



Planning Inspectorate
Arolygiaeth Gynllunio

Hearing Transcript

Project:	Morecambe Offshore Windfarm Generation Assets
Hearing:	Issue Specific Hearing 4 (ISH4) – Part 1
Date:	06 February 2025

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FULL TRANSCRIPT (with timecode)

00:00:05:18 - 00:00:37:20

Right. Good morning. It's 10:00. Um. Thank you. Uh, it's time for this hearing to begin. I'd like to welcome you all to this issue specific hearing on the draft consent order in relation to the Morecambe Offshore Wind assets project. Can I just confirm that everybody can hear me clearly. Good. And confirm with the case team. The livestreaming and recording of the event has also commenced. Thank you. Uh, my name is Robert Jackson, and I have been appointed by the Secretary of State to be the lead member of the panel to examine this application.

00:00:38:00 - 00:00:41:26

I am now going to ask my fellow panel members to introduce themselves.

00:00:43:11 - 00:00:50:15

Thank you and good morning. My name is Mark Willis, and I've been appointed by the Secretary of State to be a member of the panel to examine this application.

00:00:52:28 - 00:01:02:04

Good morning everyone. My name is Guy Rigby, and I've also been appointed by the Secretary of State to be a member of the panel examining this application.

00:01:02:21 - 00:01:31:28

Thank you. Together, we constitute the examining authority, also referred to as the Xa for this application. And we'll be reporting to the Secretary of State for Energy Security and net zero the recommendation as to whether the Development consent order should be made. We will be accompanied today by two members of case Team staff and Planning Inspectorate. They are Tracie Williams, our case manager, and Daniel Hurley, who is a case officer. Please approach them if you have any questions. I'm now going to ask Mr. Rigby to take us through the next part of the agenda.

00:01:32:20 - 00:02:01:29

Thank you, Mr. Jackson. I know some of you have attended other hearings this week, but, uh, there may be parties joining us here today who weren't here previously, so I'll quickly run through a few housekeeping matters for those attending in person. So first off, can everyone please set all devices, including phones watches, to silent? The toilets are located through the doors there and through the further set of doors. Out in the corridor.

00:02:03:17 - 00:02:14:08

Fire alarm. We're not expecting any fire tests today. So if the alarm sounds, we must treat it as the real thing and vacate this room. We do this by going through the fire doors.

00:02:17:13 - 00:02:39:14

This hearing will follow the agenda published on the National Infrastructure Planning website on the 28th of January, 2025 at Examination Library reference EV 6001. It would be helpful if you had a copy of this in front of you, and the applicants team, I gather, will display the agenda on screen.

00:02:41:20 - 00:03:17:15

Today's hearing is being undertaken in a blended way, meaning that some of you are present with us here in the room at the hearing venue, and some of you are joining us virtually using Microsoft Teams. We'll make sure that, however you've decided to attend today, you'll be given a fair opportunity to participate. A recording of today's hearing will be made available on the Morecambe Offshore Wind Assets section page of the National Infrastructure Planning website, as soon as practicable after the hearing is finished.

00:03:18:12 - 00:03:55:09

A transcript will also be made available, which will utilise AI technology, so it's not quite perfect that stuff. So with this in mind, please ensure that you speak clearly into a microphone stating your name and who you are representing each time before you speak. This is particularly useful for people watching the live stream or wanting to look at the recording afterwards. If you're not at a table with a microphone, I suggest in view of attendance today, come to the front and sit where there is a microphone.

00:03:56:24 - 00:04:37:04

Finally, if you're taking part in the hearing today, you need to be aware that the recording will be retained by the Planning Inspectorate for a period of five years, and that it forms a public record to which the General Data Protection Regulation apply. A link to the planning Inspectorate's Privacy Notice was provided in the notification for this hearing, and we assume that everybody here today has familiarized himself 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.

00:04:38:12 - 00:04:43:14

Please speak to Tracy Williams at the back there if you have any questions about this.

00:04:46:08 - 00:05:19:06

So I'm not going to ask those of you who are participating in today's meeting to introduce yourselves. I'll start with those present in the room and then pass on to those who are online. When I state your name, could you please introduce yourself clearly stating your name and who you represent and which agenda item you wish to speak on? And if you're not representing an organization, please confirm your name. Summarize your interest in the application and confirm the agenda item upon which you wish to speak.

00:05:19:22 - 00:05:30:01

And also please state the title by which you wish to be addressed. So if I could start with the applicant and any of their advisors, please.

00:05:31:07 - 00:06:04:08

Hey good morning panel. Good morning everyone. My name is Mr. Robin Hutchison. I'm a partner at CMS and legal counsel for the applicant. I am joined today on the front bench by representatives from the project team, by my co-counsel, and by the applicant, EIA and Environmental lead. I shall pass on to each of them to introduce themselves, if that suits the panel. Um, and for completeness, I shall probably be speaking on many items or most items today.

00:06:04:23 - 00:06:06:11

I'll start perhaps on on my left.

00:06:08:12 - 00:06:15:24

Good morning. Um, I'm Sarah Reed, principal marine consultant. On behalf of the applicant. And if you could dress me as miss Reed. Thank you.

00:06:18:00 - 00:06:24:09

Good morning, Catherine Nolan. I'm a solicitor with CMS, counsel for the applicant, and I go by Miss Nolan.

00:06:26:05 - 00:06:31:29

Good morning. Uh, I'm Oliver Gardener, consent manager for the applicant, and I go by Mr. Gardner. Thank you.

00:06:33:19 - 00:06:38:12

Good morning, Miss Fraser. Offshore consent for the applicant.

00:06:41:24 - 00:07:11:27

Thank you. Sir. If I could now move on to the organisations and individuals that have given notice of their attention to. Speak. Again, I'll start with those present in the room and then pass on to those who are online. Again, when I state your name, please introduce yourself clearly, stating your name and who you represent and which agenda item you wish to speak on. So I'd like to start, please, with Mr.

00:07:11:29 - 00:07:15:18

Pendleton Brown. Poor Pendleton Brown from Bayi.

00:07:17:18 - 00:07:29:07

Good morning, Mr. Paul Pendleton Brown from BA systems. And I'm representing the warning Aerodrome today. I'm speaking on various items in relation with my colleagues on my right.

00:07:31:10 - 00:07:36:16

And I have Mr. Graham Truelove from BAE systems.

00:07:37:16 - 00:07:50:04

Good morning. I'm Mr. Graham of the LP planning, representing BAE systems. Um, our interest today will be mainly around item four on the agenda.

00:07:51:27 - 00:07:52:14

Thank you.

00:07:53:22 - 00:07:56:15

And Helen Tinsley.

00:07:57:27 - 00:08:08:14

Good morning. I'm miss Helen Tinsley, I'm legal counsel at BAE Systems Marine Limited and will be looking to discuss item four. And it's Miss Tinsley. Thank you.

00:08:09:29 - 00:08:12:10

And Christopher Burkitt.

00:08:13:08 - 00:08:21:15

Good morning, Mr. Christopher Burkett, senior air traffic control officer at Warton Aerodrome on behalf of BA Systems Operations and referred to as Mr. Burkett.

00:08:23:08 - 00:08:27:29

And then could I come on to James Gibson, please?

00:08:30:21 - 00:08:48:16

Good morning. Excuse me. Mr. James Gibson of Eversheds Sutherland law firm and instructed by Spirit Energy. I'm anticipating I'll be the only speaker on behalf of spirit today. And to the extent I do speak, it will be in relation to agenda item five. Protective provisions. Thank you.

00:08:49:19 - 00:08:53:27

Would you be able to introduce your other colleagues from spirit, please?

00:08:56:06 - 00:09:07:08

Thank you sir. James Gibson spirit energy. Of course I'm not anticipating those they speak, but I can certainly pass to them to introduce themselves in case they do. I'll just pass Terry on to my wife.

00:09:07:21 - 00:09:08:08

Thank you.

00:09:09:02 - 00:09:12:10

Yeah. Mr. senior legal counsel at Spirit Energy.

00:09:14:10 - 00:09:18:10

Yes. I'm Susan Geyer. I'm the principal commercial specialist at Spirit Energy.

00:09:21:00 - 00:09:21:18

Thank you.

