

TRANSCRIPT_Sizewell_ISH14_Session3_17092021

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00:08

Good afternoon ladies and gentlemen. Welcome back to issue specific hearing , 14 on the DCO and allied documents.

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So,

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Mr. Phillpotts, I am going to come to you in just a moment about that Marsh hario question.

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But before I do that, let me just say that

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it has been drawn to my attention, the RSPB.

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Miss other all you have been here all morning.

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I don't want you to waste any of your time. We are delighted to have you here.

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I haven't got any particular questions to put to you.

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arising out of the rest of the agenda, I'm not pushing you away in any way whatsoever.

01:05

Maybe the stuff which you are holding in reserve, or that you want to want to say about, but simply simply say, I haven't got any questions for for you. So if you feel that you need to go and there are other better better ways in which you can employ yourself, then then fine. But this is one invitation to stay as well. So thank you very, very much. Indeed. No, it's been very useful and interesting to listen to this morning. And the topic that you're about to come on to, you won't be surprised to hear we're very keen to hear good news for you is that I don't think I'm going to be interrupting too much. I might make a few short points later on if that if that's okay. It's good news to me whether you interrupt or not.

01:48

Thank you very much, Mr. Rob, if you'd like to turn to the marsh area,

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or Yes, so I'm going to take it in stages. So first of all, again to talk about the marsh Harrier compensation land that is within the state, but outside of the order limits.

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This is Yeah, this is Marsh Harrier compensation land, which is in the process of being, as it were implemented, being converted to a state where it provides the necessary habitat. And you would have seen this, I anticipate on your site visit.

02:38

This is not development. That's the first point that the work that is taking place there involves the management of the land in a way that makes it suitable for Marsh Harrier foraging. It doesn't involve any operational development or any change of use. And therefore there is no planning permission needed or obtained for it fits with the north south running pitches and other foraging.

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So I I haven't, yeah, I'm not a site visit. I've had a site visit, but I haven't seen where it recently. That's the difficulty is because of locked down. I'm afraid I wasn't able to see it very recently.

03:26

That the point is this, you say it's not development? It's either agricultural development, and it comes within without you saying it's outside the definition and all together? Yeah, it's neither operational development nor a change of use. It's simply management of the land in a way that makes it suitable for Marsh area of origin. That's why it's not in the red line. Yeah, it's it's not part of a work area. Now, the ongoing management of that land is covered by two requirements within the decio. It does form part of the area that is covered by requirement five C, that's the estate management, which and the estate must be maintained in accordance to the statewide management plan unless otherwise approved, but more specifically,

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one also needs to look at 14 c, this is main development site Marsh Harrier was doing that.

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Yeah, with you. So just before I go into what is said in paragraph one, there are as I think your question anticipates three different types three different areas that we need to consider. There is that which is off site, but part of the estate,

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there is that which is on site.

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Part of the main development site

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and there is that which sits at wesselton

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provisional land at wesselton. And so, part paragraph one acts as a prohibition on the commencement of any part of work number one a, until the marsh Harrier implementation plan for the establishment of Marsh Harrier compensation has been submitted and approved by the Council consultation with natural England. Now that then then follows was in the next sentence, which as I understand it are subject to updating in terms of clarifying the titles of the documents and so on. But broadly speaking, the marsh Harrier implementation plan has to be in general accordance with two things. The first at the moment is called the marsh Harrier compensator II habitat report. So don't worry about the particular labels for the moment. But my understanding is that deals with the wesselton land

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and the marsh Harrier habitat report, which as I understand it, will deal with both of the other types.

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So the the ongoing

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management of that land off site. So just coming back to the The first of these categories outside of the order limits, is secured through both of those means, but it's it's not development, that's why it's not included within the order.

06:28

The Marsh area compensation land that sits within the main development site is part of work number one, a. So if one looks to schedule one, and in the track change version of the deadline, seven documents are rep 7006 on internal page 61. One a DD flood mitigation area and associated habitat lacking on page 61. Add? Yes, so it's, it's just above the new track change blue text at the bottom page. That area includes the new wetlands and flood mitigation area, which are the works that are required for the marsh Harrier compensation land on the main development site.

07:27

And that

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is therefore part of the

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works that are authorised. But of course, as you will anticipate, from what I've just said, about the off site, land, that is almost certainly also not going to involve development in the sense of material change of use or operational development. But then there are other items that you will find within the schedule that may also not constitute

08:04

development. And for example, if you do have stuff like

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the part of the marsh Harrier

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turns right, and monetary compensation on sight, is also the creation of some

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water features rich that that that will evolve operational development, but the management of the rest of the land in order to make it suitable will not be but the point I'm making is that it the fact that some of that doesn't involve development isn't a bar to it being included in within the works, and it makes it rather simpler. If you've got a work you can point to, and it makes it clearer and hopefully helps with the question that you're, you're asking and that you posed in the race. And then so far as wesselton, if that's considered necessary, that is work number eight.

09:05

Habitat at wesselton. And again, that's that's landscape and ecological work, including earthworks drainage and associated water control structures. So that may involve development as that description explains. But all of those, as I've said, covered ultimately, by the requirement, the requirements that I've referred to. So I hope that provides the answer to the question that you raised at the beginning of the day, sir.

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That sounds good. Thank you and the statement in the Reese which speculates that you might have been replying relying on shedule one, part two I've seen as a deliberate speculation

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is not correct, is it? No, it's not. As a matter of fact, it would be something that we could do if if we needed to under Part Two, but it is specifically included

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In one a, yep. Very good. Thank you very much.

10:07

My turn. Let me turn to Mr. Tate. Next.

10:14

Thank you, sir. You didn't have your hand up. But just Is there anything you want to say? Are you are you with Mr. Phil part on all that on on this particular matter? Yes, sir. We don't descend from that. And we note that the marsh Harrier compensator II habitat report,

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which is currently rep 353 as the conditionality within it, about whether that is required by the Secretary of State or not as good as therefore 14 See, operates with that already in mind, because clearly, if the sexual state has decided it doesn't, then it doesn't need to be in general accordance with that particular aspect. Thank you. Thankfully, that's helpful to know. I don't see Mr. Bedford's hand up, so I'm not going to call on him. You can put his hands up he wants to

11:05

anybody else wants to tackle this important but quite fine detail?

11:11

No, good, very good. In that case, we come to item five on the agenda, which is the structure of control documents and the subsequent approvals. I'm just going to say something about this. To start with, and then we will move to talk about reasonable endeavours.

11:34

This agenda item started off just looking at Appendix C, if your response your plants response was to fill part two, our our commentary. And what I'm going to do is, in fact to issue a questionnaire or commentary on this with the rule 17 on Monday, or it may simply go in as a supplemental document from today. I don't think we've got time to go through the detail of our thinking response and questions on that. And I hope not too disappointed by that. I'll contain my disappointment. So

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let me just make two two remarks. Now. However, the first is that yes, it is quite clear that the construct that the coda construction practice is enforceable under requirement to.

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But what I don't think is a tool clear is the documents created under the code of construction practice, the level two documents are also enforced under requirement two. But what I am told in Appendix C, is that they are both intended to be fully enforceable by a condition or by a requirement.

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So I'm going to suggest that

12:59

take some time to think about that. But the requirement two needs to be amended so as to address that.

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Talk to your talk, obviously, with the council's as well.

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This, the document is called a structure of control documents and subsequent approvals is very helpful. And we're grateful to you for putting that together. But going to say this, in order to test part of what it

said, I just did a worked example for myself, using the dust monitoring and management plan. I chose it at random.

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And I'm afraid it didn't perform very well. In my

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work in my work example,

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the questionnaire which I'm going to send out on on Monday contains the detail and the critique on that. But let me put this as constructively as possible. And it's mentioned a completely constructive way. it's by no means the first control document, which has been found wanting.

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And I have to say that we are disappointed that we're having to do this. And sometimes it feels as though we're your clients quality control function.

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So please,

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take that constructively, but but importantly, that working documents up and you're testing them, give them to a colleague say Hey, does it work and there's not really much time left are our ways which would be really, really helpful. Let me let me stop there.

