



Planning Inspectorate
Arolygiaeth Gynllunio

Hearing Transcript

Project:	EN010125 - Dogger Bank South
Hearing:	Issue Specific Hearing 6 – Part 2
Date:	05 June 2025

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Dogger Bank ISH6 – Pt2

00:00:06:05 - 00:00:37:20

Hello. Welcome back. Um, time is now 1121. And, uh, issue specific hearing six is recommenced. I'm going to move on now to, um, the wording of, uh, draft MPs in three. Um, the first question is for the applicants, given the direction in draft MPs and through regarding the consideration of weight loss, combined with the existing precedent from the Secretary of State from the Walmer DCO.

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Can the applicants explain to what extent do these important and relevant matters give clarification that the published MPs Ian three should cover the effects on other offshore wind farms, including weight loss effects.

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Julian Boswell for the applicant. But we've addressed this, as you will have seen, madam. Um, deadline five submission.

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Because.

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It must be fundamental point that

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if these changes to Ian three were not needed, they wouldn't be being made.

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And therefore, the Secretary of State clearly thinks that they are needed.

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And we know from the transitional provisions that they only apply to future applications.

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So yes, as you've just referenced and as is said in the consultation and in the general guidance that we've referenced in our the five submission.

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The Secretary of State has the ability to apply weight to emerging guidance.

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So we it's clear what he intends to do going forward to for fresh applications. But as we've said in our D5 submission, we don't think it's, um, clear what view he's going to take when he has to make one of the series of decisions that is, um, heading his way, the first of which is already on his desk with, uh, with the Moana application. So we don't think it's the case that there's a sort of slam dunk answer that says, oh, well, what that now means is that we can retrospectively interpret the current, um, entry if

the current changes are adopted, and I acknowledge that there will be submissions from different parties, some of which have just been referenced, urging changes.

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So we don't know exactly how that's going to play out. Um, but, uh, in terms of does this now mean that we know how to interpret how the Secretary of State is going to interpret the three? I don't I don't think that is clear. We've explained that in more detail in our deadline five submission.

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Thank you.

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Uh, in the applicants deadline five response, which is 5036 uh, Mr. Gordon, did you want to make a point on that? Before I move on to the next question?

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Yeah. Robert Garden for the project clips. Um, a small point. We agree with the the applicant in terms of weight to be given. But in terms of pending decisions, I think it's important to note on the first of those decisions, which is the Moana offshore wind farm, that the Secretary of State has issued a letter subsequent to receipt of the recommendation report, and that does request, albeit on a without prejudice basis, a proposal to secure further considerations of means to minimise assessed impacts, including opportunities to work with impacted wind farms to achieve this.

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And we can submit that consultation letter to to the examination at the next deadline. But I do think it's important to note that.

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Note to Mr. Gardiner. It was something I was going to come on to. Thank you.

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Um, in the applicant deadline for the response at 536, uh, you state that the most interpretation, the most appropriate interpretation of nearby in the context of paragraph 2.8.176 of draft MPs in three is a distance based threshold aligned with the 77.5km buffer set by the Crown Estate for round four leasing, which was designed to reflect appropriate spatial separation between projects, taking into account weight effects amongst other technical and commercial factors.

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And we did touch upon this, um, somewhat earlier. But, um, where are the offshore wind farms are proposed within the buffer zone? I understand that that has to be subject to written agreement. Um, so and um, then there may be a requirement there to, to mitigate any potential Wak effects. So if this is the case, what would be the purpose of defining the threshold for considering Wak effects at 7.5km or less from the proposed development? If this is already captured separately and the effects are mitigated through the Crown Estate leasing arrangement.

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Julian Boswell for the applicant.

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The point? The point we're making is that obviously we acknowledge that there isn't an express reference to the Crown state buffer in the current MPs or in these new drafts, and in theory, there could have been. So what what we are left with is that the Secretary of State has decided to add a specific paragraph that for the first time, paragraphs plural. But this is one of those paragraphs that for the first time specifically addresses weight effects and for whatever reason has chosen to use the word nearby as opposed to close.

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And we've obviously seen the submissions from the approach and and listed on this topic as well. Um, so if we end up with nearby then that Necessarily. So this this is a filtering exercise isn't it. So it's effectively as a screening exercise what counts as nearby. Because that decides whether or not you're expected to do a wake assessment. Not in practice. Um, and so we would say that it is reasonable when interpreting the work nearby to take account of the fact that the Crown Estate, um, have applied there, that their minds on these facts, because there would be different facts, you know, weren't necessarily always be 7.5km and so on.

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Um, and so, so we think it's reasonable that one that when you're deciding what counts is nearby, that is a highly relevant piece of background information that informs that judgment. That's, that's that's the point that we are making. Yes. The facts would be different if we were inside the 7.5 or another relevant buffer, then, um, it would. There would be a different dynamic at play. Um, and as between the parties, there would be, uh, a very different dynamic, which would in reality be taking place in private as to what assessments they were doing and what arrangements they were choosing to, to enter into.

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And those are consistently in the, in the private domain.

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I just want to to to talk about this point a little bit more. So I suppose I'm just looking to understand your interpretation though, of why, if the if the Crown Estate effectively has assessed the effects up to 7.5 what and we've got a direction in the draft MPs is to say that weight loss assessment needs to be considered. And I also note that, um, uh, the draft NPS talks about reducing long distance Wak impacts.

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And you're saying that the Crown Estate effectively already considered the effects of weight loss to a reasonable level or an acceptable level?

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What would be the point in then referring to long distance Wakf? If you're saying that that's already done by the Crown Estate.

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Impossible for the applicant. Well.

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So the reference to long distance is, as you know, in 2.8.232. And that is a surprise that there's an obvious inconsistency between nearby and long distance, which I'm sure will have been raised by multiple people in the in consultation responses, Because I think it's hard to resolve those. I think the some ways

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we need to put this in context, because the reality is that what's happened over the last whatever year in these six examinations is going to change everything going forward. Nobody is going to approach weight effects in the same way. And of course, the Dogger projects have something called Dogger Bank D that you will have noticed, and they are um b p e I r and doubtless the Dogger Bank team, whoever they are, will be giving, uh, careful consideration to how they should now be approaching wak effects in their whole, you know, consenting process going forward.

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And, and that's, you know, that's right and proper. Um, so what we're talking about here is a screening exercise. Um, so in a sense, there's only so much realistically that we should be talking about this. Forgive me because because people are generally err on the side of caution in these matters. What developers, I think will will everyone's going to be falling over themselves to take this issue. You know, to to take this issue, to engage with this issue more than they dramatically more than they ever have before for obvious reasons.

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And so, yes, if we end up with this language, and I think there's every chance that this, this, this particular point may change, um, then, uh, that then we, each developer will make a judgment call as to what assessments they need to do, what engagements they need to do. They will generally err on the side of caution. Um, and as you'll have gathered there.

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There's more than one way to do an assessment, etc., etc. so, um, I, I can't really. I've already said there's a, there's an obvious, I think, contradiction between, um, nearby and long distance. I've noticed that, um, I can't remember which which submissions it is. One of the other parties has has tried to sort of marry marry the two and say, right, well, that means that nearby can be long distance. You know, I think that is I think that's stretching it, um, too far.

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Um, but this is a screening process. Everyone going forward, I think, is going to be erring on the side of caution anyway. But the real issue isn't whether you're doing an assessment. The real issue is going to be what is the what are the conclusions of that assessment? Can they be agreed with the other party? But even more important than that, what's really going to count is so what? Because does it then lead to something? Are there mitigation steps, meaningful mitigation steps available, brackets discussed. And obviously there's a there's a debate on that. We've taken a very firm position on that.