00:09:23:25 - 00:09:30:26

And next to Blackpool Airport. People, people. Anybody from Blackpool Airport here? Would you like to introduce yourselves, please?

00:09:31:03 - 00:09:57:20

Good morning sir. Catherine Knight, DWF law on behalf of Blackpool Airport. I'm joined to my left by Mr. Steve Peters, the managing director of Blackpool Airport. Ah further to my left, Richard Angus of Service Consulting and to my right of Donnelly of DWF law, our item number four. When speaking on, uh, Mr. Peters and myself will most likely be the only speakers on this night. Thank you.

00:09:59:20 - 00:10:04:24

Thank you. Is there anybody else I've missed here in the room?

00:10:07:17 - 00:10:17:00

Thanks. In which case, if I could go online, please. Any people from interested parties attending online, please.

00:10:21:23 - 00:10:26:05

I have here listed, uh, Mr. Alistair old.

00:10:28:05 - 00:10:34:29

Good morning, Mr. Ulster. I'm here representing National Traffic Services, and I'm interested in item four requirements.

00:10:36:03 - 00:10:40:09

Thank you. And, um, Jordan and Withers. Us?

00:10:41:25 - 00:10:50:23

Yes. Jordan with us, um, representing BA Systems Operations Limited. Uh, what? An aerodrome. And interested in speaking on item four. Thank you very much.

00:10:51:10 - 00:10:52:00

Thank you.

00:10:52:16 - 00:10:55:01

And, um, Suzanne Gallagher.

00:10:57:21 - 00:11:03:06

Suzanne Gallagher from Blackpool Borough Council, on behalf of Blackpool Airport Properties Limited.

00:11:04:03 - 00:11:04:23

Thank you.

00:11:05:04 - 00:11:12:18

Is there anybody else online who is not observing but who wishes to speak at this hearing, please?

00:11:18:19 - 00:11:19:28

No, thank you very much.

00:11:21:17 - 00:11:24:17

So I think that's everybody.

00:11:28:07 - 00:11:36:18

So that concludes the first item on the agenda. I'll now pass on to Mr. Willis who will deal with second item. Thank you.

00:11:38:04 - 00:12:11:00

Thank you, Mr. Rigby, and good morning, everybody. So this hearing focuses on matters relating to the Draft Development Consent Order or the DCO, which will be referred to. And this is the second issue specific hearing we've held in relation to this document. The latest version of the DCO was submitted by the applicant at deadline two, which was on the 12th of December, 2024 and which has been given examination library Reference rep 2002. We're therefore referring to that version of the DDT.

00:12:11:02 - 00:12:18:05

So today and following the agenda for this hearing, which, as we say, was published on the 28th of January and which is on the screen

00:12:20:02 - 00:12:45:21

during the hearing, we will be asking parties to answer questions and clarify issues that we consider will benefit from oral discussion and aid our understanding of what is being proposed. The hearing will, as they have all week, be based on structured discussion led by ourselves, is examining authority, and therefore any questions that you may wish to raise today should be directed through ourselves, as no cross-examination is permitted.

00:12:48:01 - 00:13:03:04

Because of the nature of the document. Displaying the draft DCO can be somewhat problematic, and for some people it can be difficult to see. We will therefore work on the premise that everybody can have sight of that document themselves, and that generally we won't be displaying it.

00:13:06:08 - 00:13:29:19

Now, the draft Development Consent order is an important document because as an examining authority, we are under a duty to provide the Secretary of State with a recommended DCO. Even if we end up recommending that it is in our view, the order should not be made. This is because we do not make the final decision on this application. Instead, we make a recommendation to the Secretary of State who then makes the final decision.

00:13:31:22 - 00:14:11:03

It's also important to note that today's hearing and any matters that we discuss today are being held on or without prejudice basis. This means that even if it is your position that the development consent

should not be granted for the proposed development, and that therefore the Secretary of State should not make the order, you are still invited and encouraged to make representations without conceding your wider position that the order should not be made. This is important to us because we want to ensure that we understand party's views, and can therefore take these into consideration when making our recommendation and presenting the Secondary Secretary of State the best version of the DCO that we can.

00:14:15:11 - 00:14:45:22

It's not our intention to discuss all matters related to the DCO today. And so it might be that we follow up some matters again either through second round of questions, which should these be required or scheduled to be published on the 27th of February or in our commentary on or schedule two changes to the Draft Development Consent Order, which is programmed to be published around the 25th of March. It may also be that we can discuss issues again at a future hearing, should that be required.

00:14:47:17 - 00:15:00:03

So as as we've said again this week, if we don't therefore ask a specific question or raise something about the DCO today, it does not necessarily mean that they are content at this stage with what's in front of us.

00:15:02:25 - 00:15:28:24

When responding to any questions raised today. We'd also request that where possible, you keep your answers short and focused and also when responding to our questions. If you cannot answer or require more time to get information, please indicate that and that you will respond in writing. And again, unless otherwise agreed by ourselves, we'll expect written responses to be received by deadline four, which is Tuesday the 18th of February.

00:15:31:27 - 00:16:01:04

In terms of timings for today, we have scheduled the morning for today's hearing. However, if necessary we can spill over to this afternoon into um into this afternoon. Given that we no longer intend to run the issue specific here in five, which we provisionally programmed to take place in the timetable, we are likely to have a break probably in an hour or so, mainly because we are mindful that those parties attending online who have perhaps been online from around 9:30 for the attendance conference.

00:16:03:10 - 00:16:09:09

Will conclude the hearing today as soon as all relevant contributions have been made and all questions have been asked and responded to.

00:16:10:28 - 00:16:33:00

And finally, as again, we've said all week, we will be keeping a record of any actions, uh, we identify in today's hearing, but it would be helpful if all parties present can also keep their own notes. There will be an opportunity to review those at the end of the hearing today. So before we move on, is there any questions or issues anyone wants to raise with regard to the purpose of the hearing.

00:16:35:25 - 00:16:41:04

Seeing any. In that case, I'll pass straight on to Mr. Jackson, who will be leading today's hearing.

00:16:42:04 - 00:17:14:22

Thank you, Mr. Willis. Um, I would also say that we won't put into actions every single minor stroke of the pen, as it were, because it's substantive matters. We'll assume you've got those for the drafting, just to make that clear. So in item three, which is the we're going to start with the articles of um, the DCO draft DCO. Um, I've asked the first while we've asked the applicant to update us on changes since the first issue specific hearing. For obvious reasons, we would like to concentrate on those matters where there are still matters in contention between the applicant and interested parties.

00:17:15:03 - 00:17:31:26

So firstly and then we've got some other questions after this. After that will allow other people to come in at relevant point. Uh, but first, could the applicant briefly run through the changes since the last issue specific hearing and where it is still it believes it is in negotiations with other interested parties. Thank you.

00:17:34:02 - 00:18:11:19

Robin Hutchison for the applicant. So we're starting with item three of the agenda, which focuses on the articles to the draft DCO. And as has been set out, we are asked to summarize the changes since the issue specific hearing. The deadline two obviously fell after that. So a number of the changes that there was an opportunity to make changes at that deadline. Um, and we would propose today to cover those changes, plus anything that has arisen in the interim that we are intending to make changes or that need to be discussed in terms of the articles themselves.

00:18:11:24 - 00:18:23:21

There haven't been any substantive changes, um, to the DCO articles since issue one, and there isn't an intention that any further changes are required, um,

00:18:25:20 - 00:18:39:04

prior to the to the next DCO deadline. Um, the applicant is mindful that there is, um, a representation from the MMO on article seven, and I don't know if you'd like me to address you on that or if you if.

00:18:39:06 - 00:18:42:24

You come, we're going to come to that later. It's given it's fairly substantive.

00:18:45:27 - 00:18:49:04

Is that is that the that's the that's the that's the point of your question.

00:18:49:06 - 00:18:49:21

I'm keeping it.

00:18:49:23 - 00:19:22:05

Short. Lovely. Super. Um, does anybody else have any, any general points about the before we move on to a discussion on a few the articles that I've got in front of me? Okay. Um, our article seven, um, it's obviously which relates to the benefit of the order. Um, here we have the position of the MMO that they should not include a provision to allow for the transfer of the Diem license. Um, had they

been here, we would have had a number of questions for the MMO, um, which we will therefore have to follow up in writing.