14:41

Was Philip II. If you want to respond, then please do. No, sir. It's helpful to have that advance notice. We'll see what comes through on Monday. And we will respond constructively to it including liaison with the council to ensure that we arrive at a position that hope

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For your content with I'm grateful Thank you very much. Okay, reasonably Devers let me go natural reason to reason windows, it's been a bit of a theme, hasn't it? You've got the further commentary which we should, which is PDO 42

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if you and the two counsellors at least

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could get up to get it up on for yourselves and go to table one key mitigation.

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I don't propose that we go through table two. And obviously this actually is this is part of excuse three. So he

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was the author further commentary rather than you were coming back to us about it, but it's helpful to raise the point now. So can I just check which document we're looking at now, the further commentary which is PDO 42.

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All reasonable endeavours.

16:03

do carry on? Sorry, just

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make sure you've got it. Tell me when you've got it in your excessively.

16:22

So this is the further commentary that you're referring to now, it was issued on ninth ninth of September. It's called the further commentary on the draft DCs? I haven't. So thank you, I just, I had it as a hardcopy documents and I didn't instantly connect the read the document number two, but I haven't loved it.

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So it's just the biggest table one.

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And just so I don't think we're gonna have time to look at table two

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tables. Again, I will quickly go to just the table two. In table two, I went through the conditions in the

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draft marine licence, the dean marine licence, and asked whether or not

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the reasonable endeavours

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criterion obligation was was adequate or not. And I have mainly turned as to whether or not there's a corresponding ban on doing something until a plan was approved.

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Table two, therefore contains four columns. And the last of those columns is our

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current understanding of which of those conditions is adequate and which are inadequate because they don't contain a corresponding ban. I flagged that now and ask that

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used to fill apart Who were your clients was available and the two counsellors that was released that look at that. If they disagree with any of our assessments of adequacy.

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Then please say so I suppose Mr. Philip, what if your clients disagree with our inadequate assessments, then please say so on that as well.

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But to return to table one,

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leaving the question of the project accommodation on one side where you have reasonably Deborah's obligation, and we'll talk about that in a moment.

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We went through or I went through your documentation, looking to see if there was any

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obvious compulsion to provide things like permanent beach landing. So this is a temporary beach time, so it isn't, and so on the fan motor works on the marsh area works and others and we find provisions Yes, in relation to defend meadows and Wi Fi provisions, yes, and tomatoes, which are part of the key

19:02

environmental mitigation, but in relation to things like permanent Beach, 930, temporary beach psychology, and so on. So for the transport ones, largely, we don't, we don't find anything.

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We are.

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I think we're struggling a bit with the explanations which you have brought forward. So so far,

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struggling partly to follow them, but also to be convinced by them. But what I think would be helpful

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is if you or somebody on your clients team, Mr. Phil Park could take any one of the instances in that table where it says, no compassion, and explain to us which part of the comprehensive framework or controls which were told exists, and that conference, which part of the

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constructs a framework that would ensure that the council's can have confidence that the project delivery must stay within the limits that the ies has assessed and mitigated. Which of those should we be looking at? And how do we actually know that they are going to come forward?

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It would be really, really useful if somebody could tell us deal with that.

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Now,

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if that's too much last, and you want to have some time to think about it, then.

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So can I approach this slightly different angle, if I may, we've, as we indicated, in the

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last response that we provided on their cert deadline,

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seven, this is in

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rep 7058, in our response to the decio commentary, and we noted, your concerns, considerable concerns explained in that document. And we identified in that document a further development of our position. But we also add

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paragraph 215. We talked about the use of triggers and limits. And we also responded to a suggestion that had been made by the county council that deadlines six in rep 6049, about the delivery of key infrastructure by reference to construction phasing. And in that document, we said, well, that's acceptable in principle, albeit that we considered that it was not

21:48

necessary. And in in

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that paragraph and the response to that paragraph, we identified the types of controls that we were considering, at that stage, linking specific infrastructure to relevant phases of construction, and

indicated an intention to discuss this out. And that that that was not the sort of, as you might imagine the end of the story that was merely to report to you that we were thinking about this and to give an indication of what we were thinking about, and that has moved on. And what I'd like to do, and I hope that actually, this will provide a comprehensive answer in respect of these items of key environmental litigation. But I'll explain it now partly, hopefully, to reassure you, but also to give you an opportunity, if you have any particular points you'd like us to consider and ask about. We can take that away as we work this up for a deadline, eight submissions. That is one of the reasons I was put on on the agenda, it's much easier to have the immediate

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discussion is access. So we said we were considering the server to see if there's more we could do to provide the level of certainty about the phasing of delivery of key mitigation in the form of associated development.

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For the reasons that we've explained extensively during the examination, both in oral submissions but also in writing, there is a need for flexibility and knowledge need for flexibility to reflect the fact that there may well be circumstances beyond The Undertaker's control, which serves to prevent achievement of the phasing currently anticipated in the implementation plan. Even though the developer has done what it reasonably can to seek to deliver in accordance to that plan, you'll recall so when we have the first very first issues specific hearing, I drew attention to the acknowledgement of that inevitable fact, in the local impact report where the council's are very fairly acknowledged, that they couldn't expect us to commit at this stage to necessarily delivering everything according to that plan.

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And as we explained, and it remains the case, it's circumstances such as those for which the reasonable endeavours approach is best suited, and the attendant flexibility and we've said this before is addressed by the other controls and mitigation measures that assure that the effects will be no worse than assessed. And we summarise that and the note of the oral submissions, we made issues specific hearing one, which is red 5106, paragraph

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one 316 213 46 a probably as good as anywhere else to look for a succinct explanation of that point. Nevertheless, we're proposing to supplement this at deadline eight so all of that will remain in place but

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To supplement it, with the use of long stop points for the delivery of the relevant items of associated development, linked to the timing of identified phases of the works.

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that builds on the concepts that we identified in our deadline seven representation, the one that I've just referred to, and by using long stock dates incorporate some element of flexibility, which as you'll recall, I think it was yesterday just issues specific hearing, the county council made clear that they recognised was appropriate. And as I said, this, the genesis of this way of dealing with it lies in the suggestion

made by helpfully by the county council. And so, what we are anticipating doing in terms of the mechanism,

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you'll have seen that there is a document called the construction methods statement, and the construction methods statement is secured by requirement eight one. So there is a requirement that one must

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comply with the construction method statement at the moment, in addition to what one finds in the implementation plan to which the

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draft deed of obligation refers, the construction method statement contains that same table.

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And so what we are proposing to do

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is make a flat phasing commitment, which I've just referred to, and base it from the phasing plan within the construction method statement, it's the same, it's the same table

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rather than the implementation plan, which at the moment carries that description of being illustrative, which you've identified in your most recent questions as a point of concern and therefore, addresses that, so it won't be an illustrative document.

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And so, the construction method statement will include

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those long stops and it will therefore, be subject to a requirement that we have to comply with that.

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So, it will be a very clear linkage of the delivery of the items of key environmental mitigation to specific phases. Now, of course, all of that would sit alongside the obligation to use reasonable endeavours to achieve the phasing which is currently shown in that same

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table, but what we would do is link the reasonable endeavours obligation to that same table rather than to anything which is described as illustrative. So the reasonable endeavours would relate to the timetable. But without the that the illustrative point, that that of course is an obligation to use reasonable endeavours to go better than the long stop dates.

28:19

Because the reasonable endeavours is to meet what's set out in that schedule, recognising the the need for flexibility which is acknowledged by the counsellors as I understand it, one has the long stops, but the reason the endeavours still serves an important purpose that I alluded to earlier this week, that you you are you are obliged to use your reasonable levels to do better than that. And but we think that this change to the construction method statement will bring greater clarity and certainty and also to the reasonable endeavours obligation by explaining in practical terms, what the reasonable endeavours would be likely to involve. So you'll recall from the explanatory note, but the case law on reasonable endeavours that it's very fast specific, it depends what is reasonable endeavours depends on the particular circumstances. So, all the construction methods statement can also be used to do

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is to provide a bit more context against which reasonable endeavours can be judged.

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So it also serves to provide a greater level of certainty as to what reasonable endeavours will mean in practice in this case. And our position is that as an overall package

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that would provide a level of certainty that far exceeds what was considered necessary at Hinkley Point C. And which has Mr. Rhodes explained at the first issue specific hearing has actually worked well in practice and ensuring that delays don't give rise to greater environmental effects.