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Others have taken different positions. And then is financial compensation in the midst or not? And we say it very much should not be. Others are arguing that it should be. So this is a kind of this is a screening. This is a screening stage. Going forward, as I say, everyone's going to be very sensibly and rightly, I think cautious. They're going to err on the side of doing assessments rather than not doing assessments, doing more engagement rather than less engagement, depending on, I guess, how what what does what the decisions are coming out from moment and so on. And where where this N3 ultimately ends up.

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Okay. Thank you. And Mr. Gordon, I know I noted earlier that you wish to make some representations on the buffer zone, um, which you have done. Is there anything additionally that you wanted to say as regards to that? All of the comments that Mr. Boswell just made.

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Robert Garden for the project IPS. Um, I think three, three points. I mean, the first point is that the TCE has not assessed the impacts of this project. It's a general assessment, but I think that's understood. The second point in relation to to nearby, I think is relevant, and it is the point that I made earlier, but I do want to reiterate it in that the wording at 28833, um, effectively gives the choice to an applicant as to whether they would enter into a compensation agreement or not if they choose to do that or not, if it's necessary mitigation or not, within the 7.5km buffer, that is not an applicant's choice.

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And so we submit that is a relevant consideration when you think about what a nearby project is. And then the final point is that this is particularly important in this case, given that the distance of Dogger Bank A from from the projects being promoted is eight kilometres, so just 500m from that buffer area. Um, so effectively in this project, in this application, the projects are as close as they can be within that that framework. Um, and put the other put the other way, if if Dogger Bank A is not close or nearby, what project ever would be the final point? It's one that we made in our submissions is again, if there was an intention on the Secretary of State to limit nearby to the buffer, um, they could have done that, not necessarily by the 7.5km, but by reference to whatever buffer was relevant for the particular leasing round.

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And they've not done that.

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Mr. president.

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Thank you, Alex Dresden, for the Orcid IPS. I'd just like to make a couple of points on this, if I may. Just to repeat again, forgive me. I appreciate I have said it, but, you know, in the Crown Estate's submission in the Alpha examination, they did say that inter farm wage effects can extend beyond the buffer distances and also in the context, as mentioned earlier, of the Orcid IPS response to the consultation on draft NPS and three, the authors are recommending that the reference to nearby is

deleted as a word in this paragraph, because distance between offshore wind farms is only one part of the equation.

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You know, separation distance will not necessarily be the primary factor determining wake effect. You could have relative positioning with respect to the predominant wind direction, which may have a greater bearing on wake effect than distance alone. Um, there's the scale of an applicant's project, the temporal overlap between the operational lifetimes of the waking and waked offshore wind farms, the turbine technology and layout. So all of that just goes to the point that separation distance isn't necessarily the most important factor driving the overall loss of generation.

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And therefore the Orsted IPPs, as I say, have taken issue with the word nearby, and have proposed wording that tweaks this paragraph as part of their consultation response to amend it to generating stations that have the potential to be impacted.

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Noted. Thank you.

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Um, I note that, um, I was Mr. Garden, um, raised earlier. Uh, the Secretary of State issued a consultation letter on the 12th of May, 2025. For the moment, offshore wind farm, which is currently in with the Secretary of State for determination. Um, it's referred to the draft NPS changes and asked the applicants for that project to provide a weight loss assessment and consideration of a means to minimize any assessed impacts, including opportunities to work with impacted wind farms to achieve this.

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Um, can I ask the applicants? Um, does this provide any further clarification regarding the extent to what weight should be offered to the draft NPS?

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Julian Boswell for the applicant.

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Do you mean to the the draft NPS?

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Yes.

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I guess we I think we have to be pretty cautious as to how much we read into a letter like that. What it does is to reference a couple of policy, a couple of paragraphs in the existing NPS, and then it references a couple of paragraphs in the the consultation draft. And on the back of that, it makes the request that you have just outlined and the Moana project have put in a reply, which I imagine you've seen as well.

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Um, so I,

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I guess I'm just it's a very short letter, um, in a very dynamic situation And I think I would say that, um, it's considerable caution is, is required as to, uh, how much one should, should read into that. It does imply that the Secretary of State is going to take account of the, um, of the, um, the draft NPS.

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Otherwise, it would be odd that that any policies in that draft are reference. Um, so there is, I think, that implication. But, um,

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yeah, I'm a bit I'm a bit reluctant to go much further than that.

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Thank you. Um, would Mr. Gardner like to offer any views on that?

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Robert Gardner for the project, I think not nothing to add, um, on that other than it does demonstrate a, uh, Aye. From the Secretary of State, in terms of matters to be consulted on, but nothing further, and agree with the applicant in terms of weight, which will fundamentally be for the Secretary of State.

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Mr. president, is there anything you wanted to add?

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Thank you. Alex, chosen for your support? No, nothing further at this stage.

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Thank you.

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And further to the Secretary of State's letter. Can the applicants identify opportunities to work with impacted wind farms to achieve ways to minimise assessed impacts?

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Further to what I said a moment ago, and I hope this is okay. It is notable that there's nothing in there about financial compensation, about the moment that, um, the. So. Are there opportunities for us to work with affected projects. I think that's that's your question. Um, well, the the meeting that is fixed for Tuesday. I confess, I haven't seen what the agreed agenda is, but it was proposed, uh.

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Mitigation measures that the project codes may propose, in addition to what we evaluated in our deadline for submission, are on the agenda for that meeting. So if there's anything further they would like us to assess or consider. Uh, we can certainly do that at that point.

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So I think it would be prudent to wait to see what emerges from that. We we we we have noticed that, you know, to be honest, we were expecting a substantial response to what we put in at deadline for in relation to mitigation. Ation, and there is no substantive response, apart from a one line comment that, um, we we should have considered further mitigation. So we, we are keen to understand what what what in the context of that meeting.

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We're, we're keen to understand what what what they have to say about what we said at deadline for. And as Mr. Burstein has just said, we're keen to understand what other, um, mitigation, if any, they think is available. We would highlight that, um, they themselves have helpfully addressed in their wake assessment of the point about varying turbine size and concluded that that isn't, um,

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a lever or a mitigation measure that, uh, that, that they consider, um, is, um, is in the mix.

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Thank you.

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I did want to touch briefly on viability, and, uh, Mr. President has already answered the first question I have in regards to whether they consider that there would be any effects on the viability of any of the assets, um, which he represents, um, which still maintain an objection in regards to weight loss. So, um, we expect to receive those, um, reports or reports at the next deadline. So thank you for that. Um, and just a question for Mr. Garden.

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So the examining authority note that the project group set out in rep 570 that on an indicative and discounted basis, they expect the proposed development to result in lost revenue of approximately £582 million on a life time basis. In previous responses, um, the IPPs have suggested that this could affect the viability of their assets And could Mr. Gordon clarify the protocol's position on this matter? Do you consider that the proposed development would be likely to affect the future viability of any of the offshore wind farms which you represent?

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Robert Gordon for the for the project ships. And I mean, you've identified the financial losses that we've set out. I think it's important to note that the projects are awarded CFDs in R three, which at the time is the most competitive auction round for offshore wind due to capacity gap and the strike prices were the cheapest for offshore wind at that point. Um, with with strike prices subsequently increasing and that the CFD that the projects have been awarded covers a period of 1515 years. So I think a loss in the region of 582 million across the operational lifetime of the projects is demonstrably significant and such a loss.