00:19:22:22 - 00:19:56:11

Um, and while I'm not necessarily expecting the applicant to be able to assist in, you may have the answers to this or at least have a point of view. Um, the deemed marine license deals with slightly, outrightly licensable activities. Um, I'll be looking at the Marine and Coastal Areas Act 2009, in particular with part four, which deals with marine licenses. Um section 113 of that act is under the heading the appropriate licensing authority, unquote, and determines who is the appropriate licensing authority in any given area.

00:19:56:27 - 00:20:42:26

Sub sections two, four and six deal with Scotland, Wales and Northern Ireland waters, respectively, and subsection eight sets out in relation to any area, not to mention in subsection two, 4 or 6. The appropriate licensing authority is the Secretary of State. Um, also in section 113, subsection eight, um, it would indicate that the Secretary of State is the appropriate licensing authority. Um. I'm really trying to understand from the MMO and whether the applicant has a view or any other parties view is whether the licence, the powers for licensing given to the Mau Mau have been transferred from the Secretary of State, or it is acting under delegation.

00:20:49:27 - 00:21:07:28

At Robin Hutchison for the applicant. I understand that they're that it's that they're acting under delegated authority. But, um, I haven't prepared for this answer, so I wouldn't want to give the panel a false stare. So if we could respond in writing or the MMO could respond.

00:21:08:00 - 00:21:12:03

It's it's principally for them. This question is principally for the MMO, for obvious reasons.

00:21:12:05 - 00:21:16:25

Yeah, I do have a position that perhaps covers this as well, which, um, yeah.

00:21:17:10 - 00:21:22:00

Um, because obviously what we're trying because the point being that if

00:21:23:29 - 00:21:43:00

the Secretary of Health is the A licensing authority, then is it not appropriate to allow the Secretary of State to exercise the powers that they normally would have? Only they have just delegated to the MMO in this context. That's essentially the rhetorical question. Um, have you got a that's essentially the point. You're probably going to respond to any in any event anyway. So.

00:21:44:08 - 00:22:22:03

Um, Robin Hutchison for the applicant. Um, our sort of perspective on this came from just a slightly different starting point, although that may be another answer to the same question, which we are grateful for and will perhaps take away. Um, our starting point is, um, that well, for context, just to be absolutely clear, and I'm sure the panel is clear on this, but the what the transfer provision is seeking

to do is only ensure that the Secretary of State has the power to transfer the marine license and not vary the content of it.

00:22:22:09 - 00:22:58:00

So in the future, if there are issues with the conditions of the DML that would be within the purview of the MMO. It's only about transfer. And article seven deals with the transfer of both the DCO and the DML. And from my reading of the MMO submissions, there's there's there's two points they're making. One is can they can the Secretary of State include these powers in the DCO? And they're suggesting it's a matter of public law, perhaps not. And secondly, should the Secretary of State include these powers in the DCO? And to answer those questions in brief.

00:22:58:02 - 00:23:37:11

Question one. Can the Secretary of State, we would say emphatically, yes, and I can explain. Um. Question two should the Secretary of State could, then we would say respectfully, yes. Um, on the first one, can they can these powers be included? I think, um, and we won't turn to the Planning Act unless we have to, but it's section 120, subsections three, four and five. And I think the memo submission conflates those three sub paragraphs, because sub paragraphs three and four are about ancillary matters that can be included in a DCO.

00:23:37:28 - 00:24:18:06

And that includes when you track through the legislation, as we set out in our submission includes deeming a marine license to be granted. That's the power for the Secretary of State to deem a DML granted. Separate to that is the power in 125, which allows the Secretary of State to modify statutory provisions. And that's what we're doing in article seven with the transfer provision. We're modifying the Marine and Coastal Access Act so that the power to transfer the DML sits with the Secretary of State, rather than where it would otherwise sit with the MMO, and just gives a power to vary the license to change the name on the applicant of The Undertaker, entitled The license for Good Order.

00:24:18:24 - 00:24:53:19

So that's why we think it's pretty clear it can be done. Obviously, the explanatory memorandum points to all the examples where it's been done already. You know, we're not doing something new here. We're just doing what's been done before. But appreciate that precedent alone isn't a good enough reason. You want the you want the cogs behind it. Um, in terms of, um, whether it's appropriate or not. I'll keep it short. It's a matter of practicality that one decision maker, the Secretary of State, should be able to decide where the powers in their totality required for the generating station set.

00:24:54:09 - 00:25:26:09

A two part transfer just creates a practical difficulty. And the reality, of course, is that if the Undertaker, with the benefit of the DCO for the generating station, is being transferred, it's probably a corporate transaction where there's buying or selling of the asset. It, and those things are complicated enough without needing to try and seek a separate approval of, you know, clearly a busy organization like the MMO to line up with all the other approvals and transfers that need to happen in these types of situations.

00:25:26:11 - 00:25:36:15

So it's it's just a practical measure that it's reasonable for the Secretary of State to be able to deal with this with one stroke of the pen and one decision. And of course, the MMO consulted as well. Yes.

00:25:37:18 - 00:25:40:29

Thank you. Does anybody else wish to make any comment on that?

00:25:42:29 - 00:26:14:23

No. In which case we will move on to item four. The requirements in the draft consent order again. Um, we have summarized changes since the first issue specific hearing and negotiations. Again, we have got I've got some, uh, various comments on quite a few of the requirements as we go through them, but that's, that's, that's for when we get there. So if, uh, start with what's what's happened in the meantime, as they say.

00:26:15:23 - 00:26:46:00

Kathryn Nolan, on behalf of the applicant. Yes. So the requirements to the draft DCO set out in schedule two. There have been numerous changes that were made in between issue specific hearing one and today's date. Firstly, there were amendments made to the design parameters in requirement two, including specifying the maximum height of the space, and then also to restrict the development so that all of the um wind turbine generators must be the same height and rotor diameter.

00:26:46:02 - 00:27:21:00

And that was essentially to prevent the the pick and mix situation, where a variety of turbines within the consented envelope could be constructed. We have also amended the aviation requirements so requirements five through seven to make it clearer that construction of any above sea infrastructure. So the elements of the wind turbine generators above the sea cannot take place until the Until the mitigation in question has been submitted and agreed. Although, as I'm expecting, will come to, there are substantial discussions ongoing on the suitable text of these requirements.

00:27:21:02 - 00:27:49:17

And so the applicant is envisioning that these requirements will change, um, somewhat substantially in their appearance, although the principles behind them remain the same to reflect comments from and indeed drafting from the aviation stakeholders, a new requirement eight was added to secure mitigation for impacts at Warton Aerodrome. Um, again, it's noted that this is in discussion and that's likely to change.

00:27:51:21 - 00:28:24:27

Changes were made to requirement ten, which is the Port access and transport plan, and that was amended to include transport of the offshore substation platforms and the foundation scour protection to make it. Um, just given the concern that some of the scour protection could actually be quite large volumes. And so that might be something that needs to be covered in a port access and transport plan. And it was also amended this requirement to make it clear that it's not just for construction, but for any operation and maintenance activities.

00:28:26:10 - 00:28:58:01

And then requirement 13 was also amended, and that was the requirement on amendments to approve details. And that's to include not just the Secretary of State. It was pointed out by the panel that

obviously, since some of the requirements had elements that were to be discharged by other bodies, that it was this this requirement needed to be widened out to cover those, those wider bodies. There are a few changes that are set out in the applicants response to examining authorities, questions that will be picked up in deadline for.

00:28:58:21 - 00:29:31:23

And so one particular point that will be coming is that the applicant will be amending the the parameter tables to clarify this point between a distance between rows of turbines. Appreciate that. I think there is some confusion about rows versus columns. And so what we are proposing to do is we will replicate the language that is in the project, um, the PD chapter of the environmental statement of using in row and inter row. So there will be a difference between turbines with within a row in row and then between rows of turbines.

00:29:31:25 - 00:29:48:25

And we will also put in corresponding definitions to make that clearer. So that is coming. Um, would it help if I move into some of the points that we discussed at hearings this week of changes coming out, or would the panel prefer to deal with questions first?