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The most anticipated, and we think that that ought to be more than sufficient to assuage any reasonable concerns about securing the mitigation. And then coming back to your table one, that would of course, mean that those items of key environmental mitigation would have compulsion attached to them.

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Because in addition to

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what is in the reasonable endeavours obligation, there will then also be the construction method statement. Now, that is, that is in terms of the drafting, that is something which you will find in the deadline eight version, we will seek to discuss that with the council's and also see if we can generate a level of agreement about that.

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But I hope that helps. So, now,

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ahead of seeing that, of course, I anticipate, you may have questions when you see us, and you may make comments on the drafting, but I hope that gives you an outline of the principle and the mechanisms by which we propose to give legal effect to it.

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Thank you. That's very helpful.

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So my first question is, so long stock date long stock event.

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But yeah, so so it's it's linked to phasing. So effectively, rather than having a specific date, it will be linked to phases, relevant phases of the main development site work. So before you get to a particular named phase, you would have to have delivered associated development x. Right. And that's not a reasonable Devers obligation to do it. We've got long stock days, which say, you simply have to do it before you get the next place. That that's That's my understanding of what is proposed. And that's why it's subjective. The requirement and the construction management and there's different supplementary to the reason individuals. Yeah, presumably, the long stop dates are,

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or long, let's call the events, the long stops, the long stops are going to be that is it the same as the dates that we currently have. It's further back, it's further back, because it incorporates the flexibility to recognise that although this far out, I mean, we are looking at course, a long way ahead, in terms of the construction from when we sit here today. And this comes back to the acknowledgement that we're the best will in the world and doing all we can, we simply it wouldn't be reasonable to expect us to be bound to hit those particular dates. That's what we anticipate doing. That's our current programme. But if something were to happen, that meant that we didn't hit it by a particular point in time rather than having to stop, we've got some flexibility along stop in order to try and sort the problem out.

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And your reasonable Devil's obligation will have been biting I think, well, the other points he made on Tuesday was actually that reasonably does doesn't mean to say, reasonably, to deliver it.

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Perhaps cousin, not before the date, but that actually reason endeavours is biting from the moment you sign the document, and you have to be

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you have to be preparing yourself. And if you sat back on your heels and did nothing, then the council's will be entitled to come along and say this is not you're in breach of contract. Exactly right. And that's that's important because you don't have to wait until the date or phase has occurred. Yeah, before if necessary, stepping in more would hope it would never come to that, because the reality is that all parties will be working very closely together, as has happened to Hinckley and as is essentially unavoidable because of the way that both the development consent order and the deed of obligation

and the practical necessity on the ground compels everyone to be working very closely together through the governance groups particularly in relation to matters such as transport. So if there are issues that are arising, as the project is being implemented, that matrix of work, you say it will be spotted early, we're talking to each other a lot and people will start raising the issues long before it becomes a problem. Quite right. So.

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Okay, the I suppose the other concern which I should out with you about reasonable Deborah's is the one which I put in the

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last two paragraphs of video for to the further commentary where I think I said

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But it was really, really useful notes. You know, it didn't

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hide anything of the real legal difficulties. So useful analysis. Thank you.

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But as I said, it seems to me that when you

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when you draw out the common principles,

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in the context of case law, some common principles can be seen in discharging an obligation of capital required to balance its contractual obligation with all relevant commercial considerations, take into account the Chief Justice achieve the desired results while those action and it's interpreted against sufficient, reasonable, prudent person in the light of the well, that person's particular circumstances and interests.

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You know, as I said, in paragraph 14, that commercial interest point could prejudice, deliberate key environmental mitigation, I've no doubt you'll respond on that. In writing it da was anyone say about it? Now? I'm going if I got it completely wrong.

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So the key point is what is what is reasonable? In the circumstances, this is not a situation obviously, with the development of this sort. And for reasons we've articulated in other hearings, where the question of

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how much it costs and whether it is

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more expensive, necessarily less expensive, necessarily is, it is purely a matter for the developer, there's a public interest objective there as well. It's not a matter of for planning, but it is right to note that, but nevertheless, what is reasonable, is contextually driven.

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And therefore, it is not simply that when undertaking that balance,

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the the important importance of the particular contractual obligation was simply not fall to be taken into account now, that we've, as you said, it's a judgement call on every occasion, isn't it? But it is. And that's, that's a recognition of the fact that there may be circumstances where events beyond your control mean that it is simply not reasonable.

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taking account of all of those matters to expect you to do X, but it may be reasonable to expect you to do y and therefore you're obliged to do y. And that that driven driven by the particular context here is a meaningful obligation. But But if one to stand back and ask oneself,

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how that would manifest itself in practice, and would that be any anything different to what one might expect when the parties were working cooperatively together to try and a deliver this as quickly as reasonably possible be to minimise the adverse effects whilst doing that? And see, to cooperate in finding ways around obstacles is likely to amount to the same thing, as happens in practice, and this happened at Hinkley where that was.

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And so it is not it's not meaningless, but we recognise and we've listened to the concerns you've expressed and we're seeking to supplement it. Okay, thank you. Thank you. Mr. Humphrey would like to ask you something?

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Yes, just one point about the construction method statement assumed programme. I'm writing is saying that's different from the original

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indicative implement implementation plan, which is at 599.

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I'm going to ask Mr. Rose, whether he's able to pick that up? I don't know the answer instantly certain. I mean, maybe I'll just save you answering what I would like to know in your submission is the employee number profiles on which the transport modelling is done is based on original implementation plan? I

just like to understand in that assume construction programme, what are the what's the truck, you know, the employee number profiles, and how does it relate to the original assessments?

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So I think on that I'd have to take that away. Yeah, no, no, I understand

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that deadline a submission just make Well, our job easier if we could understand that property in detail is very helpful to have that flagged up now because we can pick that up in deadline date and hopefully avoid you having to ask the question later.

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Thank you.

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So Mr. kilowatt, this, what you've been saying carry over into the

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into the accommodation campus.

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Then to the project accommodation. Yes, so I checked that this morning, before we started, and it covers all of those elements. Of course with the accommodation, campus and the caravan accommodation as you'd have read, in our deadlines seven material, we've we've developed some and I think indeed it was alluded to earlier this week, we've developed a further mechanism with the assistance of a software council to provide for contingency in the event that that is not delivered in accordance with the timetable so as to avoid adverse effects going on, addressed. But this, of course, is supplemental to that. So that remains that would continue as part of the package of measures, but it will be supplemented by these long stops.

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So we're not taking anything away from what we're putting forward. Other than perhaps, things like the word illustrative, but nothing, nothing that people might like and want to rely on, is going it's simply we hope we're providing them something which they will

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regard as a benefit and advantage. Okay, I'm gonna ask Mr. Bustamante, if he wants to come in at this point, in relation to the formulation. Thank you, Mr. Brock. I'm just conscious that at the moment, the construction methods statement, which I think is first revision for at the moment, rep seven to eight one, it makes reference to the use of the caravan Parag. But there's no obvious reference to the delivery of the accommodation campus. So I'm assuming that's going to be added in your rights. And it is it as I've indicated, in order to achieve the objective, and to

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put the principles that I've just outlined into practice, there will need to be reworking of that part of the construction methods. Same because it doesn't seek to fulfil that task at the moment. This will be an additional job that it will need to do and the drafting will need to be fit for that purpose. So you're right that it doesn't do that at the moment. But it will look quite different when it comes to you in the next version.

42:19

And is that likely to be a deadline? Ah, yes, that's that's the deadline, a version with the anticipation therefore, that there'll be an opportunity for people to respond to it. So that hopefully the final version will have ironed out any bugs in the first one.

42:38

Thank you very much. I'll pass back to Mr. Brock.

42:42

Thank you. So on, if I can then turn to the project accommodation.

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You have in deed of obligation private housing supply plan, and the tourist accommodation plan.

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I'm going through this because these are things which we have been told our gains are helping us giving us comfort, but they're also they're the real hard

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controls, which we have been told mean that we can accept the reasonable endeavours obligation. I like, I read these questions before I heard what you said. But this morning, quite obviously.