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I mean, it's exceeding half £1 billion over the lifetime. Um, is is material and we note that also the potential for these values to be higher if the government's electricity prices come to pass. And that set out in the weight loss assessment report submitted at deadline five. I think it should be noted that the scale of financial impact at the level outlined in the weight loss assessment is, is clearly material concern, and notwithstanding the fundamental concerns and the issues we've raised in respect of the applicant's, um, weight loss assessment, we would retain that position even even if the the assessment was of financial impact was based on the applicant's weight loss assessment, so that the difference in the figures.

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And that's why we've explored mitigation and then compensation so that the scale of this loss, as I say, even on the applicant's assessment, but based on our assessment in respect of the impact on annual energy production and financial impact is significantly greater than the scale of the loss identified in the early Moore case, where mitigation was identified as being necessary. Um, and as far as we are aware, as of a, of a significantly greater scale than any of the other projects which are currently going through the examination process.

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So our position is that the loss of revenue, if unmitigated and um, compensated, is likely to represent a material risk to, to the future commercial viability of the projects. And I think on that point, it's important to note a point I mentioned earlier, but the projects have been promoted, um, effectively as three phases of one of one project. So an impact on on one should not be considered necessarily in, in isolation. Um, and would potentially have knock on impacts on one of the other projects.

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And then a final kind of final point in terms of the impact and how the assessment has been undertaken. But I think there's at various stages been references to to whose weight loss assessment to prefer in this case, and at the previous issue specific hearing it was, it was stated that its the affected parties whose position should be preferred, which is a position we adopt. Um, but but one reason to to prefer that from the conclusions, from a financial perspective is that on our assessment and applying the understanding of our own yield on the projects which have informed the financial decisions on those projects.

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Um, so so that is the basis those projects have been developed and taken forward.

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Thank you, Mr. Gordon. I think that's that's a helpful, uh, explanation of the position that obviously the peers have taken. I think in terms of, um, demonstrating that there would be an effect on future viability, obviously, that, um, it's quite a, um, um, substantial point. Um, in terms of, um, uh, what you're setting out there. And I think in order for us as an exa to be able to, um, And one understanding.

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To report on that, we would have to have some demonstration that that has been the case, obviously, provided the weight loss assessment that's been very useful, um, and set out potential losses. But in terms of the actual impacts on a businesses or organizations viability, um, we don't have a lot of information as it stands on that at present. And obviously we would need to see some more detail, I think submitted in writing in the form of a viability assessment, to be able to, um, give that, uh, weight in, in the decision making process.

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Robert Garden for the project. Um, I take the point. I think in terms of the scale of impact, I think I think that that is kind of clear for everybody to see. And a key point on viability is that we don't need to and submit a sort of full viability assessment or demonstrate that the impact on the projects is such that they are not viable. Now, the policy attest is, is a likely, um, position in terms of future, future viability. Uh, and I think we've demonstrated already that there's a material risk.

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But we take the point, um, around further information. I mean, I think there are a number of ways in which this the material risk that's been raised could, could arise as a consequence of, of such a significant loss in revenue and annual cash flow to, to the projects. So there are risks of, of defaulting on loans due to reduction in cash flow, etc.. Risks of impact on shareholder confidence. As the applicant alluded to to earlier, um, risks to future investment in lifetime extensions and risks to operational costs as well throughout the operational lifetime of the project.

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So, um, take the point that we would submit that there is sufficient information at present to demonstrate that there is a likely impact on future viability.

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Okay. Thank you. Um, did the applicants want to make any response on that?

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Yes, please. Julian Boswell for the applicant. Um.

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Madam, as you know, one of the one, one of the second written questions was a specific question on viability. And it's notable that there is no direct response in writing to deadline five to that rather important question, because as you're rightly focusing on in terms of if one assumes that the n three provisions apply in full to to our situation, putting aside all the arguments about that, where does this ultimately go to? Um, firstly, it does ultimately lead to to paragraph 2.8.347 round likely to affect the future viability.

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Um, and That would need to be very persuasive evidence in front of you, as I think you were. You were indicating in the question that you've that you've just put that, um, that that was the case. And at the moment we've got, uh, very, very high level, very limited, um, observations being being made. Um, as I said much earlier on today, there was a 2020 1st February 2021 assessment that's referenced in the applicants, uh, wave assessment of the AP.

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And we're obviously over four years later from from that, if there were significant, um, viability concerns in relation to these projects, I don't think that it's reasonable to imagine that the conduct that we've seen from the applicant would have proceeded in the way that it had. So they have known the scale and the location of Dogger Bank South. Since before that assessment was done, by definition, it was done in the light of of of the round four outcomes.

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They've known that RWC is a major developer bringing that forward. There's every light that those projects will come forward in due course and they will have reviewed, uh, doubtless on a regular basis in the round the, the, you know, the financial sort of position of the projects going forward in the usual way after the original financial investment decision. And so, um,

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there would need to be that reinforces the fact that there would need to be very persuasive evidence in front of you to, to regard, um, paragraph 2.8.347 as being engaged. Then we come on to the number, the 5.8 2,000,582 million. Of course. Firstly, I mean, there are there are a range of issues with that number. Firstly that it's based on the Atkins. Sorry, it's based on postcode assessment.

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We have a very substantially different conclusion in our assessment which would bring that number down dramatically by by half. Um, uh, without putting the detail on that. Um, there's no there's no discounting allowed for. It's a very as we've said in our, um, the five submission. It's a very simplistic, um, way of, of presenting the position.

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Um, the then we have Mr. Gordon's point that we're supposed to treat all three projects the same. Well, um, that is, uh, that is a massively contentious point. Um, we have three projects with three different, um, ownership structures. Um, yes. They currently have the same owners. They are in significantly different locations, different points of the compass. We know from the assessments, including, um, the applicants, sorry, uh, project zone assessment that, um, the, the, the, the wake effects are substantially different as between the three.

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There is absolutely no basis whatsoever for grouping those conveniently as a single, um, as a single entity and, and applying, uh, well, the compensation that they, that they're ultimately seeking for across all three. I mean, that is a very surprising argument to be put to you. Um, and it's not at all clear how that argument can possibly be stacked up. Each of those projects are substantial projects that are very much within the sort of ordinary, um, scale of what is.

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For its time, because the scale of objects keeps evolving in different ways. Um, so, so the notion that they should be somehow automatically grouped together is highly contentious and not accepted at all. Um, and there would need to be. And it's very hard to imagine what it could be. Very persuasive submissions for you to be, uh, supporting that approach. Um, the.

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I think those are.

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The main, the the the main points, but I

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think the other the other sort of curiosity underlying all of this is the assumption that somehow you could a reasonable person could read in Ian three and imagine that. That, um. That it supports the notion of um, a like for like financial, uh, indemnity being put in place from one project to another. If that were contemplated by Ian, three that would need to be spelled out in the clearest terms, and that there is nothing to to even begin to go down that, that, that, that, um, that journey.

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Um, and as other projects on our side of this argument have made plain and we agree, this would be a wholly extraordinary example, um, of, uh, of the use of the planning system for one, um, commercial, uh, entity to be, uh, to be subsidizing, um, another, uh, another entity in a, in a, in a competitive marketplace, and the planning system does not normally exist to do that.