00:29:48:27 - 00:30:05:18

I think I'd prefer to go through them, uh, one by one. Obviously one if I get if I, if, for example, I miss one out because I'm content, but there's one, if I haven't picked it up, then it's probably easier for you to sort of button nicely. But if but.

00:30:05:20 - 00:30:06:05

Noted.

00:30:06:07 - 00:30:38:16

Do it, do rather. Rather than just keeping going. But I would think it probably easy to go through them in a in order, as it were. Um, so going back to um, requirement one, which is obviously the seven year, uh, commencement, um, the worst case scenario submitted, the responses to the action points from issue one was to allow the applicant to commence in five years. Um, I'm still looking for further explanation as to why it needs another two.

00:30:38:18 - 00:30:53:09

On top of that, um, to the normal five to commence citing precedents of itself is not a reason. Can I just can I say the point? At the moment, we're not convinced that you need seven years from the information we've had in front of us. Can I put it like that?

00:30:55:05 - 00:31:31:11

Kathryn Nolan, on behalf of the applicant. Yes, that is noted. There were further explanations given in the responses to written questions on specifically the period around the transmission assets as well, and some of the timescales there. The applicant's position remains that while it is committed to deliver and implement the projects as soon as possible, in any event before 2030 that it is a very complex operation. There are a number of other factors that will need to be satisfied before implementation can fully take place.

00:31:31:21 - 00:32:06:14

And there still are the challenges around funding contracts for difference and timescales of government discussions. We also obviously have things like the Clean Power 2030 plan, which gets into discussions around wider industry issues such as weight loss, like we were discussing yesterday, and there is just no certainty as to how quickly the Secretary of State and government will resolve those matters. So the applicant's position is that seven years remains necessary to provide for that.

00:32:06:16 - 00:32:27:09

Worst case scenario where, as you like, every factor outwith our control goes against us. But we can perhaps put further submissions in at deadline for to, um, not retread the ground we have already put in. Noting that the x. I would like something further on this point.

00:32:27:20 - 00:33:01:06

There may be also some of the things we're talking about later on. Um, about, um, the strategic compensation may also factor in, in that when we get to some of the drafting in relation to, um, the what is currently schedule seven without prejudice, compensation matters, which may also have may also factor in there. Okay. Um, and that. Oh yes. Obviously on Tuesday we had that discussion in relation to this requirement to um.

00:33:01:08 - 00:33:21:24

Over the what was found in the Morgan Draft development consent order. Over affected the no. Over sale. Um, from a polite way of putting it for a very, very massive shorthand. Um, and I was wondering whether or not you felt that was appropriate to be put into the draft development consent order.

00:33:22:11 - 00:33:52:12

Kathryn Nolan, on behalf of the applicant, the applicants positions remains that there is no need for any such wording, because the order can only authorize development within the order limits, and that extends to the operation of any blades. So just by function of the order being granted, it cannot authorize anything that goes beyond the red line boundary, regardless of the point within the airspace that that occurs.

00:33:52:29 - 00:34:01:16

However, the applicant will take away the point and see what it can do to align with drafting that is emerging on Morgan, um and others.

00:34:04:23 - 00:34:35:23

The in also in relation to the correction to there was a response in relation to the question of electromagnetic radiation. Um, that you were intending that you would you wouldn't be using high voltage direct current cables because of the potential effect on, uh, navigation. And, um, and I was wondering whether that should be another provision in requirement to that, i.e. or using high voltage alternating current cables.

00:34:38:21 - 00:34:59:12

Oliver Gardner on behalf of the applicant. Um, I mean direct current and and alternating current at different technologies. There is no, um, direct current within our design envelope. It's not anywhere within our project description. So there is no, um, intention and requirement to use any direct current

at all. So, our position is that we don't need to specify it because it's not something that was within our design.

00:35:00:06 - 00:35:04:04

Where is where is it space? Where is that specified?

00:35:06:05 - 00:35:44:14

Yeah. Robin Hutchison for the applicant. It's not it's not specified in the same way that, um, other things that we don't have consent for are not specified. Um, what we've specified is what we do have consent for or what we are seeking consent for, I should say. Um, and so, uh, direct current is a is, as Mr. Gardner explained, a different type of technology. It requires different types of cable and requires a converter station, either in to convert from the AC produced by the turbines to the direct current link, and a converter station at the other end to convert the direct back to AC to be connected into the grid.

00:35:44:22 - 00:36:15:20

So there's a substantial amount of additional kit required for DC to be utilized, none of which is within the project. And if you looked at an offshore wind farm that did have DC current as an option, there would always be provisions allowing for either AC or DC. And describing the two technologies differently, or describing the DC technology and the converter stations and all those different elements. I mean, if we are, we can't use DC because it's not part of the, um, the project description.

00:36:15:22 - 00:36:31:28

It's there. And you couldn't fit the requirements for DC within the parameters for AC. It's just it's too different in the way it works. But equally we're not going to do it. So if it's, you know, adds comfort to confirm that we would be we'd be happy to do so.

00:36:32:12 - 00:36:42:03

Because it was raised by parties. It must have been clear to them that you weren't using DC. Does that make sense?

00:36:48:19 - 00:37:05:12

Catherine Nolan, on behalf of the applicant, we could perhaps look to clarify this in the description of the authorized development in schedule one. Perhaps just defining the the inter cables and the platform link cables, just to to make clear that those are HVAC and that's defined term.

00:37:05:23 - 00:37:06:08

Yes.

00:37:06:10 - 00:37:07:21

No. If that would resolve.

00:37:07:24 - 00:37:12:06

That might will resolve. Yeah. It it given it raised an issue.

00:37:14:09 - 00:37:18:18

And it's yes I appreciate you don't want to put words in there. You don't necessarily need.

00:37:18:20 - 00:37:21:20

But alternatively the clarification doesn't hurt.

00:37:21:22 - 00:37:25:23

So yes exactly. Okay.

00:37:25:25 - 00:37:26:21

I don't have to get back up.

00:37:27:01 - 00:37:57:00

Robin Hutchison for the applicant. I'm just getting my GCSE physics update from our engineers behind us. Apparently batteries are direct current. So if there were batteries used in the substation platform, that would be DC, you know, including in someone's Walkman or, uh, in, um, ancillary reserve equipment. So we just need to make sure that we don't, by accident, prohibit the use of batteries, because they will just be a natural part of the design of the substation.

00:37:57:02 - 00:38:25:00

Yes. No, no, I can get I get that, and clearly it sounds stupid. I'm taking it to an extreme. You're going to emergency lighting which will be held, which would be good. But yeah, but no, it's the point being is the interior cables, because that was the point which was raised by the, the shipping in relation to potential effects on, I think it was the MCA rather than anything else but one or the other of them over the point about effects on compasses.

00:38:25:07 - 00:38:28:12

Yeah. So we'll ring fence that to cabling and that. That's fine.

00:38:30:24 - 00:38:32:00

Just going back to.

00:38:32:02 - 00:38:32:17

Where.

00:38:32:19 - 00:38:33:09

I've got to.

00:38:38:00 - 00:38:38:15

Um.

00:38:41:13 - 00:38:59:27

Requirement three um, first is an issue with relation to the requirement is currently drafting. And secondly, the revised wording. However, there is a point that the relation to the draft which the current drafting that applies to both that and the one proposed by the Dio.

00:39:01:14 - 00:39:31:28

So we might as well deal with that first. Um, both the existing requirement three and the Dio alternative refers to the Air Navigation Order 2016. Um, I've looked at the articles cited by your good selves in the D3 submission, which is article 223 of the of that order. Um, the heading of that or of that particular provision. Um, and is lighting of wind turbine generators in UK territorial waters.

00:39:32:28 - 00:40:03:14

And the drafting, having looked a little further down, does appear that it only applies inside territorial waters, which of course you are not. And now I've looked at the the versions of the edited versions of the legislation that we tend to use, which often have commentary on them, and I haven't found anything that would mean it would apply in the case, which is the simple in the simple way we need to do.

00:40:03:16 - 00:40:12:02

Now, there might be some legislation lurking somewhere, which does mean that it applies in the EU z but it doesn't on the face of it, appear. So.

00:40:18:25 - 00:40:19:10

Yeah.