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So you've got a private housing plan and a tourist accommodation plan under those money gets paid to Isa Council.

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They then spend on Paris accommodation measures, and they report back periodically to the accommodation Working Group.

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My question at this stage, first of all, is with all that in place, was it the view of your clients, consultants and advisors that would avoid significant adverse effects on the accommodation supply and housing market?

44:05

So my understanding is that it would what I'm going to do though, is I've got Mr. Mike Humphrys. You'll recall that he has participated in those sessions which deal with the socio economic matters, including

impact on the housing market. So in terms of how they fit into that picture and significant effects, it might be better to hear from him. So I understand he's online. That's fine. He at the same time, he may as well I'll give him like the next question, which is that we now have the this housing contingency fund,

44:45

which is the one you guys been talking about which which

44:48

kicks in if if deadlines aren't met. But that relies, it seems to be our pride on the private sector.

44:58

And at that point,

45:00

If you haven't managed to deliver the the

45:04

relevant accommodation,

45:06

surely the private sector is already well incentivized by the market because there'll be high demand and high impact therefore on rents that will be going up. If the private sector is not responding sufficiently at that point,

45:23

then it's not a money problem.

45:26

And I'm wondering what practically the council can do with the housing contingency fund, which will actually alleviate the problem? And I'm sure you're right, Mr. Pillai. Noticed notice I continue to pass this one to Mr. Humphreys to look at. So this is this is very much about as I understand it, what the fund can achieve in practice and why makes a difference to simply the operation of the market and how that fits in with a significant effect. So

45:57

so so two questions are the one you just just neatly summarised. My other question, which is the things that were which were in place before all this, avoid the significant effects on the accommodation supply and housing markets. Okay? So hopefully, misandry will now be able to come on.

46:21

Often it was done free. I might come free for the applicant. So just to Firstly, answer the first question. It's a simple one is that yes, the measures that have been developed in collaboration with East Suffolk council would be sufficient to mitigate the effects on the housing market. And in fact, those measures are

46:51

conservative in their approach. So we think that the

46:56

those measures in terms of the amount of bed spaces and the cost per bed space based on the entirety of the fund are more than sufficient to deliver the amount of bed spaces that we think we would need in terms of Leighton accommodation, from private rented accommodation that would be needed to mitigate the effect on that last position before we get to the housing contingency funds. And before we get to the long stop. That's correct. Yes. Okay. Okay, thank you.

47:24

I'm pretty sure it.

47:26

So do you want to turn to my second question, then?

47:31

Joyce will reform it rinse repeat it, it was quite a long one. If you wouldn't mind. Yeah, thank you. So we've now got the housing contingency fund,

47:40

your housing contingency fund the operation and it relies on the private sector, actually, to deliver something.

47:47

But at the point at which the housing contingency fund is, is drawn on

47:54

the private sector is already very, very well incentivize, it seems to me by the very high demand, and the impact of self harm or rent because there'll be rising.

48:03

Now, if the private sector is not responding sufficiently, it with with all those market factors, that it's not a money problem, the problem is somewhere else. So the question I'm asking is, what does your housing contingency fund really, really do? How can the council's practically use it with the practical effect of alleviating the problem? Oh, by the way, you've also got the nine month timeline problem that Mr. maurin teased out on on Wednesday, but I assume you've thought about that already.

48:38

Thank you. Yes. Yes. So

48:42

this question, I think, in a way has has also been asked in ci, point 3.0.

48:49

Okay, super easy answer them.

48:52

So I thought I can take you through, essentially, what would be our answer to that. But just to just to cover one point that wouldn't necessarily be in that is that we've we've submitted previous representations on that apology, I don't have that reference to hand but evidence of increasing rental prices as a result of

49:12

this additional demand, especially when you've got the housing, bed spaces that are brought forward through the housing fund, we can't see any evidence necessarily of that. And that's, that's based on the existing delivery of housing bed spaces that we've had through the housing fund at Hinkley Point C. So that's something that we don't consider an effect. But even if even if we did, I think the amount of bed spaces that we've been setting out that would be brought forward through the fund is highly conservative. So just to kind of take take you through our thinking behind and again, we'll set this out in writing formally through the responses of written questions, but also through the response to this hearing. So the implementation plan shows the accommodation camp has been delivered after about three

50:00

A few months, q3, year three, when the peak non home based workforce is about 2320, which is based on the workforce profile that we've submitted to the application to the panel to

50:13

the assessment at the socio economic chapter, Volume Two, chapter nine of the US, which is apt 151195. And used in the accommodation strategy, app 613 assumes that the campuses delivered at the start of year four so slightly later than that. So as such, the assessment already considers the effects and the mitigation of a worse scenario than the project is committed to deliver. So in effect, delay to the delivery of the project accommodation would result in a deviation from the implementation plan, but not necessarily a change in the impact assessed by the Yes.

50:49

So this is also in the context of a conservative assessment in terms of, you know, the demand for accommodation in the private rented and latent sector, the supply available for workers coming in and looking for that type of accommodation, and the amount of additional bed spaces that can be bought forward through to housing fund delivery. And that case is set out in detail in chapter 31 of our response to the council slaking impact report at rep 3044.

51:21

I write all that down? rep 304304 for boss chapter 31. Okay.

51:30

Keep going. Thank you.

51:33

So,

51:35

as we set out in schedule three of the draft deed of obligation, we've been committed to provide in terms of the schedule of payments, about 3.1 million pounds within that period, before the implementation plan identifies that the campus would be provided. So we suffer council will have received that, and we and they would expect them to over deliver at least 550 bed spaces using listen this is based on the expert opinion of us as deliverers of the housing fund in England them as the kind of statutory owners of the housing

52:17

housing market in in Suffolk.

52:21

That, again, is a conservative estimate. So during the early years at Hinkley, point C, we've delivered in excess of 2000 bed spaces against an April target of 1000 at the peak at a quarterly run rate of three times the quarterly run rate that we're assuming at that size, we'll see. So it's as we've demonstrated, it's it's been very successful through experience and bringing bed spaces forward in a relatively inexpensively, inexpensive way. And building on that latent accommodation that goes goes through minor improvement grants and lanes that are set out in detail in that tight schedule.

53:04

So, if we if we do if we, even if we achieve the very conservative rates that we've set out, we don't think there'll be an issue. If we achieve something near the rates that we've achieved at Hinkley Point C.

53:19

Then we could have delivered over 1500 bed spaces by the time that the implementation plan sets out that the campus would be delivered or opened.

53:30

At which point we predicted the workforce the non home based workforce would be about 2300

53:37

of which 600 would be living in the

53:42

land east of Eastlands industrial estate caravan park,

53:47

leaving about 1700 in existing accommodation.

53:52

And as I said, we will have provided somewhere between 550 and 1500 bed spaces in that time, leaving that kind of the residual effects less than a significant effect based on our assessment in the in the socio economic temperature of the ears.

54:09

And it's worth saying that during that time, we also funded for office spaces pastes in the in the district council to be able to deliver those bed spaces and be assured that we will have made the very best attempt that we can to exceed that minimum level and deliver.

54:28

I'm sorry, it's just this using the housing contingency fund. So basically, this is just to have the main housing fund itself. So this Yeah, trying to set the scene to just demonstrate how conservative the approach step to that fund is. Okay, so go on then. So you get to the point that look at the worst case, you know, and now you're having to fork out the housing tenancy fund. How is how is the council you've done this Thank you possibly. How's the council again to alleviate the problem.

55:01

Yeah, so so we recognise that the contingency payments or payments after the fact, they can still address the impacts as they arise and shouldn't be seen in isolation. So as of set out that the overall approach is conservative, the delivery date and the implementation plan are conservative housing fund is front loaded. But at that time when the additional bed spaces required, it wouldn't

55:27

be additional run rate that you'd need to deliver those bed spaces, it's still well within the difference in terms of the conservative estimate that we've got, and the rate of bed space per quarter, we've achieved that Hinkley Point C. So we don't think that's

55:42

a substantial issue.

55:45

Let me let me let me bombers go on. And just let me interrupt interrupt you there.