00:36:04:28 - 00:36:39:22

And then the final point I'll end on is, um, even if which we do not accept at all, even if it were the case that there were viability in play, it would what normally happens in a viability context, as, as as you may be aware, madam, and the classic example is in the context of housing, housing schemes and affordable housing. And what, what, um, what financial impact does a given percentage of affordable housing on an overall, um, private sector housing scheme? And at what point, um, uh,

00:36:41:20 - 00:37:26:03

does the level of affordable housing, um, reduce the viability so that the project won't, won't proceed? It would always be the case in, in a viability situation that you would not be reimbursing somebody 100% anyway. Um, all you would be doing in that situation if you were doing it, which we completely reject. Is that that you would be doing enough to overcome, uh, the, the viability, uh, issue. And so the whole basis of the protective provisions that have been put in front of you assumes that 100% of the, um, of the claims loss should be, uh, reimbursed.

00:37:26:11 - 00:37:41:15

And, uh, on any analysis, uh, the that that would not by reference to a viability, um, policy being um, the b b b the agreed uh, the agreed position or the imposed position.

00:37:47:00 - 00:37:47:23

Thank you.

00:37:50:01 - 00:37:56:11

I had now wanted to turn to, um. Oh, sorry. Mr. Gardner, did you have some comments that you wish to come back on?

00:37:59:18 - 00:38:32:29

Robert Garden for the project. It's just one comment and it's been made a couple of times today around effectively, the onus on the project ships to to be raising this issue. And I just want to reiterate that statutory consultation, the project has responded on weight loss. Um, when the draft chapter was provided, the project IPS responded and asked for engagement. And we've heard today there was there was no engagement. And so I just want to reiterate, reiterate the point around this historic idea that the project IPS have been sat on their hands in the context of this application.

00:38:33:01 - 00:38:40:06

They have been doing what they can to raise this as an issue and to to bring it forward. And so I just want that again to be reiterated.

00:38:52:24 - 00:38:53:17

Thank you.

00:38:55:02 - 00:39:25:20

I did have some questions on um mitigation, namely, um, the consideration of mitigation measures set out in section seven of the applicant's weight loss assessment. Um, what I'm going to do is um, just in, in for expediency and, um, given where we are in the day and given that weight loss is not the only thing on the agenda for today, I'm going to put those in writing into the rule 17 that we're due to issue.

00:39:26:07 - 00:39:36:27

Um, because I think that would, that would probably, um, deal with those matters suitably. Um, I will then move on to the next item. Before I do that, I can see that the applicants have got their hand raised.

00:39:42:07 - 00:40:08:22

Impossible for the applicant. Sorry, I can't resist responding to what Mr. Gardner has just said. There is a fundamental mismatch between a claim that there is such a concern about the impact Dogger Bank sound on the project goes that potentially goes to viability and so on and so forth. And the notion that sort of

00:40:10:21 - 00:40:47:20

the, the simply engaging with, um, in requesting a discussion, um, in the, in the preamp consultation process is, is consistent with the level of concern that's being expressed. I mean, if there was a real concern, this would have been insistently raised by the Operacoers from 2021 or that type of era onwards. Um, and that's how sophisticated developers, um, protect their interests, um, in, in matters of importance.

00:40:47:23 - 00:40:51:09

And their conduct has not been consistent with with that.

00:40:56:05 - 00:40:56:27

Thank you.

00:40:59:18 - 00:41:33:21

Um, so I'm going to move on to, uh, protective provisions. Um, the Orsted IPPs and protocol IPPs have submitted, um, draft protective provisions for consideration and references five and 0745071. Um, I expect that the applicants will have some comments on these, which they intend to submit in writing at the next deadline. I don't want to spend too long, um, discussing it, but did the applicants have any pertinent points on the protected provisions which they risk to raise today?

00:41:39:00 - 00:41:40:25

Duty impossible for the applicants.

00:41:45:22 - 00:42:05:02

The headline is that we think that the proposed protective provisions are are completely unreasonable and unworkable. Um, I've already made the point that the reference to a national scheme, um, is misleading because there is no proposal for a national scheme. Um,

00:42:06:19 - 00:42:48:22

it provides for 100% of the financial loss. I just made the point about that. Um, there are various points of detail about how the weight loss assessment stage is proposed. Uh, we will provide a sort of headline critique of it. We're not minded to provide, um, alternative drafting, particularly in the context of something that is fundamentally we fundamentally disagree with and which is, um, at odds with the clear sort of direction, travel of policy against commercial, um, compensation payments being imposed.

00:42:49:24 - 00:42:50:13

But

00:42:52:10 - 00:43:22:22

I still disagree with Mr. Gordon on the point to be made earlier about this. Apparently, as I read it and I still read it requires, um, compensation measures. So it requires mitigation measures to be included at the weight loss mitigation scheme. Um, and that that doesn't it's not clear exactly how that operates. Um, there's a whole question around the timing. Um, there's that's got to be good.

00:43:23:02 - 00:43:55:27

But in reality, that's got to link in to how the project development phase and phase seam works. And we think that's unworkable. Uh, questions around requiring agreements to agree, um, massive issues around the role of the experts that are envisaged. Firstly, that most of the issues that the expert have been Being invited to determine are clearly public interest matters that should be decided by the Secretary of State and not by by an expert.

00:43:56:08 - 00:44:30:04

Even where there is a role for an expert. There would be substantial room for for disagreement around the terms of reference. What exactly the expert is being asked to do? Um, and then finally on the form, on the guaranteed provision, um, that if any, any, any guarantee provision should be approved by the Secretary of State after consulting with the politicians, it shouldn't be, which is the equivalent provision in relation to compulsory acquisition powers.

00:44:30:16 - 00:44:57:00

Um, it shouldn't be approved by, by the project. So there are a whole range of pretty fundamental problems with, with, with with the proposal. Um, but the biggest problem, of course, is that there is no policy basis for supporting this this approach. It would be extraordinary if, if we went down this, this track.

00:44:59:27 - 00:45:04:17

Can I ask, are you intending or is protected provisions on the agenda for your meeting on Tuesday?

00:45:06:16 - 00:45:07:01

No.

00:45:10:12 - 00:45:10:29

Okay.

00:45:16:16 - 00:45:23:24

Did Mr. Gordon, you have any, uh, comments in regards to, um, the applicants have just said.

00:45:27:17 - 00:46:06:15

Robert Gordon for the project. Um, I think we'd obviously like to reserve our position to to respond. We are happy to engage outside the examination process, but it appears the applicant does not want to to put forward protective provisions. Um, given their position. Position on this? Um, I think I mean, our, our position and we've set it out at deadline five, but these are, these are at present the only form of protected provisions in front of this examination. And there's a deadline for publication of a draft DCO. So we would invite that those are included within um within the draft ECA, I think as points of principle, it appears.

00:46:06:17 - 00:46:37:10

And I don't want to put words in the applicant's mouth, but I think we're at least agreed at points principle that protective provisions can apply. But it sounds like a fairly fundamental position in terms of, of compensation. Um, and I think in, in terms of that element, we've talked about the mitigation hierarchy today and the move from mitigation to compensation, and this being in the context of of weight, effectively, in the decision where the policy tells you to apply substantial, um, weight to, to an adverse effect. Um, I think 11.

00:46:37:12 - 00:47:12:17

that I would make, having seen the responses that came in from the applicant on on deadline five is the reliance on on all iMore, and I think it's been raised a few times throughout the examination and for the resistance to to inclusion of compensation in this case. But I think it is important to note that in all in all, the provisions that were suggested were were far simpler so that the affected party was seeking indemnification, which we are not and we are not seeking 100%, um, loss recovery. We're imposing a position for, effectively an independent expert to quantify a mechanism for loss.