00:40:19:15 - 00:40:23:10

Robin Hutchison for the applicant. Um.

00:40:27:09 - 00:40:27:24

The.

00:40:29:24 - 00:40:33:26

We need to have I think it's that that is a valid a valid point.

00:40:34:07 - 00:40:35:16

Um, I may be wrong.

00:40:35:20 - 00:40:38:06

I'm not a lawyer, but I dig it around.

00:40:38:10 - 00:41:12:14

It doesn't sound. It doesn't sound wrong. We will have a look at the the legislation to confirm, but I think the, um, the comfort or the, the applicant's position would be that it's a standard, um, article requested by the CA and goes on to say and or determined necessary for aviation safety and consultation with um, uh, Defense Infrastructure Organization safeguarding. So it's a sorry standard article required by Dio, but um, that's the bit that would catch the requirements for the project.

00:41:12:16 - 00:41:13:15

And the next sentence.

00:41:13:19 - 00:41:26:19

Yeah. Um, I think you might need to treat the drafting. I suspect what probably happened is it was drafted years ago. For once inside the territorial, territorial waters moved on and nobody realized they needed to redraft it.

00:41:27:02 - 00:41:28:18

I'm sure that's right. Yeah.

00:41:29:27 - 00:41:40:03

Sorry. Just because when you cited it to me, I went looking. Hang on. This one does. Um, so now we need to have a look at the.

00:41:40:14 - 00:41:40:29

Oh, sorry.

00:41:41:01 - 00:42:04:02

Can I just return to that? Just thinking about it, because the one other aspect of this would be that we don't know how the air navigation order might be amended. With the proliferation of wind farms beyond 12 nautical miles, it might still be. The base case is that we comply with what's in there. Yeah. If there's nothing in there, then it would be the next sentence as determined necessary by Dio.

00:42:04:26 - 00:42:12:18

But you wouldn't necessarily then have the identification or reference to the application order on, on the face of the legislation on the face of this legislation.

00:42:14:26 - 00:42:26:17

I think he just needs. I'm sorry. I'm sorry. It needs a lawyer to go away. Have a have a have a thing can come back with some potentially some alternative drafting possibly in discussion with the Dio and or and the CAA.

00:42:29:08 - 00:42:29:26

Thank you.

00:42:35:20 - 00:42:49:15

I was talking about the CAA. Are you online or Nats was as well. Nats. I suspect it probably falls outside with outside your purview. But since you are here, do you have any thoughts on this?

00:42:51:00 - 00:42:55:23

How's it all for Nats? Uh, no I don't. It does. It does fall comfortably. Perfect.

00:42:56:27 - 00:43:05:05

It's fine. Thank you. Um. Just offer it. Does anybody else who is here have any thoughts on on this, uh, Richard Inglis, um, supporting.

00:43:05:07 - 00:43:05:22

Blackpool.

00:43:05:24 - 00:43:13:24

Airport? Um, there's a general rule for endangering aircraft in flight. Um, and that's done at ICAO level and.

00:43:13:26 - 00:43:14:11

Rolls down.

00:43:14:13 - 00:43:15:13

Into the CAA regs.

00:43:15:15 - 00:43:17:10

So it may be you have to look at the.

00:43:17:12 - 00:43:17:27

The higher.

00:43:17:29 - 00:43:18:14

Documents.

00:43:18:16 - 00:43:20:15

In the code. It might be helpful.

00:43:20:27 - 00:43:21:12

Yeah.

00:43:23:12 - 00:43:25:06

Thank you.

00:43:25:08 - 00:43:32:28

Right. Um the Dio preferred wording, which obviously is um fine.

00:43:34:13 - 00:43:47:21

Um, that's about well, have you any comments on what they have suggested, because obviously they have done, um, they, they've uh, I've got the right ones.

00:43:49:21 - 00:43:52:11

Yeah. They, they've obviously set out,

00:43:54:08 - 00:44:06:16

um, a, uh, an alternative set of wording. And I was wondering whether you had any thoughts on that. As I say, it still refers to the navigation order, but that's not that's a slightly different issue.

00:44:06:18 - 00:44:44:07

Katherine Nolan, on behalf of the applicant. Yes. Um, the applicant says it would be helpful. It it's noted that in providing this text, um, Dio say that they're generally content with the wording proposed in the DCO. Um, but then suggests that the requirement, the alternative wording provided would be more suitable. But no, no explanation is given as to why it would be more suitable. Um, the applicant considers that that would be helpful to To understand the driver behind the changes to it, because it is noted that this condition, this requirement is is quite standard.

00:44:44:15 - 00:45:16:18

And as the authority has pointed out, it is copied now in pretty much every every order without actually being perhaps interrogated to the level of detail it should have been. Um, the applicant will take this away, though, and see what it can do to adopt the changes proposed by the Dio at deadline for. And ultimately, it is a matter that is, um, the purview of the CAA and the Dio. So they are the ones that need to be comfortable with the wording of the requirement.

00:45:18:08 - 00:45:37:24

Um, and, and your content with because on the second of the two requirements they've set, uh, you must notify them at least 14 days prior to the commencement of work. So you're content with that period because that's going to be coming. Um, something I'm going to be coming up to in other requirements is length of times prior to.

00:45:37:26 - 00:45:40:25

Kathryn Nolan, on behalf of Kathleen. Yes, we are satisfied with that.

00:45:42:05 - 00:45:50:03

Okay. Uh, we now move on to requirement five, which relates to Blackpool Airport.

00:45:53:13 - 00:46:01:27

Um, um, obviously we've had some discussions over the last couple of days. Um, we also have.

00:46:10:17 - 00:46:11:02

Uh.

00:46:13:07 - 00:46:37:22

We also have revised wording promoted by Blackpool Airport. Um, um, and there are two. Firstly, there are two forms of wording from Blackpool. Firstly, revision to the existing requirement essentially ensure that the necessary arrangements are in place earlier in the construction process in appendix one, and then a wider redrafting in appendix two. Who can. I have the applicant's response to those revised wordings, please?

00:46:38:19 - 00:47:10:25

Kathryn Nolan, on behalf of the applicant. Yes, we have had initial discussions with Blackpool Airport just over the last few days on the proposed wording. The applicant is is broadly satisfied with the wording that has been provided. I think the understanding is that we will likely go with the proposed broader requirement wording, because we are mindful that there are other points that we have already discussed at the hearings over the last few days, such as VHF and otherwise, that need to be captured. And it's perhaps considered that rather than having,

00:47:12:15 - 00:47:46:03

say, three conditions, three requirements for Blackpool Airport, for each separate element, it might be neater and easier to have it all in one. Um, there is a bit of a drafting exercise, as we discussed yesterday, just to make sure that the draft requirement does satisfy the planning Test the condition test to make sure that it is precise and the definitions are tight to the the impacts of the development. But there is a good channel of communication with Blackpool Airport and to take that away.

00:47:46:27 - 00:48:05:26

And that will be then. The aim is from the applicant's perspective, is to put that in at deadline for, and those discussions will also then be captured in the Statement of Common Ground to reflect discussions around that requirement. So the applicant considers appendix two largely good to go and discussions ongoing.

00:48:06:21 - 00:48:16:04

Yes, clearly there are some definitions within it which may come out because they may go into other parts of the order, but a slightly different issue. Do I have any comments from Blackpool?

00:48:16:24 - 00:48:38:13

Uh, tonight, Blackpool Airport. Thank you very much. Uh, Blackpool Airport, thank the applicant for the discussion so far. We thank the applicant for the acceptance of the wider needs of mitigation that we discussed yesterday. Look forward to further ongoing discussions which are being proactive to date and for these topics to continue. Thank you very much, sir.

00:48:39:00 - 00:48:52:19

Uh, just because, uh, but you're here, black Blackpool Council who obviously own, as I understand that the airport. Um, since you're here, is there anything you wish to add to this particular debate?

00:48:56:07 - 00:49:17:07

Says Catherine Knight on behalf of Blackpool, uh, Council, as Suzanne is actually online at the moment, I don't think she's intending to speak. Um, the Blackpool airport are in discussions with Blackpool Council as the main shareholder, and we actually have, uh. Yeah, I'll leave it at that. Alright. But there's nothing more to add today.

