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00:03

Before we introduce ourselves, I'll deal with a few preliminary matters. Can the case team confirm that you can hear me and at the recordings and live streams have started?

00:15

I can confirm that I can hear you, Jessica and the live stream has started.

00:21

Thank you very much, Mr. Williams. So two introductions. I am Jessica Paris, a member of this panel, which is the examining authority for East Anglia, one North offshore wind farm application. And I've another panel, which is the examining authority for the East Anglia to offshore wind farm application. I'm in the chair today, and I'll lead the questioning and respect of agenda items two, four and seven onwards. I'll now ask my fellow panel members to introduce themselves starting with Caroline Jones.

00:49

Morning everyone. My name is Caroline Jones. And today I'm going to be leading on items three and six if

01:04

I could ask Mr. Smith to introduce himself. Indeed. Good morning, everybody. My name is Ron Smith, and I'm the lead member of these panels. And I was originally planning to raise some matters that agenda item five on fish and shellfish ecology, but in the interests of ensuring sufficient time for other more pressing matters. Those are now going to proceed as written questions in the next round. I will also be taking a note of any actions arising from this morning's hearing.

01:31

Thank you, Mr. Smith. Those of you that have been involved with or watched any of our previous hearings will note that the full panel was not here today. And this is a lack to allow the other two members of our panel to work on preparation for the rest of our hearings this week. Could I also quickly introduce our planning Inspectorate colleagues working with us on these examinations, some of whom you will have already spoken to? Emory Williams is the case manager and he's leading our case team, you will have met him in the arrangements conference, and he's accompanied today by two case officers Kj Johansson and Caroline hope Well, hopefully the published agenda papers for these hearings provide a clear explanation of our and your reasons for being here this morning. That is to hold a second issue specific hearing on the topics of biodiversity ecology and habitats regulations assessment. And now you know who we are and why we're here. I'll hand over to Mrs. Jones, who will ask our participants to introduce themselves.

02:24

Thank you Miss powers. Good morning, everyone. Caroline Jones panel members speaking. Shortly, I'm going to be running through our list of participants and ask them to confirm who will be leading their contributions this morning. But before I do just a few things to note, today's hearing is being live streamed and recorded. The recordings that we make are retained and published. Therefore, they form a public record that can contain your personal information and to which the general data protection regulation applies. Does anyone have any questions about the terms on which our digital recordings are made?

02:56

I'm not seeing any raised hands or hearing anyone so we will move forward on the basis that that is all understood. Tending to this morning's meeting. I will now ask the participants to introduce themselves. If organisations attending today have a number of representatives. Could I ask that you nominate a lead representative to introduce your team on behalf of your organisation? Because I know for a number of the organisations here today, we do have several different individuals that may wish to contribute during the course of proceedings would also be helpful if you could let us know at which point in the in the agenda you anticipate participating. Could I first check the name of the main speaker that we have representing the applicants today, please?

03:40

Good morning, madam. My name is Colin Ennis, and I'm a partner in the law firm of shepherd and Wedderburn. I'm instructed to appear at these hearings by Fiona Coyle, divisional solicitor from Scottish renewables, in terms of other parties accompany me, I'm also accompanied by Stephanie mill, from my office, and also Gregory James QC from Francis Taylor building.

04:07

In terms of the agenda matters in terms of items that 234 and five, I have, essentially an offshore team and an onshore team. And I was proposing possibly to introduce my offshore team at this stage. And once we got to item number six, that I'd introduced the team that were appearing at that session, if that was if that was appropriate. Yeah, that's fine. And I'll remember this time. So in terms of the the offshore matters, we have

04:38

three parties attending and they were also in attendance at our first issue specific hearing. So I probably won't give their full CVS because they've already appeared and spoken at hearings on the matters before you. But we have Dr. Mark trender, who is a principal ornithologist at MacArthur green and he has been supporting the Africans on

05:00

On logical matters, he has extensive experience both in assessing offshore wind farms, but also undertaking post operational assessments and also supporting industry guidance. He therefore has a very good understanding of the modelling of seabob population data and the methods of assessing potential effects of offshore wind farms.

05:25

We also have Paolo Priscilla, who is the project director for EIA in respect of East Anglia one, and he's a technical director offshore with royal for scanning, and has led on a number of offshore matters at hearings before you already. I also have shero fella who is a lead project engineer in the offshore team at rescue and who is the offshore consensus manager for East Anglia one and he's staying there too. He has extensive background in managing all aspects of consenting offshore for offshore marine wind farms, and he's been in the field since 2003. And has worked over over 15 offshore wind farms. He holds academic qualifications in marine biology and animal behaviour. And that concludes the team that are likely to be responding to matter raised in the offshore agenda items. Thank you. Thank you very much, Mr. Ennis. Okay, can I move on to representatives for Suffolk County Council, please?

06:36

Thank you very much. My name is Graham gunby. I'm development manager at Suffolk County Council. And today I've got my colleagues Corinne McGrath from Suffolk legal and my other colleague Andrew marywood, who is an ecologist Thank you. Good morning to you. Mr. Gumby. Thank you very much. Thank you. We now move on to East Suffolk Council, please.

07:02

Good morning. And my name is Dana Gould. And I'm the senior energy projects off the surface of the Council. And I'm joined today by James Mayer, who is the east of the council's ecologist

07:14

and good morning schooled morning.

07:18

Thank you and can we now move on to representatives from Suffolk energy action solutions.

07:33

Good morning. Expect inspectors couldn't Fiona Gilmore speaking I will not be speaking this morning. In our C's campaign. We have the specialist Dr. Julian Horrocks, who you already know. And also, we have Mrs. Kenna Mosley, who is a consultant and educator in permaculture and agroforestry.

07:57

Thank you very much. morning to you.

08:02

Okay, could we have the representative from the marine management organisation, please?

08:10

Good morning. My name is Lindsay Mullen. And I have my colleagues Mark Qureshi, Rebecca Reed and jack Cole with me on the call today. I'm a case manager for East Anglia. Two. And I will be speaking to Agenda points two and three. And my colleague Rebecca will be speaking to Agenda point four.

08:27

Thank you very much, and welcome to this evening.

08:32

Thank you. Could we now have natural England please?

08:39

Good morning. My name is Louise Burton. I'm one of the senior responsible officers working on behalf of natural England. With me today. I also have Alan Gibson who some of you will be aware of from previous issue specific hearings and other projects where he represented the MMO. So please don't get confused today. And I will be leading on sections two and he will be leading on sections three. And then a combination of the two of us for the other parts. with us. We also have our specialists and Tim frailing who will be leading on on a theological matters offshore, and also our case officers for the two projects. Lydia tabrizi. And Helen man.

09:24

Thank you very much Miss Benson.

09:27

Okay, moving on to save our foundlings, please.

09:34

Yes, good morning, Paul Jones of save our soundings. I hope to be joined by Richard Reeves this morning but he's having some connection issues

09:43

while I'm here. Oh, you're the Jolly good.

09:47

We would like to

09:50

crazy this morning. Sorry. Sorry. Thank you. Thank you, Mr. Reeves. If we could just have one representative doing the introductions this morning. If you could just turn your camera off while Mr. Chandler introduced

10:00

himself and yourself, please. Thank you.

10:03

Apologies for that. I wasn't aware that rich did

10:08

that several issues this morning. We would like to comment on agenda item six, please.

10:17

Thank you. Thank you very much, Mr. Chandler.

10:20

Okay. And the last body I have on my list is the Wildlife Trust.

10:28

Good morning. My name is Christina Platt from the Wildlife Trust. And I'm marine planning officer. And I'll be commenting on agenda item. And before apologies for the lack of camera bandwidth is acting up today. Nope, that's absolutely fine. Thank you very much.