00:47:12:19 - 00:47:43:06

So that doesn't necessarily equate to 100%, albeit that is that is our starting point. Um, but in the early more case that the examining authority did not say as a point of reasonableness as or a point of principle, that such a provision for a compensatory perspective could not be included. What they

effectively said was that the precision was was imprecise, um, and vague, and so would fail the tests of enforceability. And those tests and enforceability apply to the requirements.

00:47:43:08 - 00:48:12:24

They don't apply in the same way specifically to the protected provisions, albeit we have set out in our submissions why we think the drafting does meet the tests of precision and enforceability, particularly by reference to the involvement of third party experts and introducing the arbitration provisions in the order. And so I think it's just important to note that effectively, the examining authority in all iMore has not said no to compensation and the Secretary of State's decision letter similarly.

00:48:20:00 - 00:48:50:16

Mr. Rozell, I do wonder if it would be given that you are meeting or your colleagues are meeting with the applicant with the protocol on Tuesday, whether there could be a discussion on, um, moving at least some way forward with any draft provisions and finding where there could be areas of agreement which lie between you and I think the examining authority would find that a useful exercise, just to understand if there were any, any areas which could be progressed at all.

00:48:50:24 - 00:48:55:02

Um, that would be and that obviously can be done on a completely without prejudice basis.

00:49:00:10 - 00:49:39:16

Um, Julian Boswell for the applicant. Um, I think there's pretty strong resistance at this end to, to that type of engagement. We will, um, we will put in, um, our observations on, on the draft. But I think there are times where, um, there has to be a limit to what one can be asked to do on or without prejudice basis when it's, um, fundamentally misconceived as we think it is here. Um, can I just clarify? A few minutes ago, madam, you said something about mitigation and I wasn't.

00:49:40:29 - 00:50:12:18

We're very keen that Mr. Burstein has at least a few minutes, probably no more than five minutes to to speak to the points that I sort of signposted at the very beginning around the Wak assessment. So I'm hoping that that is still being allowed for in your, um, in your timing. And then I would briefly sorry, but I'd like to respond to what Mr. Gardner just said about our and more because I think that the our decision is much more significant than he's sought to present it.

00:50:12:27 - 00:50:56:24

It was perfectly open to the Secretary of State to have, um, decided that, uh, financial compensation was appropriate and to have invited, um, uh, differently drafted provisions in the same way that the Secretary of State has just invited something will be it not on compensation from from Mona. And so I think it's absolutely fair to say that the question of financial compensation, whether in the form of whether it's express indemnity or something else, was considered in effect in principle in relation to, to that decision, and that the the Secretary of State decided not to not to go in that in that direction.

00:51:05:07 - 00:51:16:25

Okay. Thank you. Um, my next, um, topic area is moving on to the weight loss assessment. So, um, hopefully at that point, um, Mr. Benson can give his his comments as appropriate.

00:51:19:18 - 00:52:05:27

So I'll now we'll move on to the submitted weight loss assessments, under which I would like to invite the relevant parties to discuss this collectively. Um, given the comments received at the start of the agenda, I don't suggest that cross examination is undertaken and said, we'll have a roundtable type discussion, which I will lead. The relevant documents for discussion in this case are rep for 99 week response to issue specific hearing three and as 179. Addendum two wake of response to three action points and Rep 570 the assessment of potential Dogger Bank South on Dogger Bank A, B, and C, if I could just ask the applicants, um, and any of the relevant representatives, Mr.

00:52:05:29 - 00:52:34:26

garden, um and Mr. President, if you'd like to switch on your cameras, I'll invite each of you to speak on the relevant, um, topics for discussion in order. But if you do have something which you would like to say, please raise your hand. So I'm aware to begin with, I'd like to invite party to discuss why they consider that there are differences between the weight loss assessments which have been submitted into the application. So, um, Mr. Boswell and Mr. Bernstein, are you able to offer a view on this in the first instance, please?

00:52:37:26 - 00:53:09:20

Uh, Mr. Bernstein, for the applicants. Um, yes. We can certainly offer a preliminary view. Um, we've attempted to replicate the modeling work as described in the Project Cost Week assessment. Uh, so far, I mean, noting that we've had a limited time to do this. So far, we've been unable to. We certainly think we can. We can put it down to two items. One is the the lack of inclusion of the Hornsea Projects in their modeling effort. That seems to make on the order of half a percent difference.

00:53:10:06 - 00:53:46:23

Um, so that that covers some of it. And we believe, although we are unable to confirm this to date, that that the choice of blockage model will, uh, make up the rest. Um, noting that that blockage model was developed in a project, um, from the offshore wind accelerator funded by the Carbon Trust um, which was led by RWC. The globe project, uh, we conducted a measurement campaign, um, to sort of scientifically examine the blockage effect.

00:53:47:05 - 00:54:10:06

And, uh, the the blockage model used by the project was developed in that project and assessed against this measured data, as well as our own, uh, model. And, um. Um, at least from our perspective, happy to say that our blockage model outperformed the one used by the project. So that's where we think we have confidence that that we're doing a better job.

00:54:13:11 - 00:54:43:27

And, uh, blockage to to give some context, there is the, uh, slowdown and acceleration of the wind caused by the presence of the wind farm. So in front of the wind farm as it approaches, there's the pressure from from the turbines being present, and that slows the wind. And then behind the wind, it around the sides of the wind farm and behind it accelerates. And so that's the blockage effect as as currently understood, although it's worth noting that that is a developing area.

00:54:48:26 - 00:55:14:15

And I think the further the the project has put in a critique of our assessment, I believe there are about ten points, uh, on that. I've had to run through them. I think we can agree with the project goes probably relatively quickly on about five of them and others are more substantive. Um, that that will require more discussion. But I think the first five are things that I've tested. I can show the results and we can say they're not significant.

00:55:17:15 - 00:55:38:25

Thank you. That was another question I had slightly later on, but that's useful to know. Um, um, uh, Mr. Gardner, Mr. Lindsey, did you have any, uh, comments which he missed to make in terms of, um, uh, Mr. Bernstein's, um, examples of where they've identified potential differences between the models at this point.

00:55:40:00 - 00:56:05:12

Robert Garden for the project. Um, I think we welcome those comments and welcome the the kind of narrowing of issues and understanding where there may be significant differences between us. Um, I in our critique that Mr. Bernstein alluded to, we did reference as one of those those elements, the blockage models. Um, and I think it's fair to say we've not had access to, to our models. So that would be an item for discussion on Tuesday that I made to pass over to to Mr. Lindsay.

00:56:06:04 - 00:56:06:19

Thank you.

00:56:06:21 - 00:56:07:06

Lindsay, on.

00:56:07:08 - 00:56:07:23

Behalf of.

00:56:07:25 - 00:56:08:10

The project.

00:56:09:01 - 00:56:11:15

Um, echoing Mr. Garden's comment just.

00:56:11:17 - 00:56:12:02

There.

00:56:12:04 - 00:56:12:19

I think.

00:56:12:21 - 00:56:47:03

The details of the blockage model are very important here and can and could potentially lead to differences in our assessment. So very keen to engage with the applicant. Um, in more technical detail on that on Tuesday. Um, I'd just like to emphasize that we've been, I think, as clear as we practically can in our report, and we have referenced the exact software and model equations we have used to

which are we are solving for quantifying the blockage effect. Um, but yes, happy to engage further on Tuesday to elaborate on that.