00:49:17:12 - 00:49:29:21

It's the, the the last thing you want is to agree something between your, your good selves. Only for the council as landowner to then suddenly say uh, no because that wouldn't help anybody.

00:49:31:15 - 00:49:44:17

So Steve Peters, Blackpool airport. Just picking up on Kathryn's point. The shareholder is, um, actively engaged in all conversations and negotiations. And I think it would be very fair to say supports the airport's position across the board.

00:49:44:19 - 00:50:12:27

Thank you. Um, this is sort of really a little later on in the draft statement of Common Ground. There's a reference to protective provisions with Blackpool Airport. Um, while this is really for the

next item. Can I just ask what the parties to their positions are and whether they that may negate the need for the requirement? I think I think we'll go to Blackpool Airport first for that one. What's your view on that? As I say, it's the statement of common ground. So that's the reason. Okay.

00:50:12:29 - 00:50:16:06

Um, Steve Peters, Blackpool airport. Sorry, sir. Could you just repeat the question.

00:50:17:13 - 00:50:42:15

In the in the draft statement of common ground between the airport and the applicant? There's a reference to protective provisions. And and thus I was wondering whether or not. Because if you have protected provisions, it might negate the need for a requirement. Um, I was just wondering whether or not that was just a, a a bit of a, a red herring in the statement of common ground or what.

00:50:42:21 - 00:51:14:09

Catherine Nolan, on behalf of the applicant, I think probably easier if we deal with this first and then the airport can, um, hopefully agree. I think this is a red herring in the statement of common grounds. Um, there are obviously separate discussions on the transmission assets where there there will be protective provisions because there's much more of an interface in the traditional sense. Um, so my understanding is that this is it's a typo that there aren't not. Um, it's not considered protective provisions are necessary because all measures would be covered within the requirements.

00:51:14:22 - 00:51:26:24

Um, okay. So so so can I just ask you have a look at this statement a couple of ground. Because if it if it needs to come out, it's probably better if it comes out of there Rather than leaving something hanging which we don't need.

00:51:26:28 - 00:51:37:02

Says Miss Night Blackpool Airport. We've discussed the statement of common ground being updated this morning, and the applicant has taken this away, and I agree with exactly what the applicant is saying. Thank you very.

00:51:37:04 - 00:51:50:26

Much. Thank you very much. Um, now we have also have revised proposed wordings for requirements six and seven on behalf of the two by organisations. Going back to.

00:51:53:08 - 00:52:05:02

I'm just moving my my documents. Um, can I go and ask the applicant for their response to those revised wordings?

00:52:07:20 - 00:52:43:03

Catherine Nolan, on behalf of the applicant. Yes. The position again is is similar to that with Blackpool Airport, which is that we are taking the comments on board. We do largely agree with the principles behind that redrafting. And there are discussions scheduled with be, I want to say, next week, if I'm remembering correctly, just to agree that wording. We do have the added complexity there that um, for Warton in particular, it will also need to go to Dio to make sure that they are also happy with that wording.

00:52:43:05 - 00:52:53:18

But I think the applicant's position is they are broader, they are perhaps protecting more than they were before. So it's considered that they should be, uh, agreeable.

00:52:55:02 - 00:52:59:01

Can I move to the to BA operations, please?

00:52:59:26 - 00:53:32:00

Graham Warner for BA systems. Yes. Um, the preferred position of BA systems is to work with the applicant on general conditions for both Warton and Warnie that embrace a number of issues, rather than having a proliferation of many requirements for each of those aerodromes. So. So yes, we're certainly on the same page there. Um, and we will be discussing the detailed wording of those requirements over the next week or so.

00:53:33:06 - 00:54:06:27

So, so that will be discussions between the legal teams on the applicant side and base side. Um, so so that's that's okay. That's fine. When it comes to the primary surveillance radar, we envisage a separate requirement dealing with that. And that is being discussed through the Dio. Yeah. And we will feed comments on the wording of that requirement from BA's point of view to the Dio. So that's that's the way it's being organised at the moment and and managed.

00:54:07:27 - 00:54:08:12

Thank you.

00:54:09:14 - 00:54:44:05

Okay. Um, there's also as the mod rider which is requirement eight. Um, you've said it's to come from. You said it's been redrafted since the last one and came from the Sheringham. Sheringham and Dudgeon order. But the wording in the Sheringham and Dodgy is slightly different than that which you proposed here. And the Sheringham uses will, as in a proposed appropriate mitigation, will be implemented and maintained for the life of the authorised development. Whilst whilst in proposed all of this can be um.

00:54:44:07 - 00:55:18:09

The wording of subparagraph one is also different in with the made Sheringham Dudgeon order confirming the arrangements are in place for this. For this, while for this proposed order it is a mitigation agreement has been offered to the Mod. Um, I would have obviously asked the mod stroke Dio had they been here. Um, have they do? Have they had any comments? Um, but obviously I just do note that the wording is different. Um, and I was wondering from the applicant if the applicant could explain why it's different.

00:55:21:10 - 00:55:26:21

Robin Hutchison for the applicant, if you'll permit me just a second to read and refresh my memory on the.

00:55:26:26 - 00:55:27:12

Certainly.

00:55:37:11 - 00:56:19:06

Yeah. The the explanation for the sorry, the, um, for the, the, um, tweaked position from the sharing managing order is to ensure that the delivery of the mitigation and the project as a whole is within the applicant's gift. So the, um, the rationale is that if the applicant has a scheme which the Secretary of State is satisfied, um, mitigates the impact and has offered an agreement to the Mod, which ensures that that mitigation

00:56:21:00 - 00:56:28:15

is capable of being implemented. The development as a whole shouldn't be held up because a third party is

00:56:30:04 - 00:56:33:15

for administrative reasons or any other reasons. Declining to

00:56:35:07 - 00:56:47:26

enter in as counterparty to that agreement is basically to keep the delivery of the scheme within the gift of the applicant and the Secretary of State, rather than making it beholden to a third party.

00:56:54:04 - 00:57:16:24

Depending on how things pan out, we may need to write to the Dow on this point just to see. Just whilst they did have the opportunity of responding to this, um, at day three, it's because of the importance of it, for obvious reasons we may well need just to make get that confirmed as opposed to being assumed, if that makes sense.

00:57:17:23 - 00:57:41:02

Yeah. Robin Hutchison for the applicant, we would just, um, reiterate that ultimately everything is within the control of the secretary of state. So they have. So we're not proposing that the applicant has final sign off on this. It is signed off by the Secretary of State, but it's just that it shouldn't be contingent on a third party consent, which no one has any control over, when that would be forthcoming or not. Yeah.

00:57:43:01 - 00:57:48:06

Um, in moving on requirement nine, which is decommissioning.

00:57:48:25 - 00:58:22:22

Sir, perhaps. Yeah. Sorry. Uh, Catherine Nolan for the applicant, perhaps before we move away from aviation. Yeah, I should just say the point that we discussed about the Isle of Man. And so one change that will be coming in at deadline for is there will be a requirement for the Isle of Man. Ronald's way airport added in. Um, and that the exact wording and structure of that is still being discussed between the parties. It will, um, largely probably replicate the same kind of, uh, to use Mr. Hutchison's analogy, the the tram tracks approach of kind of principle.

00:58:22:24 - 00:58:43:07

Now, agreed. Later. Um, but there is some discussion as to when those assessments are going to be carried out. So if the Isle of Man is not able to carry out their assessments at this stage, it will also make provision for the applicant contributing to those assessments being carried out. But that will come at deadline for thank you.

00:58:43:19 - 00:58:52:28

I'll just ask clarification on that. Are we talking about that being the VHF communication or radar? Just clarify what it's covering.

00:58:55:15 - 00:59:26:28

Catherine Nolan, on behalf of the applicant. It will be wider than just VHF. So at this stage it's not fully known what impacts, if any, there would be to Ronald's way from the proposed development. So it will be designed to carry out those assessments and then mitigate for those impacts. So it would be possibly VHF, it would be IFP, it would be radar, it would be kind of anything. So the assessments that are being carried out currently are all assessments.

00:59:27:00 - 00:59:31:18

So it is envisioned that it would capture VHF radar and instrument flight procedures.