10:49

Do we have anybody else here that I haven't introduced this morning?

10:57

Okay, thank you. As a general reminder for all our speakers today, each time you speak, could you please say your name and who you represent. This will help anyone watching the hearing to follow proceedings. Anyone who is not participating directly in this session but is observing, it is welcome to set out any observations about what they hear this morning in writing by deadline five, which is Wednesday, the third of February. Now the introductions are complete. I'm now going to raise three issues emerging from the current public health position. Participants in these hearings who would have been involved in the examination since they started we'll be aware that the examination timetables were prepared, enabling flexibility so that if by new year we were in a position to plan for a return to physical hearings, then we could have done so I think it's fair to observe that the Coronavirus situation remains difficult, perhaps more so than many of us would have anticipated. On that basis, the axes are considered but is it important that all interested parties are clear that we now consider that it is most likely that all remaining hearings in these examinations will be virtual equally and for the same reason, the examining authorities have recently taken steps to significantly limit attendance at the site inspections timetable to be held next week. Only people whose attendance is essential will now be supported to attend them. It is important to place on record that the examining authorities consider that the site inspections must be delivered in this limited manner to enable them to be safe and compliant with public health regulations and guidance. Finally, if you do consider that you cannot participate in these examinations in the manner or to the extent that you deem necessary, due to the current public health controls, then please write to us by deadline five, setting out your concerns. The examining authorities will consider any such submissions in our planning for events programme for February until March 2021. And for the remainder of the examination as a whole. I'm now going to hand back to my colleague Mrs. powers to lead the next part of this session.

12:56

Thank you, Mrs. Jones. So this morning we're holding issue specific hearings three for both East Anglia, one North and East Anglia two projects in parallel. So there's a single agenda on both hearings, which was issued on the eighth of January. To make most efficient use of the time we plan to deal with

the two applications together as we work through the agenda. But we do have the discretion to discuss any matters that are unique or specific to just one of the applications as they arise. I will just mention deadline for was at midnight on Wednesday last week, and we received a high volume of submissions. And those submissions were published on our website at the end of Friday afternoon. So we acknowledged that there's been a very short amount of time for the parties here today to read each other's deadline for submissions. And we don't expect you to have digested them fully or prepared complete responses for them for today. And we also do recognise the additional pressures on many parties at the moment due to the national lockdown and school closures and we are hugely appreciative of your time today. We will refer some of the submissions received at deadline for but if you're not in a position to comment on them today that is understood and we will ask you to do so by deadline five which is the third of February

14:05

and following receipt of deadline for submissions, we have decided to focus our agenda on the core topics today of offshore ornithology marine mammals and terrestrial ecology. This is to make the very best use of the time and the expertise that we have with us today. Those biodiversity topics that are not covered in the hearing today will be examined through our risks and questions and if necessary at our third biodiversity issues Pacific hearing, which is currently programme for the 18th of February.

14:32

We have a specific hearing for this afternoon programme for a TPM start. So we will expect to conclude this morning's hearing by about 1pm. Before we move on to the main business of the agenda, then does anyone have any questions of a preliminary nature about today's hearing?

14:51

And I'm not seeing any hands going up or cameras coming on. So I think we'll press on straightaway then to item two which is

15:00

offshore ornithology. Okay, so our agenda here sets up the main topics we'd like to cover in relation to offshore and psychology, and generally areas where findings about effects have not been agreed between the main parties. And there have been a number of submissions on this topic from the applicants natural England, the MMO and RSPB deadlines three and four, I won't recite these positions in detail, but there are some clear themes in those data submissions that we need to cover today. So I think we'll make a start then with item two A, which is the red throated Diver of the eight out of 10 of estuary special protection area wspa.

15:34

And the disagreement here relates to whether or not there would be an adverse effect on the integrity of the outcomes as best jspace is a result of displacement effects on the red throated diver during the construction and operational stages of the projects. Since we met. last issue specific hearing one, the applicants have submitted a revised red throated diver assessment and an offshore order limits reduction for East Anglia, one north

16:00

and natural England have submitted some comments on that a deadline three and more a deadline for

16:06

natural England submissions raise a series of technical concerns with the applicants revised assessment and have also included some separate legal submissions on the applicants approach to assessing red throated diver displacement in respect of the habitats legislation. And we will come to the applicants in just a moment. But I would like to first come to natural England, if I may.

16:28

At natural England, your deadline for submissions are clear. And we will await to the Africans for response to them. But I've had a couple of questions on the content, please.

16:43

Can I have the cover on for whichever lead a member of the natural England is? Thank you. Thank you, Mr. Burton.

16:51

And you're on mute.

16:53

And I was just going to say is it possible for both Mike and myself and my colleague, Tim frailing to be on video at the same time? Yeah, that's right. That's fine. There should be adequate capacity for that. Thank you. Thanks very much.

17:10

Good morning, Mr. failing. I just want to point out the headline position before we dive into any more of the detail, so for the avoidance of any doubt, is it accurate to say that you're currently unable to agree that there would be no adverse effect on integrity for both the project alone and in combination effects for both East Anglia, one North and East Anglia two projects

17:31

Louise Burton natural England and for East Anglia, one north, its adverse effects on integrity alone and in combination for East Anglia to eat for in combination. But until further work is done on in relation to the modelling and validating the the modelling outputs, our position remains flexible. Okay.

17:58

And so for East Anglia, one North your view out the two kilometre buffer that was introduced at deadline three, is that was it's welcomed, it's not sufficient to mitigate the impact of displacement to an acceptable level, and therefore, you're not able to rule out an adverse effect from the project alone on that basis. Louise Burton, natural England. That's correct. Thank you.

18:20

Okay. And

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just on the point of your D, I think it's Appendix A 14, your legal submissions, the points made there understood. And we know your view, there's some areas of law in the red throated diver assessment from the applicant the lead to some incorrect conclusions. Can I ask in your opinion, what is the remedy for the areas that you've highlighted?

18:46

So the applicant sorry, Louise Berta, natural England and the applicant has included for illustrative purposes, and the figures from the existing wind farms that are having ongoing impacts within the Thames. SPM. However, natural England's view is that those projects are resulting in the actual SBA being an unfavourable condition, and that there's already an adverse effects and integrity occurring. So from that position, it's it should be in those projects should be included in combination. And any additive impact from either East Anglia, one north or East Anglia two, should be avoided as much as possible.

19:29

Okay, thank you. That's clear.

19:32

And so I would like to bring the applicants in in and we'll come back to you again, natural Indians on this, but to bring the applicants and noting the deadline for documents are legal in nature and technical, and we don't expect a full response, necessarily today. I would like to invite the applicants to make any kind of preliminary comments in response to the deadline for submissions from natural England and specifically, there's appendices a 12, and a 14

20:00

Good morning.

20:02

See me, Mark Tinder for the applicant. Thank you We can see Oh, see Colin has joined just calling want to make an introductory comment. Now I was going to invite you to speak and I'll perhaps add a bit after you've spoken, but I think I'll let you kick off our doctrine. Thank you.

20:22

Okay, thank you for that, yes, we haven't had a great deal of time to, to digest the comments from naturally. And although in fairness, they had given us some informal advance notice of the nature of their comments on the analysis work that has been done.

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I think we can, we can respond and and address most of the comments that have been made in terms of the technical aspects, the methodological concerns that were raised.

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And we will be doing that in writing, I don't propose to go through the details this morning, because I think that would very quickly spiral off into an extremely technical discussion, but that would lose most people.

21:09

Which is not meant

21:11

for reflection on the current audience, of course.