00:56:48:14 - 00:56:55:15

Thank you. Um, did the, um, project assessment include the Hornsea Projects?

00:57:01:06 - 00:57:24:00

Robert Gordon for the project ships? I don't believe that it does. So it's something that we can we can run, um, as a sensitivity model. I think, as Mr. Bernstein's alluded to, that the models do take some time. So we we're not, um, certain when we can submit that to the examination. But I think if we perhaps provide an update at deadline following the meeting on Tuesday, if that's acceptable.

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Yes, that'd be very helpful. Thank you.

00:57:27:22 - 00:57:28:09

Thank you.

00:57:29:22 - 00:57:39:06

Mr. President. I'm conscious you don't have a weight loss assessment. A weight loss expert with you. But if you do want to add anything at this point, then please do feel free to thank you.

00:57:39:08 - 00:57:59:21

I mean, I think in the interest of time, it might be best if we proceed on the assumption that I have nothing to say on this, given a that I don't have a weight loss expert with me, as you said, but also that we've, um, you know, as I said at the start, we agree with we're happy to adopt the numbers used in the applicant's assessment for 1 to 4. So I'm happy to keep quiet and listen unless anything pops up.

00:58:00:27 - 00:58:02:01

Noted. Thank you.

00:58:07:27 - 00:58:41:18

Um, yeah. So the the next question that I had really was whether, um, how you intend to or how the applicants intend to address the, uh, concerns that they've identified around the weight loss assessment, um, which was identified in rep 71. But I think given where we are. Given that you are meeting on Tuesday, the best thing to do would be for you to address those together and then come back to the examining authority in writing at the next deadline, with how either that they would be addressed or your comments on those. Is that acceptable unless there was anything particularly that you wanted to identify? Now?

00:58:44:05 - 00:59:17:02

I believe that's, uh, that's acceptable and a good way forward. At one point, I did want to go back to, um. Is that, uh, it is noted that our model is confidential, um, and not publicly available. And that is one of the limitations. But we use that in good faith because we believe it's the best model out there that we know of. That's why we use it. That's why we developed it. And uh, although, um, SS we're

not members of the globe project and will not have access to the validation their partners, Equinor were.

00:59:17:06 - 00:59:26:01

So it may be useful if before Tuesday, they get a hold of somebody with their partners. To to have a look at that information. If possible.

00:59:28:08 - 00:59:32:22

Okay. I'm sure that Mr. Garden heard that request.

00:59:34:13 - 00:59:38:22

Yeah. Robert Garden for the project. I'll speak to my clients and see what we can do on that. Thank you.

00:59:39:10 - 01:00:09:18

Okay. Um, so I've got a query for, um, uh, the applicants and the project groups regarding the worst case scenario lake effects, which were modeled. So in the applicants weight loss assessment, I think it was 100 smaller 15 megawatt turbines were used, which is the same parameters used for the greenhouse gas sensitivity analysis. And it's said to be the worst case scenario because in the applicant's view, the same capacity installed with more smaller turbines produces worse lake effects than the converse.

01:00:10:21 - 01:00:30:15

I wasn't totally sure, but is it that the project weight loss assessment suggests that the larger 21 megawatt turbines were used to model the effects from the proposed development, and I just wanted to see if I'd got my understanding correct or if not, why does there appear to be a difference of opinion on the worst case scenario parameter regarding the size of the turbines?

01:00:40:20 - 01:00:43:21

Let me start with, um, Mr. Bernstein, if that's okay.

01:00:44:06 - 01:01:15:00

Apologies. Um, yeah. I was slightly surprised, uh, at their result because that has not been my experience. Although I do note that it depends very much on the details of which turbine was used. That's something maybe we can take up on Tuesday is to understand if those are one. Is a real turbine offered from an OEM, and another is a projection, uh, into the future of a future turbine based on some extrapolation. That's something that can have an impact. Uh, it could also be that the differences in the models, uh, affect that.

01:01:15:05 - 01:01:42:01

It would require some technical digging. But I was slightly surprised at that, although given the small difference, it wasn't a major surprise. Modeling is, you know, there's a band of results in which one things move, and that's a small, small difference. Um, I won't call it an error. It's a small difference that that is within sort of the resolution of the model. Let's let's put it that way.

01:01:47:06 - 01:01:57:10

So just so I understand, are you saying that the use of different size turbines wouldn't necessarily have that much of a material impact on the conclusions that are drawn from it?

01:01:59:18 - 01:02:00:06

Um,

01:02:01:25 - 01:02:22:03

yes. Correct. I think that's demonstrated by the project, uh, assessment, 2.0% and 2.1% are different. But given the the uncertainty of exactly which number around around the model result. I think that's all within sort of variation.

01:02:25:02 - 01:02:26:02

On Mr. Lindsey.

01:02:31:11 - 01:02:56:01

Elliot Lindsey, on behalf of the project and your question around whether the size of the turbine has an influence, um, I agree with the applicant on this basis. Our assessment shows that whichever turbine size is selected for Dogger Bank South, based on our assessment, uh, we, um, our assessment demonstrates that we will have concerns about the size of the impact there.

01:02:59:19 - 01:03:02:17

And in your view, what, what and why?

01:03:04:12 - 01:03:08:03

What is the worst case scenario in terms of turbine size and why?

01:03:11:06 - 01:03:30:10

Um, it is difficult to answer that question, I think it. I think it really depends on a lot of other modeling factors that, again, are happy to explore on Tuesday. Um, but as I mentioned, I think, I think there isn't a clear worst case scenario, uh, for turbine size based on our existing assessment.

01:03:35:13 - 01:03:36:09

Mr. Bernstein?

01:03:37:08 - 01:04:05:06

Yeah. Sorry. Realizing maybe I haven't put out a very clear answer to the question. I believe that there isn't. There isn't a clear worst case. Noting that the turbines used are all preliminary. We will eventually get a concrete offer from a turbine manufacturer that will be different than the data we're currently using, which will change the results. I think the results show that if we use 15 or 21 plus, that the results will be similar. So

01:04:06:26 - 01:04:12:26

the turbine size is not a major factor. So I think I think that's the headline in my view.

01:04:19:29 - 01:04:21:10

Thank you. That's helpful.

01:04:24:23 - 01:04:25:12

Um.

01:04:27:21 - 01:04:51:15

So regarding the actual weight loss assessment, um, I'll move on to the greenhouse gas sensitivity analysis next. That's all I had on the actual weight loss assessments from my questioning. Is there anything else that the applicant's Mr. Bernstein, that you wanted to raise regarding, um, the Draco's, uh, weight loss assessment at this time?

01:05:03:04 - 01:05:07:06

Uh, from the applicant side, I don't believe we have anything else to add. Thank you.

01:05:08:08 - 01:05:16:00

Thank you. Uh, Mr. Lindsay, Mr. garden. Did you have anything else that you wanted to add in regards to the applicant's weight loss assessment?

01:05:16:28 - 01:05:22:05

Robert Garden for the project? No, not today and we'll discuss an update following Tuesday.

01:05:23:15 - 01:05:50:00

Thank you very much, Mr. President. I'm assuming that you don't have anything else to add. No. Okay. Thank you. That's fine. Thank you. That's all I wanted to discuss in the format of a roundtable discussion. Therefore, we will revert back to more traditional questioning. Now, if you can switch off your cameras until invited to speak. That would be great. Thank you. Um, so looking at the greenhouse gas sensitivity analysis of weak effects, um, which is rep 5034,

01:05:51:22 - 01:06:04:11

can I just ask the applicants if the project peas weight loss percentages from their weight loss assessment were included in the greenhouse gas sensitivity assessment? How is this likely to affect the overall findings of the assessment?