00:59:38:11 - 01:00:11:27

Then moving on to uh requirement nine um in we've had we've had this discussion before about decommissioning. Um, in your response to one DCO for um, you stated the applicant further notes that in practice, the Secretary of State has served a section 252 notice notice on all offshore wind offshore projects when they reached the appropriate milestone. It's not clear as to what is the appropriate milestone.

01:00:11:29 - 01:00:21:14

I was just wondering if you happen to be able to advise us, just. I think this is just for information rather than anything else. It's just it might help close that particular circle.

01:00:22:19 - 01:00:55:09

Katherine Nolan, on behalf of the applicant. Yes. This is, uh, rather unhelpfully, the guidance from the secretary of state and government just on decommissioning programs is not perhaps the clearest. Um, generally, those notices are served, obviously post consent, um, in practice and speaking just from professional experience, those tend to be on a very strict period of a certain amount of time that has elapsed after the consent has been granted, and isn't actually fundamentally linked to any stages within a program.

01:00:55:14 - 01:01:09:02

Um, it is very much a bit of a computer tick box exercise from the Secretary of State. Um, but it does usually come at the post consent stage about kind of 6 to 18 months after the. The consent has been granted.

01:01:13:07 - 01:01:52:13

Thank you. Uh, bum bum bum. Um, now, on to requirement 11, the skills and, uh, employment plan. Um, on Tuesday, we had a discussion about the word notification. Um, in respect of this, uh, you

explained that. Why? To use that terminology, rather than having the plan approved. And I don't need you to repeat that here. Having had a couple of days to think about it. Can I ask, respond the the applicant, to respond to the proposition of a if there are any delays that were to be occasioned, they would surely be a result of the applicant's choice not to identify the relevant point at the application stage.

01:01:52:21 - 01:02:13:03

In other words, they're a consequence of your your own positive choice not to identify a port. And b in any event, there would be an appeal mechanism. Should the relevant planning authority either refuse a plan or not determine it within the relevant period, and thus. Thus, rather than notification, it should be approved.

01:02:33:12 - 01:02:36:28

Yeah. Robin Hutchison for the applicant. Um.

01:02:39:04 - 01:03:13:27

I think the applicant doesn't want to overstate how attached we are to this particular point. Um, if it was considered appropriate that the Skills and Employment plan was approved, then of course, that's what we would what we would do. Um, you know, we accept the point that we haven't identified a port that is normal for offshore wind farms because we have not until you obtain consent, we do not have the certainty to engage a supply chain which is necessary for identifying the port.

01:03:13:29 - 01:03:50:28

So there is a practical reason why it is not done. But of course we accept that it is not done. Whatever the reason, and our we will not go through the substance of the point. The the point was it's what is proportionate. And we consider, given the lack of connectivity between the scheme itself and the port, it would not be proportionate to require this to be approved by whichever local planning authority it might turn up in. And equally, does the, um, just the uncertainty of having an unknown body with an approval power in a DCO? At this stage we do not know who they are, but we did.

01:03:51:03 - 01:04:00:26

I should, just for completeness, uh, confirm that we will add the certainly add the final clause on this requiring that we'll comply with that that plan? Yeah.

01:04:03:21 - 01:04:04:06

Okay.

01:04:05:22 - 01:04:37:27

Um, I think that deals with all the points I have on item four, which is deals with requirements. So we will then move on to protective provisions. Um, what? I'm. I'm just thinking of how long this this this. I think hopefully this should take too long and then we'll have a break. So, um, so protection provisions, uh, obviously we're going to be discussing with bodies, um, and also about side agreements later. Um, yeah.

01:04:38:20 - 01:05:10:02

Because we've had discussions about potential side agreements with Harbor Energy, Spirit Energy oysters. And then we'll come to those under the item, uh, eight. I'll read that for, um, which other consents and agreements. Um, so I'm happy to be flexible over how they're dealt with. If it would short circuit our discussions on the protection provisions. Um. But can we can we have a, uh, your a few points about, uh, what the changes have been since.

01:05:10:04 - 01:05:33:24

Issue one. And update us on negotiations. Um, before we get into some discussions with other parties. There are a few things on wording or which. Is drafting, which is just as you've probably got already, me being slightly pedantic. Uh, so. We'll have to come to those before we have the main discussions, but if you could update me on where we are, that would be useful.

01:05:35:00 - 01:06:08:28

Catherine Nolan, on behalf of the applicant, I should say you should never apologize for being pedantic because it keeps the lawyers around this table in business. And so we thank you for that. Um, I will deal with part one on the offshore cables, and then I'll turn to Mr. Hutchison. On parts two and three, um, which had more substantive changes? Um, part one. Um, the only changes that were made to this part of the protective provisions was to draw, in reference to the Protected Provisions Plan, and to try and make it clear where the telecoms cables are shown on.

01:06:09:06 - 01:06:40:18

On the plan. I think it was just felt that actually it is quite helpful to have that visualized. I should say that the applicant has had confirmation from these cable operators several months ago to confirm all was in order. They weren't taking part in the examination. They had no comments on the approach. And and those agreements that will derive from these protected provisions would be entered into at a much later stage, as design is coming across. So very minimal changes to to this part of the schedule.

01:06:44:05 - 01:06:45:00

Parts two and three.

01:06:45:16 - 01:07:31:22

Yep. Robin Hutchison for the applicant on parts two and three. I don't propose to say too much on this because I think we, um, we aired the substance yesterday, and we've heard that we're expecting a revised draft from, um, from Mr. Gibson and Spirit Solicitors in hopefully our early course. Um, very briefly, in terms of the changes since the previous version, and I think it's just repeating what I summarised briefly yesterday in our in written submissions, the changes were to incorporate the corridor mitigation, um, which we discussed to incorporate um, the uh, marine, um, uh, shipping and navigation protections requested.

01:07:32:05 - 01:07:54:03

Um, and as far as we could appreciate, there were submissions made about whether we've captured everything or not. So I'm not saying I'm not making any submissions on the substance, just that was the intention. And then the third point was just to add in a placeholder for a limitation of liability in the event that we do not end up with a side agreement as well, if we only have a protected Protective provisions on the face of the order.

01:07:55:27 - 01:08:30:10

Thank you. Um, the couple of points which I have got. Um, are, as it stands, the in both parts in paragraph five, uh, they both restrict wind, wind turbine generators. Um, but there's nothing about OSP. Now, I we all appreciate the lps that are of an order of magnitude smaller. But paragraph five is deals with wind turbines, and there's nothing to say.

01:08:30:15 - 01:08:35:03

You couldn't put an OSP into those, uh, into those corridors.

01:08:43:02 - 01:09:09:26

Robin Hutchison for the applicant. I would suggest that that forms part of our discussion next week. Um, I think it was intentional because, um, I think the expectation was that an OSP is much lower. So does it cause that same level of interference? But I'm also conscious that our aviation expert isn't here with us today, and I suspect neither are spirits. So, um, perhaps we could just.

01:09:10:12 - 01:09:10:27

Add.

01:09:11:04 - 01:09:11:23

It to the point.

01:09:11:25 - 01:09:21:05

No, no, the point it might need. I need to clarify if it is to be omitted. That is an explanation as to why it's been omitted.

01:09:21:07 - 01:09:28:29

It is intentional as it stands. But whether there's an alternative point of view. Yeah. Remains to be seen.

01:09:30:04 - 01:10:07:13

James Gibson for Spirit Energy. Um, I think this is at least partially covered in our written representations. That Spirit's position is that it would be as per the other protective provisions, or at least in this section, a restriction on authorized development, which starts at paragraph three. Yeah. Um, as you say. So that includes, um, offshore substation platforms and I believe, um, temporary infrastructure, which is not in transit as well. Um, Spirit's position would be that that provision should be drafted in the same way.

01:10:08:05 - 01:10:17:18

Um, I am happy, as Mister Hutchinson says, to, to discuss that further next week. You know our position anyway, sir, in terms of in terms of the aviation corridor.

01:10:17:20 - 01:10:48:14

Yes. No, that's not the point. It's it's if we get to a point where, you know, this goes. Um, and the other one is in both parts two and three, there's a definition of order. You know, we've had owner you know, we've been through the discussions over an owner normally means somebody with a legal beneficial

interest in because what it says is the owners, from time to time of legal and beneficial interests in various and various continental block shelf, uh, United Kingdom.