21:16

However, I think our position is that irrespective of the magnitude of effect that we're discussing here, and whether that's, as we propose from the work that we've done, which we stand behind completely, it's, it's a solid, robust piece of analysis undertaken by an independent, academic, classical University.

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Or whether the the effect is as large as natural England is proposing. So this is a difference between displacement to seven kilometres or 11 and a half,

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we would

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say that the the effect is, remains very small.

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And this is primarily East Anglia, one North that I'm discussing here defect from East Anglia to we think is negligible, probably undetectable.

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And

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natural England's position is one where it's a it's a very simple black and white issue that if the wind farm is within those distances of the SP a boundary, then that's an adverse effect. And our position is that you can't divorce the population scale from that discussion, because the numbers involved are so small, that the purpose of the SBA which is to safeguard this species, is not at risk from the project alone. impacts. Okay, thank you.

22:49

And I lost that for a minute to respond to that in a moment. I just had a question about how you plan to met perhaps this is a question from Mr. Ennis, about how you plan to respond to those legal submissions that have come in whether you plan to take on board the points made and revise your assessment accordingly, or whether you plan to submit kind of counter submissions on on a legal front.

23:14

Miss doing this? Yes, colonists on behalf of the applicants, I think it'd be fair to say we're not in agreement with natural England's interpretation of the directive.

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And the regulations, and we'll be submitting a counter position. But I think in terms of this examination, one of the key focuses is trying to get the validation. So we can agree, essentially the evidential basis on which we layer on top what what the consequences are, and whatever legal consequences are. And we'd be very keen to carry on working as we have done with natural England on those matters to make sure that effectively we can bring to the examination, a position that is as agreed as possible. And if there remain any outstanding technical aspects, that those are truly thrashed out as much as we can before we if we had to end up ventilating them before you. And it's at that point that we end up with perhaps the ranges of outputs from both natural England and our own assessments. And at that point, we would probably be in a best position to submit essentially, our legal position in its final format.

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We would probably hope to do this once rather than going backwards and forwards on these matters. And that's that was our current intention is to try and proceed to to narrow the technical and analytical aspects and then to put our respective positions before you

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in terms of the examination, okay. So looking at what we, you know, what we have left in terms of time and examination and when we're going to get

25:00

To these various milestones you've just outlined, what's your What's your plan? What what what are we going to get revised isn't a technique that d d five, I'm guessing?

25:11

Yeah, I would anticipate hopefully D five for further further response on the technical aspects. I mean, obviously we carry on working with natural England through an act with the deadlines, and probably around deadline six for our submission deadline six or seven for our submission to try and get mappers, crystallised before you. And equally understanding the extent to which it may be necessary to hold further hearings in relation to the matters that we either are or not able to agree with natural England on on those on any of those aspects.

25:48

And I think that that really, we really appreciate the importance of trying to get that to a stake when you can plan ahead and work out whether a further issue specific hearing would be required in relation to these matters. And that's what we're really working to an audit to achieve that we really need to push to try and work out the extent of any differences that are ongoing, so that those can be properly examined. So roughly, I think we would have a clearer picture by by deadlines six as to where we're at deadline

five is quite a short time in terms of responding to technical matters. So I think clearer, probably more likely deadlines, six would be more realistic. Okay, thank you.

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And I hear what you're saying about your specific hearings, obviously, what we are planning on the basis of at the moment is a

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further ish, which is number seven, I think in on the 18th of February, and the moment, we have half a day scheduled for that. And I have to say that's looking rather optimistic. And we also have a potential in our timetable for some time in March. But that's certainly not designated as such. So

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obviously, bearing in mind times for notification of hearings, if and, and ultimately, the fact that by deadline six, we're six weeks from the end of examination. And, you know, we need your position on this fairly shortly, I'd say by deadline, but we do need to know where you stand in terms of additional hearing time, if that's what you're suggesting is required.

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We would incorporate that and then the deadline five submission.

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We'll try and work on that from crystallise exactly what is an issue and to help help you programme and understand where we are. Okay. I've got a hand up from Louise better natural England, please.

27:43

Thank you, Louise better natural England, and also welcome the applicants position and acknowledgement that technical issues take quite some time to deliver just recognising that we're not going to receive the updated or the revised modelling outputs. Until deadline five, which is on the third of February, it's very unlikely that we will have had full opportunity to have fully reviewed them and inform a discussion on it for the 18th of February. So I was just wanting to put a marker down now, on that from natural England's position, it's unlikely that we will be in a place to move things forwards by the 18th of February.

28:24

Thank you for that, and we are in we're in that position now, aren't we that we've got, we need a certain amount of time to digest the evidence that still to come in. We also up against pretty hard and deadline in terms of these examinations. And our focus is on getting as much evidence as possible within these examinations. Firstly, if we can get as much agreement as possible, then that's where we want to be. But if not, then we need to be able to have everything in front of us in order that we can in the recommendations stage, we can come to a view on these matters. So

28:59

completely take your point. That is acknowledged Louise better natural England that is acknowledged. And we also wanted to just raise the point that we're we're having capacity issues across natural England due to the recent the current lockdown restrictions and homeschooling. And so this is the point that we are raising that we are finding it incredibly difficult to meet the deadlines and say I'm just raising that point where we have that and we will be raising at a deadline five, the capacity limitations we have. Thank you and we've noticed that from your deadline for submissions as well. So and that's that's understood.

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Okay, and

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so I think we're clear about what's happening next. I just wanted to quickly come back to the applicants if I may on the RSPB submissions that we've had at deadline for

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they are stating a deadline for that the their position on projects alone and in combination effects is under review following the deadline three material it's wonder if the applicants are able to find

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Right, any update on the engagement with the RSPB or those positions?

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Mark Tinder for the applicant?

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No, we're still reviewing the information from the RSPB and we will be providing responses at the next deadline on that. Okay. Thank you.

30:24

Okay, I think I've got a hand up for Mr. pizzaiolo for the applicant.

30:31

And also miss Burton, who I'll come to you afterwards. Thank you. Good morning, Mr. Taylor. Good morning politics, South Africa. Yeah, just to highlight obviously, as Mark said, we're still looking at what the RSPB has put in, but they have been part of the workshop process that we've had. So they've taken part in the the first workshop we had on the 27th of July, and then a workshop in October, and then a workshop in in December. So they've been part of this process and are fully aware of the modelling that we've done. Okay.

31:03

And can I come back to miss baton from natural England please?

31:10

Yes, I was just going to say sorry, Louise, better natural England, I was just going to come back to the points raised by mock Tinder on behalf of the applicant in relation to

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effects on populations. And I invite my colleague, Tim failing to respond on those points, if possible, please, thank you. That'd be very helpful

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to failing.

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Thank you. Yeah, I just want to make a couple of points around what Dr. Chen just said around irrespective of the magnitude of the effect, whether that is seven kilometres as their modelling is, as shown, or if it's 11.5 kilometres as the modelling in the post content monitoring work at London array showing.

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I just wanted to focus on the fact that the

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the the mitigation proposed is two kilometre buffer. And so it's dependent on what happens with the with the modelling, it seems clear now at this stage, that it's that that isn't going to provide adequate medication. And I think the reason I think why there's a confusion over at work, or difference in opinion on positions here is the applicants focus on the the abundance attribute of the conservation objectives, but we need to note that there are several conservation objectives, all of which need to be

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meet needs to be fulfilled. So the

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the issues that we're focused on is the conservation objective relating to the maintenance of distribution of retro divers within the hallway history and the maintenance of the supporting habitat. And what's clear from from both the Atkins modelling and from from evidence that we know that the

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the extent of displacement on retro divers does exceed two kilometres. And therefore,

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the the reason why we are saying that we cannot rule out an adverse impact on Tegrity alone from East Anglia, one north is, is the impact on the area of

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the era of supporting habitat that's going to be affected. So it I mean, and it's interesting to note that before the before the application, we had similar concerns with East Anglia, to which was likely a one

immediately abutted, the SPS SDA boundary. But now that had been moved back 8.3 kilometres, as Dr. Trender said that we you know, there's like,

34:06

a residual impact on that event this step still mean, there still may be an impact. And we still need to see that as part of the in combination assessment. But the fact that it's been moved so far away,

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as has led us to that position where where we were no longer saying that adverse effects on Tegrity alone v two. So I just wanted to clarify that point about conservation objectives. Thank you. And I can see that that that's the theme and your deadline for response as well, which is very helpful. It does does the applicant wish to come back on on that particular point?

