changes to the DCO in our local impact report. So, uh, this includes our request to be a named Consultee to the discharge authority for the skills and Employment Plan, which is requirement 18, and also the addition of a phasing requirement for work number one, in relation to the consent of the East Anglia connection node, to avoid unnecessary harm on the Suffolk, Essex coast and national landscape.

01:11:17:02 - 01:11:47:03

We also included a suggested suggested wording for both these requirements in the Local Impact report. However, I bring these up now because on account of the fact that the applicant did not respond to these points in their comments on local impact reports, so we have not been prompted to

provide any further information. However, we are more than happy to provide any further information or justification in relation to these amendments should the examining authorities see fit.

01:11:47:10 - 01:11:50:24

Otherwise, we'll just reflect them in our sentence of common ground. Thank you.

01:11:51:00 - 01:11:59:03

I think that would be very helpful if you could provide additional information at the next deadline. Thank you. On those. I will turn to the applicant.

01:12:02:06 - 01:12:58:01

For the applicant, in terms of, um, the proposed um requirement, um or Grampian requirement, as it's been referred to in, in various submissions in relation to the national landscape. The applicant's position is that that's not necessary and doesn't meet the legal tests. Um, for a um, pre commencement, um, requirement. Um, there. I think we mentioned last week there was a great deal of discussion on that particular point during the Five Estuaries examination, and we will make, um, brief submissions on the legal elements of that in our deadline for submissions so that you have, um, that reasoning, uh, before before you, um, I think we discussed last, uh, week in relation to a socio economic in terms of consultation, forming part of the outline Skills and employment plan.

01:12:58:08 - 01:13:36:18

Um, and I think we were going to have some further suggest, if there were any suggested, um, comments on the drafting of the actual outline plan, then, um, Suffolk County Council are going to provide those for us to consider. And on our position is that it's the drafting of the outline plan that should be the focus rather than, um, adding, uh, Suffolk as a consultee to the discharge of the um, of the requirement, noting that, um, noting that it's obviously located within Essex and Essex is therefore the appropriate discharging authority.

01:13:36:24 - 01:13:37:11

Thank you.

01:13:44:11 - 01:14:33:03

Right. Uh, in that case, thank you for that. And I will, um, move on to the, uh, last bullet point and the draft eco topic heading. And that's whether the draft echoes and drills actually accurately capture all the required maximum parameters of the proposed works. Um, and as mentioned earlier, and London Gateway Port rep 2042 made the point in relation to there being no parameter regarding the depth at which the cables and any cable protection must be placed to maintain appropriate depth in the deep water routes.

01:14:33:05 - 01:14:55:15

We've discussed this point already. Um, but I just wanted to check if there were any points in relation to parameters. Um, either that particular one, that Port of London or London Gateway Port want to come back on, or any other points in relation to parameters set out in the draft echo. Anyone wanted to raise?

01:15:01:15 - 01:15:02:15

Mister Tyrell.

01:15:03:00 - 01:15:36:18

Uh, ma'am. Thank you. Um, I won't repeat the sorry Francis tour on on behalf of London Gateway Port Limited. I won't repeat the points we went into earlier. But as you alighted on our position as presently, it doesn't capture the parameter for the depth. The additional point I just wanted to make was, I think we've heard earlier from the applicant, Mr. McGovern, that, um, uh, that we're going to see a deadline for the outline plan. Uh, it's not a Gateway's position that even if that plan, I mean, it's unlikely that that plan will be sufficiently certain.

01:15:36:20 - 01:16:10:07

And also the mechanisms by which that plan then translates through to the ultimate plan, and then what is actually done and what is approved by the MMO will allow you to recommend or the Secretary to conclude that that parameter is captured. The only way of actually capturing that parameter is to specify in the requirement, which we say would be the best position, or to have an express provision along the lines of the requirement. We have suggested, uh, set out itself on the face of the D marine license. That has some weaknesses, but it is a better position overall.

01:16:10:09 - 01:16:15:21

The best position is for the requirement to set out that parameter. Thank you ma'am.

01:16:16:21 - 01:16:17:13

Thank you.

01:16:21:06 - 01:16:44:01

Mr. McGovern and Gary McGovern for the applicant. Just briefly, it is a very common approach to have, um, commitments contained in outline plans. So if you were to take that submission to its wide extent, that would call into question, um, lots of other commitments are secured and contained in management plans. So we would reject that submission. But we'll make our further points in writing.

01:16:46:06 - 01:16:46:29

Thank you.

01:16:49:24 - 01:16:50:19

Mr. Tyrrell.

01:16:51:10 - 01:17:22:29

Thank you. Just a few. So just to come back on that point. On behalf of the applicant, yes, it's true that plans often contain matters as to management of impact and such. Like here we're talking about a parameter for the carrying out of the works. Uh, and in that case, in accordance with the relevant guidance for DCO, drafting, that parameter should be captured on the face of the document. I'm thinking here in particular of um, uh, the guidance, uh, paragraph three.

01:17:23:01 - 01:17:30:07

We've quoted it, in fact, in our written representations, uh, specifying that the DCO should include the parameters.

01:17:32:11 - 01:17:35:24

And I've written reps that's, uh, document rep 2041.

01:17:37:06 - 01:17:37:28

Thank you.

01:17:42:09 - 01:18:08:07

Mr. McGovern, did you want to make a final response to that? All right. Thank you. Right. Um, so we have now covered all the topics and items that, uh, were to be covered on the agenda for the draft DCO, and it is just a little past 1:00. So I shall now adjourn this hearing and will resume at 2:00.

01:18:08:13 - 01:18:37:20

Clap for the applicant just before you formally adjourn. I was just wondering whether you might be able to confirm whether you're a first line of questioning in relation to agenda item 3.2, related to onshore or offshore ecology, just because that dictates which experts, as part of the applicant team come up to the table, it looks from the list like the first set of questions primarily relate to offshore matters. But I just wanted to clarify that so we didn't immediately have to change around personnel if that's possible.

01:18:37:24 - 01:18:44:17

Well, certainly I shall ask. I shall ask my colleague who is leading on that topic to clarify that for you.

01:18:44:19 - 01:18:51:12

Yeah, it is the offshore. Starting with that first and then moving to onshore Clare project.

01:18:51:14 - 01:18:52:07

Thank you very much.

01:18:53:19 - 01:18:58:27

Right. The hearing is now adjourned and we shall resume at 2:00.