01:06:22:25 - 01:06:54:06

Thank you. So, um, in respect to the greenhouse gas assessment, the question, if I'm correct, if I'm correct, I understand is why we do not update the greenhouse gas assessment to account for the fact it's marginally over on one side. Um, on the basis of the work we've done. Um, essentially, if you're looking across the graph, looking at multiple sites. So obviously it considers them on the whole, as demonstrated by our weight loss assessment, at the majority of sites the value is far lower.

01:06:54:24 - 01:07:22:25

Therefore, the assessment of the 2% scenario is very precautionary as a worst case. Um, having done some quick work updating what the values would be based on our own weight loss assessment, it would be much closer to the 0.5 scenario we have presented on the whole. So as I say, as as we currently presented, we're comfortable with that is a suitable worst case and there is no need to update that.

01:07:25:02 - 01:07:29:28

Well, I'm not asking you necessary to update it. I'm asking you what what would be the likely findings.

01:07:32:25 - 01:08:04:28

Justin Burstein for the applicants. So our 2%, uh, worst case scenario apply to 2% weight loss at every farm, uh, included in the assessment. Um, and I will note that the, uh, project cost, uh, weight loss finding found 2% across average across the project cost. So that is effectively taking their weight assessment into account. So I think that 2% number is if if we're just looking at the project as that is what we've done.

01:08:05:00 - 01:08:17:26

But of course we're including 2% loss at Hornsey and the other fund, which even. Well, they haven't assessed that loss, but it's much lower there. Yeah.

01:08:18:12 - 01:08:40:24

Adam, I think you may be asking if you're asking, can we calculate based on our quake assessment? What if we rerun the greenhouse gas assessment using those numbers? What's the answer? I think that may be the question you're asking. And if you want us to do that I think we've already had a quick go at that.

01:08:40:26 - 01:08:52:00

Yeah, as I say. And that's what I was referencing. Apologies, was that when we had had a quick go at that. Um, it has suggested we are much closer to the 0.5% scenario across all of the wind farms.

01:08:52:02 - 01:09:18:19

If you would like us to put that, give us the chance to sort of double check our calculation, as it were. We can happily put that in as, um, as, As part of the post hearing submission, but we weren't proposing to sort of put it into the the updating exercise. So we're happy to include it as sort of a separate piece of information for your your benefit, as it were.

01:09:19:10 - 01:09:21:19

Yeah, I think that would be useful. Thank you.

01:09:23:12 - 01:09:23:29

Um,

01:09:25:24 - 01:10:00:16

and a question for Mr. Gardner, Mr. Lindsay. So, um, to what extent do you agree, then, with the applicant's, um, suggestion that it would be more along the lines of the, uh, 0.5 scenario? Uh, sorry. Um, in terms of the overall effects on greenhouse gas emissions. Do you think that, um, that that, um, inputting the data that you've established on weight loss into the greenhouse gas assessment directly would likely affect the overall results? And in what way?

01:10:03:15 - 01:10:20:00

Robert Garden for the project. I think a first point is we don't disagree with the methodology that the the, the applicant has adopted. So we've made that clear and no major concerns in relation to the greenhouse gas. I think if we could reserve our position just to comment on what comes back in terms of that additional submission, please.

01:10:28:15 - 01:10:57:14

Thank you. Okay. I should have said before that can be noted as an action point. Um, uh, the applicants to submit, um, the, uh, weight loss assessment, or at least the conclusions of the weight loss assessment using the figures, uh, for weight loss established under the proposed weight loss assessment. And then obviously, um, yes. Uh, Mr. Gordon, if you want to reserve your position to provide a response to that, that would be a helpful. Thank you.

01:10:59:04 - 01:10:59:19

Um.

01:11:01:19 - 01:11:14:21

Regarding the um in isolation scenario presented. Can I just, uh, check with Mr. Burton which array area was modeled, i.e. the East or west? Uh, array area? And why was that chosen?

01:11:17:10 - 01:11:17:25

Uh.

01:11:20:13 - 01:11:21:14

In isolation.

01:11:52:02 - 01:12:00:12

Julian Boswell for the applicant. Um, would it be all right if we answer that question after the lunch break? We'd just like to double check.

01:12:04:27 - 01:12:13:24

Yes. That's fine. So obviously I think you can just appreciate I'm just looking to understand the methodology there and why I understood why that was chosen. Yeah. Thank you. Um.

01:12:15:10 - 01:12:15:25

Yes.

01:12:16:28 - 01:12:28:24

And can you can you explain just a little bit and clear why the percentages of potential wak effects have been halved for the in isolation scenario modelling? Can you just give me a bit more understanding on why why that is.

01:12:33:05 - 01:12:34:28

Apologies. Could you repeat that?

01:12:36:08 - 01:12:56:20

Yes. No problem. Um, I'm just a bit unclear around why for the in isolation scenario, in the modelling of that, why? Um, the percentages of weight loss were halved for the isolation scenario in comparison to the, um, the full effects of the proposed development. So, um, yeah, I just wanted to understand why that was. Please.

01:13:26:28 - 01:13:51:17

Julian Boswell for the applicant. Apologies. We haven't got the right person here to give you an immediate answer, which is our our our our mistake. Um, so, um, again, rather than give you an answer and then have to correct it, can we, uh, I think there will be a straightforward answer, but, um, we would like to come back to you after the lunch break, if that's okay.

01:13:52:12 - 01:14:10:13

Yes. That's fine. I think I was just struggling to understand a little bit from a straightforward, if you like. Point of view. Yes. Obviously the effects potentially are half by taking one of the array areas out, but why would the percentage then half on top as well as that. So that that's just looking for a point of clarification as to why that is. Um.

01:14:12:22 - 01:14:27:07

I think that was the that was the way it was explained in the, uh, the greenhouse gas assessment was that the effects are half, so you take half the percentage. But in relative terms, surely the percentage would account for that anyway. But it come, come back to me after the break. That's that's fine.

01:14:30:11 - 01:14:39:06

Live stream I'm sure. So it's going to help for ease. But let's let's do our best to get it right over the lunch break to, to get there in one go.

01:14:39:18 - 01:14:43:04

Yeah. No, that's that's absolutely fine. Um,

01:14:45:00 - 01:15:03:08

so, um, can I just check with, uh, Mr.. I know the deadline five response rep. 574 Or just as a point of clarification, do you agree with the findings of the greenhouse gas assessment or have any concerns regarding it?

01:15:04:01 - 01:15:20:23

Thank you, Madam President, for the Orcid, IPS. That's going to be one I'm going to take away and discuss with my client if that's okay, because as discussed, they are not here. But given the, um, uh, updated weight loss assessment submitted by the applicants, it might be that our position has changed, but I'll confirm and come back in writing.

01:15:24:24 - 01:15:48:24

Thank you. If we can take that as an action point, then, um, for the altered IPS to come back and confirm if they agree with the findings of the, uh, the greenhouse gas assessment. Thank you. Um, and just before moving on from the greenhouse gas assessment, does either the applicant, um, the, um, uh, project IPS have any final comments they want to make on that?

01:15:56:09 - 01:15:57:14

I can't see any hands.

01:15:57:25 - 01:15:59:26

On the project. No, no further comment.