55:52

Mr. Moore. And if there's anything that she wants to raise, coming out of, of what's being said,

56:00

just kind of two points. I was gonna add to that. The the governance that we've got in place, sets out regular workforce monitoring and the ability of the accommodation working group to be able to preempt those,

56:14

those issues and to work hard the use of the housing fund to get the kind of the best out of it. At that point, we'll also be able to use the working group. And this isn't explicitly stated in the deed of obligation at the moment, but but we'll be the accommodation group, by working group will have access to the projects and their ability to forecast the onboard level of onboarding of workforce early in the project and the progress being made on procurement, commissioning and delivery of the two types of predict accommodation. Okay.

56:53

Thank you. Thank you for explaining that. That's very helpful.

56:57

I don't think there's anything else I want to raise on housing.

57:02

Mr. Brock, you asked me if I had anything to add, I've just asked one question of Mr. Humphrey.

57:09

You're doing a lot of comparison with Hinkley and what you've achieved there. But obviously, this is a very different area, the

57:19

laser and for example, is much smaller than the town next to Hinkley. So

57:28

what factors have you taken in for this local geography? To make sure that the comparisons you're drawing are reasonable?

57:40

Thank you, Mr. mandya. I think in terms of response to that, I'd draw your attention to

57:47

our written summary of Oracle's mission at PSA four and in particular, also our appendix to

57:56

our response to the open flow hearing, Polly's that don't have that reference to hand either. But that sets out how the quantum of accommodation within the area that we anticipate workers predominantly searching for accommodation to be very similar in the overall quantum of accommodation, and the characteristics of that accommodation in terms of tenure. So, Hinkley Point C, we know that workers tend to be living within about 45 minutes of the site Bridgewater, is located at the very edge of that area, much closer to the site, there isn't very much accommodation at all, the situation we've got with it up in geography, around size, we'll see is that in that travelled time area, the overall amount of accommodation is very similar, the character of that accommodation is very similar. It's just concentrated in more smaller settlements and more smaller settlements closer to the site. So we don't think that will be a substantial difference.

58:57

Okay, thank you for that. Mr. Brock, sorry, I didn't have anything further on the accommodation is just one additional point, clarity. I don't know whether this will come to you, Mr. Humphrey. But from the recent reading, I had of the documents the latest deed of obligation.

59:15

Electronic page 25, the housing contingency fund had a figure of just over 9 million.

59:22

And then the housing fund had a figure of just over 15 million. But when you looked at appendix three B, which was

59:34

setting out answers to the written questions, I think, I hope that's right.

59:41

The page, the housing fund, contingent elements, so it's a slightly different description, so I might be not quite looking at the right thing

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is a different figure from the housing contingency fund figure in the deed of obligation.

1:00:00

And on the housing fund noncontingent elements, that's a different figure from what's in the deed of obligation under

1:00:13

housing Fund, which I'm read to be the equivalent of for noncontingent. But I may have misunderstood that. So it might, you don't need to give me an answer now, but it's just worth looking at those figures, to hopefully make sure they do marry up. If you're correct to say it's about the presentation and description, please Biggers, say it's it's the definition of contingent in terms of the approach to the lubrication is described slightly differently in that appendix three B, but we will submit a, the overall fund is the same. So that the overall title some bits are described as as non contingent when they actually are contingent in that that appendix but we'll set out that detail in written submissions.

1:01:02

Thank you, thank you, we might we might actually just put

1:01:07

that question into the rule 17 or something like that stuff, which comes out after after day. So you've got it got it clear?

1:01:15

That's very helpful. Thank you. Mr. Scott. I'm not sure if it's been your hand guy, but okay.

1:01:25

Did you want to say something, Scott? Thank you. Thanks very much. I think remember the in the early consultation reports, there was a second caravan site provided near the one that's being talked about. Can Can somebody confirm whether that is still

1:01:43

still still in play? Okay, we'll help we'll hold that. Hold that question. And I will ask

1:01:52

Mr. Pillai bottoms to help rate. Can you answer it's very brief question quickly, one side or two.

1:01:58

I asked Mr. Hamby just to confirm the fact.

1:02:05

Alright, please, one one side.

1:02:09

Thank you very much.

1:02:12

Right. Well, that deals with Project accommodation. Let me come back to something else which you have proposed your clients proposed. Mr. Philip, what in

1:02:22

your response, our first commentary? That's rep 7058. I definitely need to turn it up and tell you what it is. You made an offer of harder controls on road rail and marine infrastructure. And you seem to be asking

1:02:42

whether or not we want you to do that. Whether or not that's there wasn't a lot, it should be taken up. I think the proper thing to do is for us to ask for the use of the council's on that.

1:02:55

We've got an open mind about it. And it's obviously up to the Africans itself. I think especially as it states, that appropriate wording needs to be discussed with the the council's

1:03:08

so I'm going to go around because I think I've got I've got to the end of my questions for you. And your clients, Mr. Phil apart. So I will go next to Mr. Tate East Suffolk Council.

1:03:25

Thank you, sir. I listened very carefully on Wednesday. Thank you to the discussion about accommodation.

1:03:33

I'm I can't wait for it not quite sure as to what the council's view is on reasonable endeavours and accommodation. Mr. Phillips, I've seen him update us with some other important proposals which are being developed and coming through. Yes, yeah. Can I just ask you this? First of all, you have negotiated this with your clients to negotiate the housing contingency fund? Yes.

1:03:59

I think that's new. Well, the discussion on Wednesday identified some concerns about it.

1:04:08

What I would like to understand is whether or not this is your counsels view, that in relation to project accommodation a reasonable Devers obligation is adequate or is it made adequate by

1:04:26

the housing contingency fund or is it made adequate by the housing contingency fund and Mr. Phillpotts explanations of the long stops

1:04:37

right Thank you, sir.

1:04:40

As I indicated at IC h 12. Our position is that reasonable endeavours in relation to the accommodation strategy is insufficient.

1:04:50

We do not oppose it as a strand, but it is an insufficient strand and we will

1:05:00

Welcome the removal of the words indicative,

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which qualified the implementation plan, I think there's reference to being a little being the words being illustrative but

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my recollection is indicative, and we welcome that.

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We I also hope to make it clear on Wednesday that we regard a clear commitment to delivery as essential, leaving aside the financial aspect

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of the housing contingency fund, and I drew attention to paragraph one 518 in rep 757, which said that the applicant will accept a requirement to have completed the caravan park within a certain

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date by a certain event having occurred.

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And so your recall, I mentioned that, that was also set out, implicitly in relation to the accommodation campus that wasn't adequate, when needed to make that explicit. So that is a critical part of what of our submission, that reason that DevOps is insufficient, there needs to be a commitment to what you've described as a long stop event.

1:06:22

When then comes to the question of the where that is to be found, at one 518, the reference of rep 757, which is the applicants document, it said that will be in the deed of obligation, we're open to that being somewhere else, for example, in requirement, eight, but we wait to see the wording and how it fits in. Before we take a final view on that. As to the question of what I will call the very long stop the long long stop of the housing contingency fund.

1:07:00

That if that if all that if only that was being offered. Together with reasonable endeavours, we would find that unacceptable. Because the

1:07:12

campus and the caravan park comprise embedded mitigation in the environmental statement by a particular date, the housing fund, not the housing contingency fund, the housing fund sits alongside that it is not a replacement for it. The housing contingency fund

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is only intended in our understanding to deal with the what will then be a temporary expedient given arising from delay

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in compliance with the requirement,

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whether that's an age or otherwise, but it may be that requirement age is expressed in more absolute terms, in which case one doesn't

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come to that provision at that stage. But however it is cast, it is a long, long stop.

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And

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as to how it is to be then applied in those what we hope are extreme circumstances of non compliance with the delivery

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in requirement in requirement age, that is not something we can identify at present. Clearly the whole purpose of having the campus in the caravan park is precisely to deal with issues of the quantum of supply in the area.

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But it does provide a means of addressing delay, other than stopping the project, but it's our position that one should not be coming to that at all. It's it's to deal with a remote prospect. And that's why we think the commitment to the long stop as you've described it, where one has some fixed events is so important.

1:09:08

Yeah, we look forward to seeing what comes forward in requirement. Ah, yes. What you're saying to me is

1:09:16

it's difficult to foresee what we might be able to do with the housing contingency fund.