34:44

Hi, Mark, tender for the applicant. And I think we don't dispute that the extent of displacement is more than two kilometres. I think we're definitely in agreement with Natural England on that. How far that extends. Yes.

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There is there remain some disagreement over that that magnitude extent, which is why we undertook the modelling natural image request.

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However, we do think that there is a, it's a sliding scale, it doesn't it's not a complete exclusion all the way out to the age of whatever that distance may may in reality be applicable.

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And so by the time you get to the far end of it, the effect is is reducing to zero. And that that is a material consideration in the actual ecological consequences of this. And we think that that's an important consideration here. So

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to summarise, I think, yes, we agree that the wind farm will have an effect, there was a submission at deadline three, which clarified why two kilometres was the maximum that the project could move his boundary back away.

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And we think that given the magnitude of impact, there is no further justification for for further withdrawing. But But this does boil down to

36:13

how to control conservation objectives are interpreted and so that, that now we're straying more into the legal considerations that Mr. Ennis, will, will provide responses on. Thank you.

36:26

Okay, I think, really, we do need to now await that deadline five submissions a detailed response to what's been put before us that deadline for from natural England needs to come forward from the applicants a deadline five, and it sounds like you're, you're also be continuing behind the scenes with work to try and move towards agreement on the modelling. And so I think we will, we'll move on just I wanted this couple of other things under the resume today that I wanted to cover the first being the best practice protocol, if I may. And so, the draft document specifically deadlines three, along with provision in the draft and the draft DCA is for it to be a certified document with which the eventual project environmental management plan, the pen must have caught under condition 17 and 13 of the draft emails. And I can see that the provision of the protocol and itself has been welcomed by natural England and MMO. But do you have some queries about the kind of the content and the approach to that document, and so probably to the applicants First, the documents purpose, this best practice, protocol is purpose is ultimately to assist the MMO in discharging the pre commencement condition, I'm just wondering whether it needs to provide slightly firmer commitments appreciating there right, there is still a lot of uncertainty here. And I'm just wondering about the way in which is couched at the moment, whether it should be more in terms of the pimp wills or commitment of what the pimp will do or should do, in order to try and seek to minimise disturbance on the red throated diver.

38:00

Rather than what feels at the moment, like a brief and and fairly non committal statement in there. We've also got natural England's suggestions, a deadline for about additional areas of detail for inclusion in that protocol.

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For example, more detail about the avoidance and mitigation of vessel transit during sensitive time periods. And if the use of helicopters is, is part of the

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the maintenance plan, I just wanted to get to can slide to respond to any of that.

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Hi puppet so that for the applicant, I mean, the document that we've submitted is in line with what was put in place for East Anglia one, and similar to what was put in place, East Anglia, three, which is originally a natural England document. It is very high level, etc. And obviously we're looking at the more detailed comments that naturally members made in terms of how vessel movements, etc, would be controlled in a more detailed way. So we'll look at that and we will provide more information at deadline five. Okay, thank you. Any other parties that would like to raise the thing about the best best practice protocol this morning.

39:19

I'm not seeing any hands coming up.

39:23

So I'm just going to move on to the offshore in principle monitoring plan, which was a another revised document a deadline three, which came along with the new DML condition wording relating to pre construction and post construction, ontological monitoring, and against come to the applicants. And so essentially the new wording in the DML conditions 20 and 20. To secure any ornithological monitoring required by the monitoring plans submitted in accordance with condition 17 which is itself a requirement for pre commencement approval by the MMO for monitoring plan, which accords with the in principle monitoring plan. As simple as that

40:00

demo wording is identical for both projects. But the actual in principle monitoring plan content is not identical for the two is it? The most notable difference being that for EA, EA one north, there's an our table three, which contains monitoring proposals in relation to read through to divert displacement, but there is no comparable table or monitoring proposal for East Anglia to So could I just ask you to explain that the reason for the difference in approach on the two projects?

40:29

You're on mute Mr. Pitts, ala?

40:32

Sorry, palpate solid for the applicant? Yeah, obviously, we've updated the decio, the DML condition for both projects, which was the intention. And

40:43

with the the update of the principal monitoring plan that fell through the gap somewhat. So the I think, if we were required to do any monitoring for a one North anyway, the area that we'd be interested in would cover both in any case, so yeah, I, I think it will be in for both, we'll update that. But obviously, natural England has suggested that they've got comments to come in terms of the technical scope of what we might want to put in there. And I believe natural England have got comments generally on the purpose of implantable monitoring plans across the industry that they might want to be

41:25

putting in. So we'll also need to take account of any of those comments as well. So it's an ongoing discussion. So that was a that's not a deliberate admission on the AP MP for EA two, it was

41:38

something that we'll see updated at deadline five, but something Thank you. And we'll update it when it makes sense to update it. So if it's, we'll wait to see natural England's comment deadline five. All right, fair enough. Yep. Okay. And natural England, you have just if I could ask you on that you have raised the deadline for some fundamental concerns about the offshore I PMP. And you said there's going to be more detail coming at deadline five, I'm just wondering if there's anything more you can say today about the nature of your concerns.

42:11

Louise Burton, natural England. And it's not necessarily an issue with East Anglia, one North and East Anglia, two in principle monitoring plan. It's the use of the in principle monitoring plans more widely.

42:25

We're getting a lot of feedback now from projects going into the construction phase. And an understanding of how those in principle monitoring plans are then taken forward into monitoring plans for for the pre during and post construction. And we are finding that they aren't all necessarily the same. And they may no longer be fit for purpose, some of the things that have been included previously. So we're doing a review of all in principle monitoring plans, and to ensure that what the document is not just fit for purpose for consenting, but actually understanding what the applicants need to do when they're developers and taking the project forward. Yeah, we're very conscious of that. And obviously, you know, there isn't certainty yet even about who the undertaker would be. So even if our current applicants understand what's in there, it's not to say that given the provisions of the DTC that allow it to be transferred, that that would necessarily

43:24

follow through. And so you'd say you're doing some work about that now, is it? How will that feed in back into our examination? Is that going to happen in the timescale of this examination? Yes, the intention is for deadline five. So we do already started this before we received the principal monitoring plan for East Anglia, one North and East Anglia. Two. And but we've now escalated that process, and so that we can, hopefully provide an outline of what we would like to see in an in principle monitoring plan, where the current one that we're referring to could be bolstered and improved. Okay. Thank you. And would you say that there are

44:02

there are good sort of best practice examples out there as there are, there are projects in which has been done? Well, that you would be able to point to as examples or

44:11

no.

44:12

So there are good bits of all, is what I would say. And, and and they were originally brought in by scottishpower. For for these Angular projects, and they serve their purpose for consenting is what I would say. So we just now need to make sure that we've

44:30

squared or completed the loop so we know that it's fit for purpose post consent. Okay, thank you.

44:38

I wonder if I could bring in the MMO there and given your role on the deanery licences and monitoring and sort of the delivery end of some of these provisions. I'm wondering do you have any submissions to make about the offshore ibmp or those new DML conditions today?