01:16:00:04 - 01:16:31:03

No. Okay. Thank you. Um, and just one final point. Um, on weight loss. Uh, from me. Um, so, um, the project raised concerns regarding legitimate expectation, procedural fairness, and failure of the environmental statement to comply with the EIA regulations. In representations rep one and 71 and Rep 271. Can Mr. Garden confirm if the project or IP still maintain these concerns, and if so, could you set out why?

01:16:36:16 - 01:17:10:20

Robert Garden for the project IPS. Um, I think the concerns have been have been addressed to to a large extent by the provision of the weight loss assessment. Um, it doesn't address the pre-application Application failure and the failure. Failure to engage that we previously raised and the expectation that we would be engaged on that piece. But in terms fundamentally, in terms of the assessment that is now in front of the the examination, um, our case is set out in our weight loss assessment, which is in front of you.

01:17:11:06 - 01:17:22:06

Um, but even even on the applicant's assessment, we have a position that we have a significant effect on, on our project. So we have the information in front of us to, to reach that conclusion.

01:17:26:18 - 01:17:51:27

So just so I understand completely, Mr. Garden, you're saying that, um, regarding the potential for legal challenge that you identified beforehand, those matters have now been addressed. You may not agree with the obviously the findings of the applicant. Um, but in terms of procedural fairness, um, and the failure of the environmental statement to comply with the regulations, do you feel that those have now been addressed through the submissions?

01:17:52:12 - 01:18:27:04

Robert Gordon for the project? I think there are there are two distinct points. So the first on the on the the fairness, and it's a point that is made by the applicant in relation to the protected provisions, is that it would be unfair to impose, um, protective provisions. But again, our position on that is we have been raising weight loss throughout the pre-application process, and it is now late in an examination process. But the the fundamental concern of a failure to address the the subject matter has been and is being resolved. And on the environmental impact side, again, the the the information is now in front of the examination.

01:18:27:06 - 01:18:33:21

And the greenhouse gas chapter has been updated. So so those concerns from the project at least are addressed.

01:18:39:13 - 01:18:40:09

Thank you.

01:18:46:00 - 01:18:56:19

So those are all the questions that I had. On the topic of weight loss. Um. Does anybody else have any comments on any of the matters we have discussed under agenda item two? I.

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

Can't see any hands. Um, I think this is probably a convenient point in which to take a break for lunch. Um. Oh, sorry. Uh, yes, Mr. Boswell.

01:19:14:15 - 01:19:17:06

Would it be possible just to have a moment? Um.

01:19:53:03 - 01:20:01:26

Julian was the applicant. I think you may have said you were going to raise questions on mitigation. Um, in writing, um,

01:20:03:14 - 01:20:05:08

I guess we were.

01:20:07:13 - 01:20:35:14

If the approach goes, have anything to say at this point in relation to types of mitigation that they think we should be considering? I think it would be quite helpful to hear from them. I appreciate that's on on the agenda for the Tuesday, but it was quite frustrating for us to have no substantive response to what we what we put in. So, um, if there is anything that can be said at this moment, that would be quite helpful.

01:20:37:12 - 01:20:50:08

Uh, Mr. Gardner, Mr. Lindsey. Yes, it was a question that I had, actually, that was going to ask. Are there any of the, uh, mitigation measures that you, um, foresee could assist, um, in regards to weight loss.

01:20:52:16 - 01:21:28:15

Robert Garden for the for the project. Um, the comment was raised in the context of the previous hearing, I think, where I think it was turbine height reduction, which may well have meant have been hub height reduction was discussed verbally as a potential mitigation measure. Um, and uh was not immediately apparently dealt with through the the deadline 4 or 5 submission. Um and I think also for from our side um around a consideration that that mitigation measures firstly have been considered in isolation.

01:21:28:17 - 01:22:02:01

So whether there are other matters that can be considered in combination are passed to Mr. Lindsay in a minute to expand, expand upon that. But each each mitigation measure is effectively considered as a standalone mitigation measure as opposed to potential for a combination of mitigation measures. Um, and then the final point on mitigation that I wanted to raise specifically was around, um, the use of the

early more in the Quincy More example, which we discussed at the last issue, specific hearing, and that is set out in the document.

01:22:02:16 - 01:22:37:00

Um, but the table that shows the impacts has no scale to demonstrate kind of percentage increase or percentage loss. I think the point was made last time that there was roughly a 50 to 1 ratio in terms of that, but that's not immediately apparent from the graph that's in the document. And there's no no scale next to that to allow us to actually, um, verify that. And I mean, the the final point again, is around this, this sort of concept of annual energy production and almost the requirement for net positive in terms of energy production.

01:22:37:16 - 01:23:07:26

Um, I think our point on that is that effectively the the applicants have set this out. And again, the way it was discussed, I think at the last issue specific hearing was the need for any mitigation to be neutral on the on the projects coming forward, given the maximization of annual energy production. I think in a number of cases, the mitigation is discounted on the basis that there's there's no net positive, but that's not necessarily expressed in figures or percentage terms for for us to to conclude. But I think fundamentally these are points that can be discussed on on Tuesday.

01:23:08:00 - 01:23:15:09

I think one specific measure that is worth talking about in combination is the the wake steering point. So I'll pass over to to Mr. Lindsay.

01:23:16:26 - 01:23:51:26

Elliot Lindsay on behalf of the project IPS. I think just before I address the point raised by Mr. Garden, I think I'd like to address the point about wake steering not being available to the DBS project in the assessment provided by the applicant. Um, I think based on my experience and knowledge of the industry. Um, it is my understanding that wake steering is being offered for projects commencing in 2029 and onwards, and thus could be available to the DBS project.

01:23:52:27 - 01:24:26:24

And secondly, with regards to considering mitigations in combination. I think we acknowledge that increasing a buffer distance between Dogger Bank South and R projects will will increase the internal weight loss and reduce the energy production of Dogger Bank South. However, it has not been considered um. Weight steering has not been considered as a mitigation to that increased internal weight loss, and I think that's something that we will want to talk more about on Tuesday.

01:24:32:28 - 01:25:09:26

And I mean, in in terms of how how this all plays out. I'd like to come back again to to the position we are. We do. We do accept that mitigation is is difficult. And we we welcome that this has been explored by it, by the applicant. Um, but I mean, our protective provisions that are included within the order are designed to take account of the project as it is when, when it goes into construction, which may be a number of years for now. From now. Um, it is not I know there's been some debate on this and we'll have some wording on the protective provisions, but it's not intended to oblige mitigation to to be imposed on the design, but is designed to take account of that as it comes forward.

01:25:09:28 - 01:25:33:17

And as we've kind of heard with the, the small and the large turbine debate, the impact on on the modeling does very much depend on what the final design of the project is. So that is the the reason for our protective provisions, trying to address things in that way and recognize that there might be an evolution between where we where we are today with a Rochdale envelope and various ways a project may come forward versus how it does actually come forward.

01:25:40:17 - 01:25:46:24

Okay. Thank you. Uh, Mr. Boswell, did you have anything you wanted to say in response to that?

01:25:49:01 - 01:26:12:21

Didn't involve the applicant. Uh, I'm sure there'll be plenty of discussion on Tuesday, but for the purposes of today, it was just helpful to have the outline that we've just been provided. So we're grateful to, uh, to, um, have heard that, though I guess we're still a bit surprised that that wasn't in the deadline five submission, but let's see how the discussion plays out.

01:26:13:25 - 01:26:30:10

Okay. Thank you. Right. Uh, so I think we'll now take a break for lunch. Um, we'll come back at 130, which is about 45 minutes time. Um, so the time is now, um, 1247. And this meeting is this hearing is adjourned.