1:09:24

We'll have to look at the time but it's better than stopping the project midway through. Yes, sir. Yeah.

1:09:32

Okay, thank you. Don't go away yet.

1:09:39

Yeah, it's probably too early to ask if you disagree with any my adequate scores on table two, but I flagged that out for you and you please let us know da that would be lovely. We will do that. I think you I think you also asked about other items of infrastructure. And in so far as those relate to the transport matters.

1:09:58

We would expect

1:10:00

Mr. Bedford to lead on that, and he may, he may well articulate similar views to mine. Yeah, that's not for me at the moment, I think within a second. And do you does your Council have a view on these offer of harder controls on road rail marine infrastructure, which was made? Well, that's exactly that matters. So we will, of course,

1:10:22

we will defer to Mr. Bedford on that. Okay. I've got you. Thank you very much.

1:10:30

Councillor Collins. I see you got your hand up.

1:10:35

I was I will go to all of the interested parties. After Well, this one speak after I dealt with Mr. Bedford, or is it a burning issue which you want to raise with me now? No, that's all right. Go to Mr. Bedford first, and I just, I've indicated my Rick, you're bagging your place in the queue. Thank you very much.

1:10:57

Mr. Bedford. Your turn, please.

1:11:05

So tell me what the county's current view is on the reason I Devers edge explained by Mr. Phil pot, if you can deal with adequate scores. And if you want to deal also with the offer of harder controls, or what's transport infrastructure, that would be helpful.

1:11:23

Thank you very microbead for Suffolk County Council for reasonable endeavours, we don't consider to be an acceptable

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limit to the applicants obligations.

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In a sense, things have now moved on in the light of what Mr. Philpott was telling us this afternoon. But we would simply highlight as you have already done so sir, Appendix D. of Rep. 7058. That's the applicants note on reasonable endeavours. paragraphs 2.1 and 2.3. Absolutely make the point as to why reasonable endeavours on its own is clearly inadequate. That's the whole point about having regard to a not having to sacrifice one's own commercial interests in order to show that you've used reasonable endeavours. So

1:12:23

that I don't need to apply to a labour that because I say we seem to have now moved on. Our preference has always been for clearly defined commitments which have to be performed at all prior to key stages in the construction programme, essentially, that you cannot do x until you have done y. And that seems to be the thinking, which has been accepted, in principle by the applicant in what Mr. Philpott was saying to you, earlier this afternoon. In terms of the further

1:13:05

thinking,

1:13:07

and that further progression of their thinking, so far as we understand it, as it were overtakes the embryonic movement in that direction, which was in rep 7058. At paragraph, item 250. In that was the reference to them thinking about harder controls. But as we understand it, their thinking has evolved beyond that position to what Mr. Philpott was outlining to you this afternoon. To make that clearer,

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and more tangible.

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Obviously, we have to await the written articulation of that which we're going to get at deadline eight as we understand it, but in terms of the principle

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we can certainly see the using the vehicle of the construction

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management

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plan

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sorry, the construction management strategy

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is

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yet capable of being a sensible vehicle.

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Obviously, that is then tied to a requirement. So, it will then feature as a control in the development consent order.

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And obviously that is welcome in terms of understanding. Clearly requirements in the development consent order, have their own enforcement mechanism.

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And we can certainly also see, as it were a benefit in uncoupling those

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definitive controls from the implementation plan which sits under the

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deed of obligation.

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And

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essentially, the way that we see it, as has now been outlined to us, is that the applicant is proposing, as it were to set out its planned programme, which it hopes to be able to achieve in order to deliver the project. And that will remain as it were, through the implementation plan,

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which won't be described as illustrative. But that's where the planned programme in the I think, Mr. pillbox, it was in the construction management statement, it would be described as illustrative. But it remains indicative as the word where it's called the implementation plan.

1:16:13

So I don't know whether I can Yes, I don't want to send Mr. Bedford off unnecessarily as it were. No, the and it's, I'm sure it's my fault for not explaining clearly. First of all, I can clarify Mr. Tate as ever, is right, in terms of it being indicative not illustrative that was the word used. And I apologise using illustrative. That's my image. It's okay. That's my sloppiness. But secondly, the point I made was for the two points which are relevant to this, first of all, is not going to be described as indicative that neither the reasonable endeavours nor the CMS will be referring to an illustrative or an indicative plan.

1:17:01

And that that's that's the first point. The second point is that my understanding is that the intention that both of those means of control will be referring to the same plan. But then, in addition to that, the CMS will have long stops, which as we explained, sit at some point beyond those dates. I don't have the details of that before me. But that's the principle, if that helps avoid unnecessary confusion. Thank you, it's helpful to me as well, thank you, Mr. Bedford.

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I'm grateful.

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So

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in terms of the approach, we don't have an in principle,

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problem with the approach which has a programme

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which is set out

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on the basis, that this is what the applicant intends and desires to do. But then recognising for the reasons that we've already acknowledged that there is likely to be a need for some flexibility. So that the planned programme itself will not be the absolute hard control. But there will be an absolute hard control in the long stops. And the long stops, will obviously be a step behind. Yeah, the planning programme, recognising that that element about flexibility. Now, there clearly is outside of the examination, hearing sessions, and a very important discussion to be had between the applicant and the county council about the content of those hard non stop controls, in terms of what the events are, that are

1:19:03

to govern the delivery of the key mitigation measures, particularly the highways related key mitigation measures. And certainly at the moment, we're not content with the references that were put forward in rep 7058 in terms of the references to certain things not happening before the phase two bulk earthworks or within six months of the

1:19:37

phase three main civils. But I claim this this is not the occasion to have that dialogue. I just put that down as a marker that we're not content with what we've seen in writing in rep 7058. But that dialogue needs to happen. That's that's my point about these harder controls. And you're basically saying, yep, thanks. We're still talking

1:20:00

Yes, yeah. But as I understand it, it's that approach to harder controls there, which now is going to be taken further by the applicants through this CMS, long stop references. And essentially,

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if we can get the

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phasing right, so that there are clear commitments by the applicant, that it cannot do phase x until it has completed key mitigation, measure y, then that will go considerably towards addressing one of our in principle concerns. And obviously, in that context, if the applicant and obviously I heard and listened to what was being said earlier in the week about the applicants view that reasonable endeavours still plays a valuable role in their approach.

1:21:04

We wouldn't have a problem with the position of them using reasonable endeavours to achieve what might be said to be their desired programme. So long as that was never to be the limit of their commitments. And they were always subject to a hard commitment. Yeah. Which may be a long stop

behind that. Yeah. And I hope that's sort of positive on both sides. There is it seems in the light of what Mr. Robot was saying this afternoon, a positive way forward, that we can hopefully reach an agreement on those matters.

1:21:41

In order to provide the reassurance about the delivery of those key environmental measures.

1:21:48

Thank you, thank you very much. You're gonna have a hard head of negotiation about what the long stop dates long stop events actually are. But yes, thank you.

1:22:01

May I go now to Mr. Collins.

1:22:07

Thank you, Mr. Brock, for comments from stops, I will see some nice fish first counsel.

1:22:14

I want to thank both Mr. Tate and Mr. Bedford for for being so clear, and of these issues. But I'd like to go back in particular well, initially, to the whole issue about accommodation. And we remain concerned that if there aren't really good, long stops,

1:22:36

and commitments to actually produce the caravan park and the accommodation capitalise on, on this on on reasonable timescale that there are going to be significant issues in the local in the local rental, commercial housing sector simply because despite what the applicant says about there being a similar number of properties within the 45 minute

1:23:02

radius, there are those 45 minute radius are pretty well spaced out. And they're not in particular, particularly good

1:23:14

communication by car, bus, train, you name it to the site. So there are going to be there's going to be a considerable amount of reluctance on the part of their own workers to move out into these sorts of areas. And you're quite right. And it's quite right that places like leisten, are so much smaller than Bridgewater. And so it's really is going to cause a significant issue and potential uplifting of rents in this particular area, as a result. And I would also get back to the fact that we expressed some concern, some time ago, when we were talking about the increase of the maximum number of workers from 5400 to 7900. I think something of that, that nature, and there was no apparent increase in the amount of provided

1:24:09

accommodation for workers in the area, and that they're relying pretty much totally on the commercial sector to actually provide it, which is, which is yet another reason why this this strategy just does not seem to be viable, or

1:24:26

viable, perhaps is the worst situation, but it is going to be extremely difficult, I think, to actually provide it. And I'm sorry, but no amount of contingency funds is suddenly going to wake up that sort of number of accommodation places in the come out in the commercial sector. Just it's a flight of fancy. Maybe Why the long stuff is better.