44:58

At Lindsay Mellon marine management organised

45:00

And we don't have any comments in reference to on ufology we defer comments on that sort of subject matter to natural England. We are continuing to review deadline for responses at the moment and and hope to provide future comments a deadline five if necessary.

45:16

But we do just sort of, you know, assume that this will all be captured within the conditions and will continue and dissolve liaise internally and with natural England to make sure that's all covered. Okay, thank you very much.

45:28

Okay, with the African ledger respond to what they just heard there from natural England about the IPM peace.

45:38

pallets are left for the applicant.

45:41

When we await see natural England comments, obviously, the key point is obviously that these documents are in principle, they're intended to be high level, and they're intended to set a framework for the post consent environment not to become another point to discuss ad infinitum during the examination and the consenting process. So that they were set out as a framework. And clearly we will take on board what naturally means saying, but we don't believe that this is the appropriate stage at this point. I have so many issues with Rochdale envelope and product design that it's the correct point to nail down exactly what we need to do several years hence, for an impact that we potentially don't know exactly the shape of at this stage.

46:31

Okay, thank you.

46:34

I'm just going to ask my fellow panel members if they have anything else that they want to cover and the topic there to a on our Thames Estuary sspa.

46:49

Can't see anything.

46:51

Okay, so in that case, I think we're going to move on

46:54

to the Flamborough Valley coast SEPA. And here the disagreement relates to whether or not there would be an adverse effect on the integrity of the SBA during the operational stage as a result of collision mortality for Kittiwake and Gannett, for displacement effects on gannet get them up and Razorbill and for the combined effects of collision mortality and displacement on site seabird assemblage. In all cases, the disagreement relates only to the potential effects of the project in combination with other plans or programmes, at least, this is my understanding. And if anyone wants to,

47:26

let me know that that's not the current state of play, then please speak now. I'm just going to come to the applicants and ask for a brief update as the current status of agreement with natural England in relation to this SBA

47:39

Mark tender for the applicant. And I think the so we put in a couple of submissions at s3 and I think also for which updated the various aspects of the the assessment in line with natural in those comments. were awaiting further kind of comments on those, but I don't think they will have materially changed those in combination concerns. And all we can deal with is the project alone aspect, of course.

48:14

So I think that our positions remain as they were, we don't consider there to be adverse effects, certainly from the project alone and natural England degree. And we also don't consider there to be in combination effects. We would also point out that the project's contributions to those in combination effects, whether adverse or otherwise, are extremely small. But I will, I think, probably better for natural England to provide a response of where they see the current situation. Okay. I will invite natural England in Miss Burton, if you would mind letting us know what you consider to be the current state of agreement.

48:57

Hi, and natural England Lu Burton on opposition that was set out and I'm just checking the rep rep 3116 and rep 3117 hasn't changed. So our position remains as set out there.

49:16

And we will work with the applicant should outdated figures be provided. I think there is an intention to do so. Okay, thank you. And we had obviously at deadline for and updates the cumulative and in combination collision risk assessment again to reflect the reduced offshore order limits for East Anglia one north and also reflects their the Secretary of State's decision on 31st of december two grand consent for Hornsey projects three. This update that also presents the consent positions for East Anglia one Andy stone Anglia three rather than the reduced totals that were presented previously, for which took into account the non material change request that hadn't yet been submitted or determined. So while I'm

50:00

Got your natural England, I was just wondering, your deadline for cover letter raises some concerns about the legal security of non material change requests and then the Atkins handling of that. I just wanted to check whether you could expand on those on those concerns, please.

50:14

So, Louise, better natural England, this is an ongoing issue for natural England and various interested parties as to whether or not and the non material changes are legally binding sufficiently so that

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there would be no further development beyond those non material changes. And it would restrict the development such that it would provide headroom potentially for further impacts. Natural England is looking into this as part of a project that we're leading on in terms of headroom, and included within that is consideration of non material changes and how they feed into the process. So natural England intends to update and I can't say that it will be deadline five, but deadline, six of you on non material changes, the concern being that if you have consent for a project,

51:17

can you build out beyond your original build, and and on what is the risk? Can you therefore say that it is actually valid headroom.

51:28

And so you're talking about non material change route applications that have been approved by the Secretary of State? So for example, with the one we've got at the moment, the East Anglia, three which out and also I think, the forthcoming East Anglia, one, which which brings down the total number of turbines just in accordance with what's actually built. So a reflects that you're concerned that even if that is an approved application, that you that there could still be the ability for further development under the DCA. That's correct. Okay. Yeah. We're very interested in that in the legal submissions on that point. Yeah. So would I, is it is it building on practice? I'm presuming it's building on practice on other cases that are, as implementation happens on some of these cases and changes are made retrospectively. That's correct. Yes. Okay. Thank you, does the applicant have any views about that?

52:22

particular for the applicant. Obviously, as you've highlighted for the deadline for submission, we've removed the non material change from that. So that, again, we can be working from effectively a common position for the understanding of what those impacts are for all the projects. Obviously, the non material change for a three is in progress, and the eight one will be submitted. So the arguments around that are the same in terms of the various built out concepts and whether or not you can do this or that, in the note on precaution that we provided. I think that was actually prior to that was in the additional submissions, perhaps before the examination started properly. We did go into exactly why the practicalities of build out beyond what you've actually built is is just not realistic in terms of practically how you would do that when you've ordered 100 x turbines, that's what you've ordered. You can't go to Aldi and buy a turbine, it doesn't work like that. And also, I think the fact that if we have built out we've discharged a number of plans such as the design blind, etc, etc, which include the cable layout, the clutter, the platform layout, the turbine layout, so you couldn't then just add in a couple of

turbines willy nilly, you wouldn't there would have to be some sort of either material change again, or a new DML or something. So it isn't it just a case of plunking on a couple of extra turbines. But we've made that case already. And again, as far as we're concerned. That's kind of history as part of this. We provided the we've we've left the as built conversation behind. We've provided the in combination numbers that are the ones from the North Korea's position that everybody's in agreement with. So

54:21

you know, we've moved on from that point eight, we've made the point but we obviously recognise that it's it's not a fruitful line of debate. Okay, thank you very much. I think my colleague, Mr. Smith would like to come in on this point of non material changes.

54:38

Indeed, thank you very much.

54:41

I just a very brief point, and I'm not going to ask for it to be responded to directly now but if it could be picked up in, in writing to the next deadline that will be very useful. It again gets back to a conversation that we have had in previous hearings, and with Mr. Ennis around the day

55:00

degree to which and concerns about the potential to build out. And any project and other projects particularly

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rests on the scope of what was consented and that there's a there are timing issues and security issues around non material changes. Now, I guess what I again, just wanted to lay on the table was the possibility that if not, England are seeking specific commitments around

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build out limitation whether there are any other forms of

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enter into the wall provide security that would reassure natural England. And so that could include some form of sides side agreement, contractual agreement or indeed planning obligation, I'd, again, I'm just laying those on the table, noting

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that the applicant has moved away from reliance on non material change adjustments to East Anglia is one on three.

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Just put that in there, put that in the pot and think about it, because it may well be something that that enables a possible move to a higher level of confidence, and in natural England, and the level of security that is apparently being sought here. I'll hand back to miss Paris. Thank you, Mr. Smith.

56:32

And I think we'll move on then, just briefly, we have we have touched on the Hornsey three decision which came out at the end of December. And in our December hearings, at the beginning of December, it was noted that there was some updated in combination assessment also additional survey data that had been submitted to the Secretary of State to support the Hornsey fee decision but was not at the time publicly available. I think it was put to us that if that evidence had been published alongside Secretary of State's decision for Hornsey three, that it might be helpful to these examinations, for example, to avoid building unnecessary headroom into the overall cumulative and in combination totals, particularly for Gannett. I just wonder if the applicants have any update on this has any of that additional material made it into the public domain following the Hornsey three decision?