01:10:48:16 - 01:11:13:23

Continental shelf blocks in normal English. Of course, owner means somebody who has a hereditary interest, whether freehold or otherwise. Um, and we've already had your your submissions, which the and the Crown estate submissions that you can't have inherited a bit of hereditary interest in this area of the e z. So we possibly need another term other than owner.

01:11:15:16 - 01:11:36:00

Robin Hutchison for the applicant. Yes. Very happy to reflect that to avoid any confusion. I mean, I think we would look really to spirit to, um, help us with the best way to define the nature of their interest. I mean, we're all trying to do the same thing. We just want to make sure we're pointing out clearly who they are, what they what their interest is.

01:11:36:10 - 01:11:38:15

So Mr. Gibson.

01:11:38:17 - 01:12:04:03

James Gibson for Spirit Energy, we have had some discussions internally in terms of how we we frame that that first paragraph to ensure that it captures, um, spirits interests and whether that's spirit energy, uh, production UK or whether that's, that's broader and and obviously it needs to it needs to be framed in the right way. But we will take that away. And again, I suspect that will be the subject of discussion next week.

01:12:05:25 - 01:12:31:28

Thank you. If I may, sir, just just as an extension, because it's a very similar point. Um, I trust you've also seen our submissions in terms of Calder, um, specifically, um, certain provisions, um, certain provisions in the harbour, protective provisions under part two, um, spirit will require as well, giving. They are the operator of of that asset.

01:12:35:12 - 01:12:48:01

Robin Hutchison for the applicant that I mean, that's absolutely fine. I can assure everyone we're not trying to be clever here. It's just, uh, we don't quite have a full. We need just a detail of exactly that arrangement in order to capture it, but that's absolutely fine.

01:12:49:24 - 01:12:55:11

On that, I'm pleased to say there's a measure of agreement. Um.

01:12:56:27 - 01:12:57:15

Sir?

01:12:57:17 - 01:12:58:02

Yes.

01:12:58:15 - 01:13:07:06

Appreciating that they're not currently. Sorry. Robin Hutchison for the applicant. There aren't protected provisions in favour of Stena Line in here. Would you like me to address you on them now?

01:13:07:08 - 01:13:19:09

Yes. Yes. If yes, it's the. It's the. Unless there's anything else. Spirit. Spirit wish to add in what we've got in front of us at this point, as opposed to negotiations that will happen next week and thereafter, one hopes.

01:13:20:25 - 01:13:55:23

James Gibson for Spirit Energy. Yes. I'll park discussions around, um, next week. Um, exchanges that Mr. Hutchinson and I will have. Um, obviously going to your comments yesterday, sir, um, on the limitations of what the lawyers can do, as it were. Um, there are also proposals for technical work, or a technical workshop or plural workshops to be held as soon as possible, and understand that discussions have already begun between the parties in terms of identifying suitable dates for that.

01:13:56:22 - 01:13:57:22

Just to hear.

01:13:57:24 - 01:14:30:10

That, briefly touch on the the protective provisions that you have in front of you at the moment. Um, I'll park the the aviation position. Um, I think there's been good progress on the marine elements as well. Um, so I'm not proposing to say any more on that unless you have any specific questions. Um, I think we do have some concerns with the drafting of the additional costs mechanism in particular at the moment. Um, that seems to be quite narrow in scope.

01:14:30:23 - 01:15:03:17

Um, and we would suggest skewed towards the applicant in some respects with best endeavours, obligations on, um, Spirit. Um, the the unknown aggregate cap on liability is a particular concern for spirit, given the potential impact on its operations and the associated costs that they may incur. So, um, I suppose I'm just putting down a marker that if there's some square brackets there at the moment, that will be a big number from Spirit's perspective.

01:15:03:26 - 01:15:19:17

I'm you know, it's from my point of view at this point in time, it's it's X pounds. We know it. But it's got to come out by the final version at D6. It's got to have a number in it one way or the other, and then submissions can be made on other points if, if there is no agreement.

01:15:19:21 - 01:15:50:18

And I would also emphasise if, if the, if it's possible to have a number because um, that obviously does put a ceiling on what, what spirit can recover. So there isn't an indemnity protection at the moment. There isn't any insurance policy in terms of, um, impact or damage to spirits assets or, or its its business operations. There is no consequential loss permitted. So I think when you go away and look at the transmission DCO and the protections and therefore beneficiaries, some of that has been included.

01:15:50:20 - 01:15:53:19

So it's not clear to me why it's been omitted from this, from this order.

01:15:54:18 - 01:15:56:25

Okay, fine. I just want to say a final.

01:15:57:04 - 01:16:48:06

Um, no. Robyn Hutchinson for the for the applicant. Um, the only point I would make is that, um, it. Well. Two points. First of all, it's very much welcomed that, um, there's going to be a technical and, um, it's hoped also commercial meeting because that that's I think the key to unlocking this um, it would be I know we're coming on to talk about side agreements, but it is hoped that these sorts of matters would be best placed in a in a side agreement. You know, the panel will note that, um, the applicant did do its financial due diligence in order to try and support a number, but has redacted it from these submissions because we think that in the first instance, it's best discussed between ourselves and hopefully that that final provision and the square bracketed number is able to just leave the draft completely.

01:16:48:08 - 01:16:50:23

That would be our our preference. Um.

01:16:52:26 - 01:17:29:21

Yeah. That's it. Can I just make the point that if it is, if at the end and said and by deadline six, which is when the final submissions essentially come in, if we do have the um, summarising and signposting documents to be submitted, if you are unable to agree on the final wordings, could I please at least have from both parties? Obviously I'll have the DCO version submitted, but from spirit alternative wording and explanations as to why the wordings are different.

01:17:30:07 - 01:17:53:07

Obviously the applicant will know what those differences are and will have been able to able to comment to make a commentary on them separately as one of their final documents, their final submissions too, just so that if we do have to, in our report to the Secretary of State to allow him at the moment to to adjudicate, we can make it quite clear

01:17:55:01 - 01:18:10:25

where we feel that that should should land. Thank you. Okay. Um, and Stellar Line was the only other one with the potential. Oh, yes. You said. Yeah. Sorry. There was a potential provision from Stena. Yeah.

01:18:11:11 - 01:18:35:21

Uh, no, I just raised it because they're not in the current draft. But I think we explained yesterday that a draft has been provided by Stena, which, um, you know, we withheld our position on whether they're needed, but they're within our expectations and gift to give, generally speaking. So, you know, we're quite content to, to to to to be a good neighbor to stay in a in that respect. And

01:18:37:14 - 01:19:13:26

what my anticipation is that, um, there'll be protective provisions um, securing elements of the, um, request from Stainer, which will cover notification type provisions. Um, and then in addition to that

are, uh, a short side agreement. Um, and we would expect at D4 to be submitting protective provisions. There may be the commercial matters included in square brackets in a similar way to the, um, expert Harbor piece.

01:19:13:29 - 01:19:39:07

If we're not at the stage of having put that into a side agreement so that the panel is on, notice that these are matters that are important, it's just unclear whether they can be resolved between the parties or as you've explained, a decision is needed. Um, so we'll probably include them in square brackets just because two weeks is probably too tight to get them out of there. Hopefully. But but the intention is that they'll they'll come out and the protective provisions will be quite probably quite light.

01:19:39:19 - 01:20:09:15

Thank you. Thank you for that. That'll be it. That's what I'm assume that's a deadline for, because that's part of the next the next submission of the development consent order. Thank you. Okay. Um, now 11:20. I'm thinking a break at this point would make sense. I'm thinking, given we're doing quite well, although we've got we're about to go to the draft marine licence, which may take a little bit of time, but it'll be it'll be shorter than have the MMO been here. We have we have what it is. So if we break now until 22.

01:20:11:19 - 01:20:14:15

The hearing is therefore adjourned until 1140.

01:20:16:21 - 01:20:20:12

Again, can we be terribly cheeky and grab ourselves a cup of tea or coffee?

01:20:20:14 - 01:20:20:29

Before.

01:20:21:20 - 01:20:22:07

Before?