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Not well, but yes, you know, and it needs to be a pretty tight Long, long stop, I would say particularly on the accommodation side where

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You want to wicketkeeper not a one stop?

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Yeah, he needs to be pretty close. I think that's pretty, that's for sure.

1:25:08

The issues also on the transport side, I mean, clearly, we're already faced with a situation where the second side will link road in this area will not be provided before, the huge amount of traffic is going up and down to be 1122. We do need to make sure that if that's going to be provided later, we would rather it have been provided in in advance, it will be much better to make sure that those sorts of long stops are also pretty tight. Because the disruption of caused by any delay to some of those things, there's got to be considerable. So thank you for that. Thank you very much. Thank you.

1:25:46

Rosie Sullivan, do you had your hand up earlier? So I'm going to come to you next?

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Thank you. So I'm definitely trying not to interrupt the flow of your questioning.

1:25:59

I'm afraid my point is to do with reasonable endeavours. But it is going back a bit on the on the deed of obligation. And

1:26:06

Absolutely. Thank you. So hopefully a short point, as I said before, I'm just just briefly want to focus on, as I'm sure you've seen in our submissions, the constant refrain of mitigation needing to be legally ecologically and financially certain,

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both for yourselves in a secretary state to be able to rely on those measures. And part of this and we are grateful to the applicant for progress made in discussions on this part of this is what we refer to as the feedback loop mechanism. I think it's now been called the adaptive management, where monitoring shows that there is actually more of an impact than predicted. And the applicant is helpfully already set out in a number of places. And I'll give you some examples where they will then do more measures that they're committing to more measures.

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I have some questions about that.

1:27:03

Because it was where I was asking the clarification as to what the standard was that they were aiming to and then monitoring as a result of monitoring. Is that what you're talking about? I'm afraid not. It's the way that schedule nine of the deed of obligation is currently set out.

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But I'll just give you a quick example. So for example, breeding waterbirds, it talks about monitoring, and this is in the template. I'll put this all in the note. But it's page 17 of the template, of course, as we know, is helpfully tied in by requirement for I believe, but it talks about further monitoring. And if it is determined that there's a change in usage of breeding waterbirds, then further boundary screening and or other approaches to noise reduction and visual disturbance to lessen any apparent impacts it is committed to and this is all to do with construction, not you. Thank you. So the point I wanted to make is that I believe that the references in the deed of obligation schedule nine, and therefore the link with reasonable endeavours and the implementation plan are more focused on confirmed, fixed if you like mitigation measures as listed in that schedule. I'm very grateful to the applicant, if they will, if they will correct me if I've got that wrong. But at the moment, there's a list including a definition on page 73. So things like the fen meadows, the marsh area. And then also, there's a few other references there in the definitions.

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I really do want to stress we of course appreciate the need for some flexibility.

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I think our main concern for now is how any additional measures might, if required, might might be built in. So again, if I can just refer to, I think your second deicio commentary, paragraph 14, you just referred to it a moment ago, talking about commercial interests could prejudice, the delivery, or timely delivery of those key environmental investigations. So my first point is I'm not sure

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that some of the examples that are in the temp are captured by the phrase key environmental mitigation. So the three examples I wanted to focus on was the water birds, as I've just mentioned, but also the red throated diver and the newly submitted outline, vessel management. And what I'm so sorry, it's the outline of vessel management.

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And also the newly submitted water monitoring plan, which includes potential triple si water qualities, just to be very clear. I mean, we've put this out already, but we've set this out already, but we will repeat this. We have huge concerns about whether the additional mitigation measures offered will actually be effective. But again, I'll leave that point alone for now, but that But the main point is how is this adaptive

1:30:00

management for mitigation or feedback loop mechanism, as we prefer to call it, how is that captured? And also included in in any anytime in points with or without reasonable endeavours? I mean, obviously, at times.

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So I don't think any of those things you mentioned form key environmental mitigation

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Mr. Philip automaton wrong on that. So you need it, you need a different mechanism for ensuring that those that those come forward. And I don't think I am suggesting that they do need to be captured within that definition. But But I think my point is that we feel they need to be captured more than the way they're currently described in the time.

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So if, for example, in in the response, and the applicants respond to your first decio commentary in from August, there is there is a table setting up the different levels of, of conditions. So the temp, obviously, is there in the highest level, because it's a DCR requirement. I think I'm right in saying that the second column,

1:31:04

which if we take Marsh area, for example, the requirement 14 See, the second column in that table for Marsh area does include the reports we were discussing earlier, I think the implementation plan is mentioned. Whereas for the temp, that second column is blank. So it was it was hopefully on the points being covered by you earlier today. But but just to kind of flag that we are, we are a bit concerned about what allows you to do this to help me in that case.

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In your date, submission.

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So walk me through that, because I really don't know, the first thing about this. Walk me through it very, very carefully on each of the points, which should be making that any other examples, which which you've got until the defects are. And okay, it's a short timeframe from doing it, if you can share any of that and talk about it with with the applicants and if you're able to, because they may tell you actually it's still within the different schedule.

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There's no shame in not spotting the other shedule.

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And if you if you could do that, then that that might help you help us and the applicant to to deal with and I think I've heard Mr. Phillpotts say on a number of occasions over the past few weeks, that they're very happy to have that sort of feedback, you must be in the dialogue already. Absolutely.

1:32:30

So if I if I whilst it's fresh in your mind, and whilst Miss Sutherland is still listening. We think having heard that we think that a phone call with Miss Sutherland or a meeting outside the examination should help to clarify the understanding of those points. So rather than taking time on that now, yeah, we suggest that we do we pick that up next week. We didn't we don't want there to be any confusion. We think that there is a clear answer to it. But let's deal with outside.

1:33:02

That's helpful. Thank you very much.

1:33:07

Juicy bassinet.

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Yes. Hi. Thank you.

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Thank you. I'll keep my comments brief.

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It's jersey best net speaking for the Walberswick parish Council. I just wanted to go back quickly, Mr. Brock to the reasonable endeavours conversation around the transport mitigation.

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And actually, the comments, I think, made by Mr. Bedford as well. I hope so for those of us who live here, Mr. Phillpotts explanation on reasonable endeavours and long stops, don't feel very comforting. In fact, it feels more like the situation is going in the wrong direction.

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My experience with long stops is I've never seen people beat long stops, so long stops become delivery times. So that feels like this puts us in a worse situation. And this is particularly true in light of the fact that normal good development practice is that you put mitigation in place before you start your construction project.

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And the applicant has steadfastly remained on its proposal that it will not do so. So the fact that we may not know when and if any of these transport mitigation get put in place, or that we have to wait around for a long, long stop,

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just doesn't think seem like we're getting into a better situation. And I would add to that, that since these major mitigation efforts related mostly to the A 12 and of course, the

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1122 and link roads, it came up in the earlier stages, and the applicant did agree that the B 1125, which flows into the B 1122 was an issue.

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And again, the help that they may be able to offer us will be neither in the deed of obligation or in the endeavours but rather will be sort of aspirational for us. And that these areas won't be medical won't be monitored is what we're hearing. I'll put more details when we write in. But just to say that,

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for those things, then really dropped down the list of things that get taken care of if we only have reasonable Devers and long stops, then those things don't get protected at all. So I'm thank you very much on that. Thank you Miss bassinet. Thank you very much.

1:36:04

You can put your hand down as well as best tonight. Thank you.

1:36:09

They can't see any more hands. Mr. Philpott? Let me get back to you and ask if you want to respond to those things. There are I would remind you actually one thing, there are three other things,

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which perhaps we ought to have Pyotr mentioned earlier. One is you want to talk to us about reasonable demos and the water

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issues desalination plant.