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policy so for the applicant? Thank you know,

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the we've we have there's nothing new obviously, the decision date first to December clarifies the, the what we know about the Kittiwake numbers, but none of the other species numbers have been updated. So the deadline for submission that we put in

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in line Well, we haven't changed any of the numbers which we previously had, which is in line with the advice that natural England provided previously and have repeated in their deadline for submission. So Kittiwake, we've accounted for and that for the other species, they remain the same case that allows the boreas deadline eight Yeah. Information Desk. Okay. Does natural England have anything valuable? To add on this question? There is better natural England. And I wouldn't say it's particularly valuable. But what I would say is on the back of the decision made for hunting projects. We we have and are going back to both Allstate and Bayes on behalf of the Secretary of State to request those further figures and updates for all of the species. Okay, and do you have any indication of whether that's going to be forthcoming? I'm trying to understand why would why it wouldn't be coming into the public domain. It should be coming into the public domain and it will be coming into the public domain. It's just when and it's a case of chasing that down. It seems quite positive from an Ofsted position.

58:53

That they have approached and said we understand you're you're looking for the figures. And so we're hoping that they will be provided, however, we will still have to check with the Secretary of State Bay's that that is their understanding of the figures. Okay, thank you. That's very helpful. Okay. And we have in the agenda there. Something about the wider applicability of the Hornsey three approach in terms of how they've secured the HRA compensation, but I'm going to suggest we come on to that under two D which is to look at the applicants when we look at the applicants without prejudice derogation cases. So we will just come on to the less black back Girl of the old or St. Louis SBA. And the disagreement here between the applicants natural England relates to whether or not there would be an adverse effect on the integrity of the old Doris jsa as a result of in combination collision affects unless a black girl during the operational stages of the project and come to the applicants past please Are you able to provide an

update on the current status of agreement? The natural England please? Smart Tinder for the applicant?

1:00:00

There has been no further discussion of this topic, the the updated collision estimates that, apart from that, we've obviously updated a deadline for for the revision to the East Anglia one North boundary. So we have slightly revised and the non material change differences that Paolo has already mentioned.

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So the the assessment is now I think, and the numbers are now all the finalised agreed,

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agreed ones between all parties.

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But we haven't there's been no further further consideration of where each other's positions are, ours remains that the impact from these two projects is extremely small.

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And I think naturliga would agree with that. And it's all about the in combination consideration to which again, we would say our contribution is extremely small.

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And we're at that point now, when we will start to consider the further implications of that difference of position, assuming that remains the case, again, obviously allowing natural England to provide their deposition. Thank you. All comes natural England, then please Would you like to

1:01:11

raise any matters about this really matters about this site today? Louise Burton, natural England. And just to confirm Dr. Changes position is correct, that we haven't had any further updates on our position since rep 252 and rep 147. We will work with the applicant once we've seen and reviewed the updated collision risk. And it is it has remained in combination concern for ourselves. Okay, thank you.

1:01:50

Okay, so I think what we'll do, then I'm just looking at time, and I'd like to spend a bit of time on on Part D of item two, which is the without prejudice, HRA, delegation cases and compensation, which is I think we'll move on to that. And so at deadline three, we've received this from the applicants on a without prejudice basis. And the applicants do maintain the position that there would be no adverse effects on the integrity of any of these sites, as a result of either the project alone or in combination. And this material is unique to each of the projects that use Angular one northeast Angular two material is different and important difference being that the derogation case red throated Diver of the atoms spsp as presented for East Anglia, one North but not for East Anglia to

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natural England. Can I ask you first whether that's an approach that you're comfortable with?

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Louise Burton, natural England. And as we set out that

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at the moment until we've got updated, alone and in combination figures for the project based on the modelling points we raised earlier, and we're not in a position to say that nothing needs to be done for East Anglia today. It remains in the mix. And so at this time, we can't respond to any further we have said and set out in our deadline for response that we would respond further at deadline five on this matter. Yeah, okay. It's slightly but it notes on the dishes properly likely to be deadline six, given that the modelling won't have been updated until then. Yes. Okay.

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And

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can I ask the applicants about

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guillemots and Razorbill of the Flamborough Valley post SEPA and the reasons for not including those species those features and within the derogation case for the project?

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Mark Tinder for the applicant, and we've not included those because we don't consider there to be an adverse effect to be compensated for is the short answer. Okay. And natural England is that something you can be in agreement with?

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Okay, at this moment in time, our advices as per deadline for and we'll wait to see the further information before we confirm one way or another.

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It feels as if the we need to get to the end of the discussion on the modelling and agreeing the data basically before we can ask for further updates on some of these things like the derogation cases and the compensation measures that the African agree that's the correct approach.

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Tinder for the applicant? Yes, I think I think so. We're still we're still in a situation here where where there's a little bit more work to be done. I would just also note on the question of the kilowatt and Razorbill that the actual

1:05:00

numbers of birds predicted to be impacted by the two projects use point 2% of the population 0.2.

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And so that that has a material consideration in our in our opinion as to whether or not there's an impact here from these projects. Thank you.

1:05:19

I'm sorry, I'm just to spare time by sorry, Louise better natural England, just to clarify that in relation is not the modelling of per se. It's the in relation to the Hornsey project three figures, etc. So I was I was being too succinct, and not including 100 project three outcomes. Okay, thank you. And I can see that in the in the work that we've got so far we have the handling of fonzi. Project four is obviously included. And why is it that the data is presented with it included and excluded? Does natural England have a view about how that should be considered in the in combination totals?

1:06:05

Louise Burton, natural England, Hornsey project for is due to imminently submit their application

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we are our understanding is that it will be within the timeframes of this examination. So therefore, because it is in the planning system, it would be a material consideration for the Secretary of State and undertaking the Habs Rex assessment. Therefore, there there needs to be figured with and without warranty for included within any assessment undertaken. Thank you. Does the applicant wish to come back on that?

1:06:52

Mark tender for the applicant. We we support natural England in in this approach. And we understand that their position on that and we've provided the data as as requested.

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It remains an ongoing challenge with these projects where the status is somewhat uncertain. So this seems an appropriate approach. Thank you. I think our latest information on that is submission of one c four in mid March, which could be within the timescale of this examination. Not very convenient to say at the end of the examination, but we obviously will see what actually happens with that.

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On the compensation measures document, did you want to come back on that?

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Sorry, is Mark tender for the output, just to say that obviously, if it's mid March, then we won't be in a position to update our assessments. Just to just to be very clear on that, obviously will mean something that the Secretary of State needs to we need to take into account and in whichever way he sees fit.

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Okay, on the safety measures plan, and I can see that the National Insurance deadline for submissions there are there are a range of measures that natural England considers to be

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should be under active consideration. What we have in the applicants is a somewhat more refined list and they have included them in a sort of initial screening about why certain of those options have been rolled out. And I was particularly interested by something from the actual net natural England about artificial nesting sites as Kittiwake compensation and sort of to ask a question about that. You've mentioned in deadline for about a number of offshore wind farm projects in the planning process, seeking to use artificial nesting sites as their compensation for Kittiwake and there being a sort of limit the availability of sites available in this part of the North Sea for artificial nesting structures. I just wanted natural England could elaborate on that please.

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It's better natural England.

1:09:01

So each of the projects starting from Norfolk Vanguard, Norfolk Borealis warranty project three, East Anglia, one North East Anglia two and also haunted project for a role proposing to have to construct artificial nest sites. And the issue we have with this is one of how how much you need to compensate for so whether that's like for like or an increase of that. And then the actual true locations of where it will be beneficial so that it will be beneficial to increasing the population that is the Flamborough and finally coast fspace.

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So in looking at that, you've got to have a location that's not too close to an offshore wind farm to create an added collision risk as it were, and that there is adequate prey availability

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And taking into account all of the all of the constraints around that. So it gets to a point where the success of actually providing nest sites that actually provide that compensation becomes lower, the more you have out there. And in addition to this,

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it's not yet to be proven as a compensation technique for the marine environment. And so logic says that it's got a fair chance. But as the RSPB have set out on New Year's Day and a BBC article, and there is a concern about whether or not the Hornsey three

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compensator measures will actually deliver that compensation. And what we need is to understand that delivery before we can actually say that it that it will work, and and at what scale it could be rolled out at IE, is it appropriate for one project? two projects, three projects? And what what is and isn't achievable as a compensation measure? So we're advising that more and more alternative options are also taken forward. And do you have a view about what the most appropriate alternative options would be for getaway. So we've advised in our deadline for response, some high level ones that we've we felt that shouldn't be taken off the table. And a lot around that is around prey, availability and consideration of

that. We recognise that this may require strategic thinking in relation to delivery. But it shouldn't just be taken off the table. And so do you accept that if we're talking about things like fisheries management, that is sort of outwitted out with the control of the app, particular applicant for a particular project? This is something that would require a more joined up approach or not necessarily? Not necessarily. And so what we are planning to do, and this is why it's only interim comments of saying we don't think they should be dismissed at the moment, is to review this in further detail for deadline five was our intention. So at this time,

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we feel that there are options available. And and because it's particularly difficult for one particular project to deliver a loan shouldn't stop that compensated measure being explored, and and our advices to the Secretary of State in their in their decision making. So that's why at the moment, we are we are saying that further options should not be excluded. Thank you. Can I ask the applicant to come back on that? Does that does anything you've had that change your decision you've made in your screening for compensatory measures, for example?

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mock tender for the applicant, Paolo, I'll just ask you to come in after me if that's all right. I just wanted to make one small point. And I'll let Paolo then then pick up from there.

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The point I was going to raise was the question of scale, which I think is very relevant to this conversation, because not all wind farms are equal in this regard.

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The number of kittiwakes that 23 has been required to compensate for the number of fatalities is 73 from the from ambra head and finally coast, SBA, Norfolk Vanguard had an impact of 21, for which they were not required to provide this compensation which was presented but but was not required. Norfolk bahria, still to be determined has an impact of 14. So we don't know whether or not that will be required as compensation. For the two current projects. We have a total across East Anglia, one north and two of 2.4. And I think that's a very, very important consideration here in terms of whether or not these projects are going to require to be compensated for and the degree to which they will need to be compensated for if that should be required. So I just that was that was the only point I wanted to make an OLED panel speak more about some of the delivery options and that sort of thing. Thank you, Mr. fender.

1:14:06

Thank you, pal pizza for the applicant. Yeah, just to come back on the point about the the prey availability point that natural humans have raised.

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We, obviously we included that. So what we what we've provided to RSPB and natural England prior to deadline three was a screening exercise which did include that. Now, our conclusion on that at the time was that it was not a feasible practical measure that we could take on a project basis to put forward as

compensation that would actually be deliverable. The RSP agree RSPB agreed with that position. And I think it's also worth highlighting that the the the industry wide workshop was undertaken and reported by David tilsley Associates last June, concluded the same point this was a strategic

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Not a project alone point. And Hornsey three undertook a very detailed assessment of this, which was led by the former head of licencing of the MMO, who reviewed all those options, and again, concluded the fact that this was not a practical measure that could actually be undertaken on a project basis as HRA compensation. So I think, whilst I understand the point of leaving it on the table, as it were, we won't be able to add very much to the very detailed work that's already been undertaken it just just within the last six months, so we're, we're happy to submit the David tilsley work, we're happy to submit dick and Howells work that was submitted for one c three with our own commentary. But I don't think that we're going to be able to take that any further, particularly in light of the current political climate surrounding fisheries, where I think the last thing on his mind is whether or not we can close some areas to sandeel. Thank you. I think it would be useful if we don't have those two reports that you've talked to talks about. And I think it would be useful to have those submitted video commentary into these examinations as well. So that we have, especially feel if you're saying that that's recent evidence

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on this matter.

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I just don't feel that there's much to be gained from rehashing that work, because it was the gap. It was very comprehensive. Thank you. And I can see that was bad and we'd like to come back from natural England.

1:16:38

Thank you, Louise Berta, natural England. And so I have two points, one in relation to Dr. trenders point, and one in relation to paulose point. So in relation to Katrina's point about the contribution to the in combination impacts. Whilst we recognise that it is

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a low number. We are recognising two things from

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the Hornsey project three and decision which is that Hornsey project three did not allow for any de minimis element, it was to fully compensate for the impacts of the project. So there wasn't minus a certain number of birds. So that's very different from the vanguard approach. And so we will have to see what will happen as part of the boreas decisions. But it links into the fact that natural England and RSPB raised at the Hornsey project to issue specific hearings to three years ago now, three years ago, that there was an adverse effect on integrity and kitty, kitty wakes at anything greater than one bird is effectively an adverse effect and integrity and our vices are likely to change and that. And so I'm just raising with the examining authority that this is a position which is an additive position where there has been multiple projects since halti, project two that are either in the process of being determined or have

been determined that are adding to that. So it's a greater impact than was at home to project to and then in relation to the work that was done by David Tilsley and decking how natural England is not questioning that work. We're not asking the applicant to go and rehash that work. What we are actually identifying is that at a regulatory level, and at a strategic level, there needs to be opportunities in which

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compensation can be delivered. So I agree that it's not necessarily it's not a project specific issue necessarily, but it is one where we need to be looking at and pray availability, pro enhancement and opportunities, and though and for developers to feed into a wider project to deliver those. And so that is our advice to yourselves as the examining authority but also to the Secretary of State making decisions. Thank you.

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And that point you made about the additives effect additive effect. That's that's something that's also come through the RSPB's deadline for submissions as well, I just on that, actually the the applicants.

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I just wanted to make sure that you picked up these things from the RSPB at deadline for because they've put in some comments about the forms of compensation being proposed. And they refer to their comments on equivalent proposals and what they refer to as equivalent proposals for Norfolk Borealis. And Hornsey three, for example, about predator control for less about bad girl. And so just it was a note really an action on to make sure that the applicants pick that up in their response deadline five as well. Please

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Perfect. So for the applicant, yes, we obviously seen as quite detailed information that's come through from the RSPB. And we welcome that.