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More looking bit blank, as well as it was this morning when we had

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Mr. Keane, and in the room, you were getting explained to me how the how's

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the business operate.

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The other thing is, kind of point out to you, you were saying to me that I should draw comfort from

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requirement eight. And that that would be where the long stops come in through the construction method statement.

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requirement eight only applies to construction works as part of work number one.

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And tell me if that's if I'm barking up the wrong tree. But that strikes me as being a relevant limitation on on a tree not be wider.

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And lastly, before I forget,

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in that table, which is in our further common tree in table, one,

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where we've listed the things where which says nothing or no compulsion,

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I hesitate to put more work on you that you've already got, or your clients already got. But it'd be really, really helpful. If in relation to things where I've got the negative conclusions. You your clients could now explain what what the answer is in terms of

1:38:09

we can double as long stops, and then if it's a contingency fund payment, and how that how that works through place.

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So that certainly that third point, as I understand it, that's a request to take that away and deal with it in a good idea.

1:38:27

Though, obviously, delighted to do that on a Friday afternoon, I suspect people around me might start deserting the ship if I did that. So so you're right, to remind me, and I'm sorry, if I temporarily look blank, in terms of the desalination. The simple point I was

1:38:46

flagging up, and it's helpful to be reminded of it now. Is it insofar as any question arises, as to the timing of the provision of the desalination plant, the mechanism, which I outlined a little while ago, about securing key mitigation would appear to be an obvious vehicle

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for picking up matters such as that, now, I don't have instructions as to how the desalination would be dealt with in precise terms as part of that mechanism. But I do observe that that is the obvious vehicle for it for identifying when that should be in place. So that that's dealt within, all in one spot, as it were. That was simply the point I wanted to make. Because the question that arisen earlier, well, how do you ensure that the desalination is put in place, you don't simply rely on tinkering forever in a day all the way through construction, and that that would appear to be the vehicle for it. And I'd need to check in terms of when that would fit in. I don't have instructions on that. But that was

1:40:00

To the point. Okay, I thought that's helpful. I understand what you're saying. I thought that your reasoning Devers point was in the in the two halves of the

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let me call it the arrangements you're coming to with Northumbrian water. The first half was that you forego your right to insist on a section 41 supply. And the second half was that they commit to use reasonable endeavours to ensure that the water

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supply actually gets to you. If the Environment Agency is happy, surprises.

1:40:37

Broad summary Yes. But that was not the point that I wanted to come back to that's that is is a different use of reasonable endeavours. At our suggestion. But that's not the point that I wanted to come back to. Because the particular question was, well, how do we know you're not somebody's going to tank up forever. And the point I was making is that questions such as that would seem to go into the question of what is called by the CMS. And this new mechanism, which I've described, that was the only point and I'm grateful to you for reminding me because that's that's where that would obviously sit in that discussion. And the second point says, so far as requirement eight is concerned, you're right, of course, that requirement eight is to do with work number one, construction works, characters, Park work, number one, but if one goes to schedule one, and looks at the breadth of work, number one, it's clear that that is that that is what one should be aiming at, by way of restriction because it is it is that work, which generates the sort of impacts that give rise to the need for, for example, the highway infrastructure, I just take that as an example, rather than going up at all, in turn, whereas when one gets to work, number two, we're looking at the offshore works associated with tunnels, and so on. And then we come to work number three, well, that's the accommodation campus. Four is a rail infrastructure. And clearly, it's

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important to make sure that the prohibition that article eight contains, it isn't widened out, because one wouldn't want to ensure that construction was carried out, as part of say, one of those later works are,

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are prohibited. And because you don't need to provide that you can't carry out the work to give rise to the impact on the main development side.

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Without complying with the construction method statement, the construction method statement tells you, at which point you have to have the relevant bit of ad in place before you can pass that stage two, it's perfectly appropriate that requirement eight is limited in the way that it is to work number one, and that is what the construction method statement is ultimately targeted to we've, we've talked about one aspect of it. But the construction method statement goes wider than that, of course, and that is aimed at the site works is to say that every single one is yes. Everything which is subject to the reasonable Devers obligation,

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which is key environmental mitigation, and the project accommodation. All of those things will be

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delivered by controls on the main development site, because Exactly. They're on the CMS and requirement eight. Yeah. Okay. So so that that's the that's the answer, essentially, to, to that point.

1:44:03

I think you can never reply to anybody else that you want to reply to me.

1:44:07

There's not there's not a lot, not a lot to say because clearly and understandably, that people are are absorbing and thinking about what they've just heard. And we've I've explained it, actually, as soon as was possible because the ideas are crystallising. And this has actually been quite timely as an opportunity to explain that.

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The only comments I would make, therefore, that we have meetings arranged as I understand it, with the County Council on Monday, and with East Suffolk Council on Tuesday, so ahead of deadline eight which will give us an opportunity to discuss these matters with them. explain anything that that occurs to them after listening to today and take on board any thoughts that they may have?

1:45:00

I have. So just to give you the comfort that those those meetings will happen that they're in place.

1:45:06

So far as Mr. Collins is concerned, Mr. Collins was responding essentially, in relation to the point of substance that underlay the discussion about the accommodation. And in doing that, of course, he's

responding to a discussion that took place before him. There's no criticism of that, because he was dealing with comments that had been made. But we are confident that we've assessed this properly. We're confident for the reasons Mr. Humphrey has explained that this is a very conservative assessment and I don't propose to extend what is ultimately a development consent order issues specific hearing by going back to him on those if that's acceptable to you.

1:45:49

So far as Miss bassinet is concerned, she raised she raised a

1:45:56

an issue about the long stock turning into the the target date. And I just wanted to offer some assistance on that which hopefully will provide a little comfort. In shedule nine of the draft deed of obligation, it's page 70 of the the the rep seven a 14 version. And it's important not to look at the reasonable endeavours. obligation in paragraph two one in isolation

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is it is accompanied by a series of complimentary obligations, which are important and understanding how it would work. So if one looks at the following paragraphs 2.2 says that at least three months prior to commencement of works to construct any key environmental information and mitigation, the applicant shall prepare and submit to the council's a detailed implementation programme. For that key environmental information, which shows how the relevant element will be delivered with other key environmental mitigation and then 2.3. We have to keep the council's informed of progress in carrying out completing the key environmental mitigation on at least a quarterly basis, demonstrating performance against the implementation plan, and the detailed implementation performance. Detailed implementation programmes are previously submitted to the council's pursuant to paragraph Two, two, including where it's anticipated that any key environmental, environmental and mitigation will commence in the quarter following the date of the report anticipated dates for commencement of those works. And then to four we have to promptly notify the planning group of any material anticipated or actual delay to completion of key environmental mitigation. And if that happens, then in consultation with the council's while the planning group carry out a detailed review of the implementation plan and the relevant detailed implementation programme previously submitted to occur as soon as reasonably practicable. In doing that, we have to take account of the assessments in the EAS and the transport assessment. And then having done that, we have to determine the appropriate course of action to be taken, including a timetable for the implementation of the appropriate course of action, determined with the objective of reducing the delay, so far as reasonably practicable. Having regard to the timely delivery of the project, as a whole. So I hope you'll forgive me for setting that out. But I'm conscious that it's important for those people in the locality who may be affected, to understand the full suite of measures that sit with it, and not to be concerned unnecessarily. That by setting a long stop, as an addition to this, that in somehow the pressures off that those are really quite significant additional obligations, legal obligations, which accompany the reasonable endeavours obligation. And coming back to my earlier point about delays being picked up early.

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That's an important part of the matrix to which are referred.

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Thank you. I guess you would say that the fact that you're putting in three monthly reports, actually is the evidence which will be used against you in the reasonable endeavours claiming exactly that's why the fact that it's context specific, and the what we've committed to at this stage would all be relevant in deciding what was reasonable in the circumstances. Okay, let's leave that there.

1:49:53

Anything else you want to say on this agenda item or no? Thank you. So those are the only points I had in reply.

1:50:00

I am grateful to you again. Okay, it's now five to four.

1:50:08

And we've been going for a good time. That was very helpful and it was right to wrong a bit. But let's now take a break for a cup of tea if that's your beverage at this stage the afternoon for 15 minutes and we'll come back at 10 past four please. We are now adjourned.