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The in relation to an

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update in terms of the compensation, I think it's going to actually be deadline six before we're able to do that, because we want to, obviously take as much information as possible into account and provide the most comprehensive material and again, not do this piecemeal. So we'd actually be deadline six before we do that. But yes, we are aware of the of the natural use of the RSPB stuff. And I, in relation to the fisheries point, thank you to natural England for providing a bit more clarity on what they were actually requested in there. Because that I think that helps in terms of expectation management of what this project will be able to put forward. Yes, we're very supportive of those kinds of strategic

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proposals, strategic measures, and we will help in any way we can. But it is just to make that point that this wasn't to go through that project alone concept again. So thanks for the clarity that you, thank you. I am I'm conscious in all of this. And we're talking a lot about things that may creep forward to deadline

six. And I'm looking obviously, that falls out after our next set of hit hearings that we've at least earmarked for issue specific hearings on biodiversity. And I am just kind of putting a mark down that we're going to have to think about hearing time for these topics. And we don't want it to push too far up to the end of examination, because

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that makes things very difficult and potentially very rushed at the end trying to get all the evidence before as if those hearings proved to shut down and proved

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to find we have an awful lot still outstanding. But I can see that. If those February hearings that we currently have in other last opportunity to hear some of this already, I can see that I could start to be difficult. So just to mark down that the examiner will take that away as something to consider and come back to natural England and one of the things that was raised by Mr. trend on in combination effects, and Mr. trender ran through some of the numbers there for the various projects that we've seen recently the 73 kids, you rake on only three, the nine, the 21 on Vanguard, etc. and made reference to the combined effect of these projects, the contribution of these projects being something in the order of 2.4 Kittiwake and I just really want to explore with natural England how when we get down to these figures, these figures that are on the way down to individual birds, and how how much you can rely on those on those how much you rely on these figures when they sort of when they could start to

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blur into, you know, the actual

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the margin of error and some of the calculations. I wondered if you had any asterisks back to the de minimis argument that has been put forward on some of the other cases.

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Louise Burton natural England

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Yes, there there is a margin of error on on the figures. But the figures are what we have. This is why we advocate a consistent approach. So you are comparing like with like.

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So it may be that it's a different range. But in compared to another project, you're comparing you're you're doing the analysis the same way, is what I'm trying to say. So

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the ratio of impact for East Anglia, one North and East Anglia to the ratio of impact would be the same in proportion to the other ones that I'm not explaining this very clearly. What I'm trying to say is effectively, the figures are what we've got the assessment is what we've got, there's a consistent

approach. So the margin of error is around this and the fact that it's two birds, it's two birds on a scale of increasing impacts to Kittiwake. Yeah. Okay, thank you.

1:24:12

Okay, I'm conscious of time and we are hoping

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to

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make sure we make sure that there's enough time for the other key topics basically this morning. I wondered if MMO wants to raise anything on any of these derogation cases and compensate remeasure points and whether your contempt that they're being handled by other parties

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at Lindsay Mellon marine management organisation, and I think we are largely content to defer coming to natural England, we would just set out that in our position any compensation measures, and should be part of the dcl as they need to be signed off by the Secretary of State as the competent authority for his HRA. And just to also outline the point that any compensation measures that require marine licence and will have to be done so post consent if indeed

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Consent is granted. Okay, thank you. And that does actually lead us on, I think, to the next area of questioning, which was around the security for compensation measures. And I can see that the applicants plan to provide further detail. I think you've said that it will be at deadline five, I'm not sure if that's still the case. But a little bit more detail about the security compensation, three measures, the Africans got any update on on that

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policy side of the applicants adjust in line with the comment I made previously on the the actual

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nature of compensation measures is we want to provide a comp a comprehensive package when we do that. So the security will go alongside the actual measures, and we'd that would be your visit to be deadlines x is x. Okay. And

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then that's come in there. Yes, please. Louise Burton, natural England. And just to note that, obviously, we've got some conditions that have been included in the decio DML. For Hornsey project three, we just wanted to err on the caution that we haven't fully reviewed these and discuss these yet. So we didn't want there to be an expectation that these would be whole, wholesale accepted. And we will be providing further comment on that. Thank you. Yeah, that's exactly where I was going with this as well. We do have now that made the CEO for bonsey. Three, we have an approach. And now we've got

article 45 and sheduled. 14, which sets out what at what the security for next week compensation. And it sounds I mean, obviously, it is relatively novel in terms of made the CEOs

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just actually don't have any views today about whether those that sort of approach the way that that the Secretary has chosen to secure that, whether that might be something that could be applicable to other cases, if required.

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Naturally,

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Miss Gibson.

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And we are still reviewing those conditions. I think I think the point I would make is we we we hadn't we didn't feed in on them. So we we hadn't had any chance to count on them until they were sort of made. So we are looking at now and we'll be feeding more in future. Thank you. And to the MMO that you've raised

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briefly about about the sort of security issues and I suppose the question that sprung to my mind was about if this sort of approach was to be taken?

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Do you consider there be a need or whether it would be appropriate for the DEA marine licences to replicate or refer to any of the provisions that secure those compensatory measures

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and similar marine management organisation and we are still in the process of reviewing the Hornsey project three decision and the schedule that you mentioned. And so I would like to reserve comment until we've had time to do that fully. And we will comment a deadline. Thank you, that would be very helpful.

1:28:19

Okay.

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Can I ask the applicants Fairview about this? Obviously, you now we have we have the 123 approach,

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as it may decio. What what's your view about whether that's an approach that may be applied in a case like these, if it was needed?

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I think part of itself the applicant, I think I need to pass over to Mr. Ennis or miss mill. Please see if what you're calling Mr. Bhalla has a hand up as well.

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Jerry Vela, for the applicants. Good morning, I was just going to say that, of course, we're very aware of how it's been managed for Anzhi. Project three, we are actually running a work stream next week to look in more detail at securing, as Paolo said, we're aiming to feedback at deadline six, on both the science side on the securing and I've been taking down the points that you've raised, and we'll be considering those. Thank you very much, obviously, well, I suppose my take on that, that's, that's a way of doing it. And there must be other ways of doing it. And I'd be really interested to know in your views, but also in the views of natural England on the MMR. So if you if you do that work, and you're able to progress it in consultation with those parties, then that would help us when it comes to bringing something back to these examinations. Absolutely. Thank you very much. Okay, I'm looking at the time and I think what we'll do, I'm going to quickly

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Well, actually, just a quick question on other logical matters, if I may, which is back to the applicants about whether there will be an

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Any updated offshore nephrology statement of common ground with natural England at deadline five, or whether that's looking unlikely.

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Perfect. So for the applicant,

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I think that we've we've got a lot to work through. So I don't think there'll be another

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statement a common ground update until the final opportunity at whatever that is deadline eight or nine. Okay, fine. And obviously what we have been finding useful from natural England when it when it comes is the issues and risks log, that is a really helpful way to keep track of what natural England considers to be the issues as we go through, even if we don't have a statement of common ground. So that's just a flag. That's, that's a helpful document. Okay. And we've now reached the end of the matters that we wanted to cover under agenda item two, and I'm conscious of the time and and need to give enough time to the other important matters this morning. And so before we move on, are there any other final matters anybody wishes to raise in connection with offshore and ufology this morning?

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And I'm not seeing anybody's hand. So I think we'll move on. And I'm going to pass to my colleagues, Mrs. My colleague, Mrs. Jones, to speak briefly about agenda item three.

1:31:15

Thank you, Iris. As explained earlier, due to time limits today, we're not going to be dealing with item three in the hearing this morning. And we will instead defer to written questions and or later hearings. However, there are a couple of things that we would like to request from parties present today. In the first instance, could we ask natural England to respond to the applicants deadline three clarification note, which is the effects on supporting habitats of the outer Thames Estuary? sspa. And if they could do that by deadline, five, please. And secondly, if we could ask both natural England and the MMO to provide submissions on the content of the most up to date, several area management plan which was submitted at deadline for and this also by deadline, five, please. Does anybody have any questions on that misperton

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Louise Burton, natural England and just to raise that and it might not have come because there wasn't a specific document appendix relating to this. But natural England is happy with the deadline three submissions on the effects of supporting habitats of the Thames fspa and has now own is now being considered resolved by natural England. It has been removed from our risks and issues. Log and and there is I can't remember exactly where we refer to this, but I believe it is in either our covering letter

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or C six where we say that we're happy with this.

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Thank you very much for letting us know.

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Okay, just looking at the time, I think now would be an appropriate time for us to take a short break of just over 15 minutes. So we will break and we will come back at 1150

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we'll see everybody then. Thank you very much. Thank you.