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00:00:05:09 - 00:00:36:26

Thank you very much, everyone. The hearing is now resumed and we are resuming our agenda. Item five. Thank you for the progress we've made so far and we'll continue on that same vein, hopefully. Um, so the first question under item five relates to the National Trust and the Foreign Islands compensation measures. Um, the National Trust obviously responded in writing and that was a zero for two.

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And they included in their response a copy of the Foreign Islands Management Plan. Um, highlighting of course that that plan was in draft, um, is yet to be signed off by natural England. Um, I don't know the extent to which the applicant has been able to look through that document. Perhaps if you could just want to say what level you've been able to look at that so far, but among the short time frame.

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Adam Farrow on behalf of the applicant. And yes, so we have received that document and we have been able to have an initial look at it, although understandably, in the time that we've we've had we haven't read it word for word.

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That's that's understood. Um, now the National Trust have set out why they consider the proposed measures you're looking to do on the foreign islands don't represent additionality. And I noticed from the statement of Common Ground with National Trust that they've gone even further than that and said that there should not be any further discussion on the foreign islands compensation measures at all, if you like. What's your reaction and response to that place?

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Adam Farrow on behalf of the applicant. Um. So our our position remains as set out in our deadline one submission. Um, derogation and compensatory measures. Update Note. Reference rep 1061 which is namely that the measures as proposed out in the farms could provide substantial benefits to breeding numbers of sandwich types of sandwich tern, as well as complementing the other proposed project led measure for sandwich tern at Loch Ryan.

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Um, this is in part underpinned by the ongoing situation at the Farne Islands.

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Um, as set out in our application documents which has seen sandwich tern breeding numbers decline considerably over the last 40 years or so despite ongoing conservation and management efforts that have been made on on site. So for that reason, we, um. Consider that it remains important that this measure stays within our proposed package of of of of measures.

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Um, if it if it would be helpful I would happy I would be happy to expand on that slightly. Just to further explain why we feel that the proposed measures can represent additionality. Yes, please. Okay. So I mean, the first point. Just to repeat the point that I've already made, which which relates to the fact that the breeding numbers have declined considerably over the last 40 years despite the ongoing conservation and management efforts.

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Therefore, it is clear that the current management practice has not been sufficient and therefore there must be opportunity to to add to it. And secondly, we feel that we have provided sufficient evidence in our documents, including the sandwich tone compensation document reference 069, and more recently the sandwich tern quantification of productivity benefits.

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Technical note reference rep 1058 to demonstrate that if delivered at an appropriate scale, the measures as proposed could provide substantial benefits to breeding numbers of salmon turn out the farms. So it is our view that taken together with the the first point there that it is hard to see the case that there is no additionality available with with these measures.

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Um, one points of detail that we did pick out in a review of the draft management plan as provided earlier this week, for example, relates to the proposed scale of the measures. So in our proposals set out in our salmon compensation document, um, we, we propose to deploy up to 400 nest boxes and 400 shelters, um, alongside that deployment of up to six cameras to allow a representative sample of NEST to be monitored, to record predation attempts by large gulls.

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Um, we note that in the draft management plan on page 59 includes provision for deploying just 50 um, chick shelters around the edge of the existing colony. Um, it also provides for investigating options to monitor productivity using remote cameras, but but not, not predation specifically. So think, think that that gives an example of where perhaps there may be some additionality despite the clear position that, um, natural England and National Trust have taken on on on this matter.

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Um, final point would make, if I may, would just be to refer to the upcoming changes to policy and best practice guidance, which would seem to suggest that there will be in the future some increased flexibility with respect to the approach to additionality. Um, and in that I'm referring to the energy security bill policy statement on the, the measures for the offshore wind environmental improvement package measures, which states that government is also considering enabling developers to undertake work already identified by government to improve the condition of protected species and habitats.

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This would substantially increase the number of measures available to developers and also accelerate marine recovery and recovery for some sites. This this is a point that I think will come up later on in the agenda as well. So I won't spend um to to to long, long on that. But I mean, just to sort of sum up, um, by saying that, you know, clearly there has been a debate around additionality ongoing for some time, and that continues to be the case at the moment.

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But we feel that in light of that, it is therefore appropriate to leave this proposed measure on the table for the Secretary State to determine. Um, and especially since it appears that government is expressly reconsidering the approach to the matter of additionality with the direction of travel in that being being fairly clear.

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Thank you very much. We will return to that energy security bill quote later. Just two questions really that arise. First of all, on the additionality point, you said that in the draft management plan, there was talk about setting up options, camera options for monitoring. And then you said that yours were provided additionality because it focused more on predation. Can you just explain that more? Because to my understanding, putting an observation camera in a position will just observe what happens in front of it regarding whether it's predation or anything else.

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So how, how is that how is your camera's focus just on predation compared to the ones that they're looking at?

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Adam Farrow for the applicant. It's perhaps helpful for me, just to clarify then, that our proposals at the farms are based on three different measures that we understood at the time not to be included within the within the previous management plans. And those are the provision of nest boxes and check shelters to help reduce predation of eggs and chicks by large gulls.

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And then that is where the cameras come in to subsequently monitor the predation rates and therefore the success of the installation of those nest boxes and chick shelters. And then depending on the outcome of that monitoring work with the cameras. That's where we have then suggested that if that shows that predation rates remain high, then we could explore other measures, including the use of bamboo canes to to, to try and further reduce levels of, of gull predation.

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Okay. We'll come on to the bamboo canes in a moment. But in terms of. Again, I'm pretty sure additionality is being discussed in the round. But if the National Trust is saying in their management plan that they're already going to put a certain level of cameras there. And you're putting cameras there.

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How is that addition? Or is it just surely the pure number of cameras?

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Adam Ferry for the applicant. And I think think to a degree that that relates to a point of detail that would be need need to be worked out at, at a later stage post consent. Clearly the situation in these colonies is quite a quite a complex and quite a dynamic one. So our our proposal as it stands, as said, is to install the, the nest boxes and the and the shelters with the aim primarily of, of reducing predation.

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And our proposed use of the cameras is directly in relation to to to to that.

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Okay. And one other thing that you mentioned there is that in terms of the the nest boxes and the the nest shelters, that they had not been included in previous management plans, not in the term of additionality, but in terms of differentiability, if you like. Is that something completely different for the Farne Islands to put nest boxes and nest shelters there? I'm just the reason why I asked that is I'm thinking there's a certain level of management that goes in at the moment and we've said that the numbers are declining despite that management.

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So if, for example, that management currently consists of some nest boxes and some nest shelters and it's not working, how would you always be different to resolve that situation, if you see what I mean?

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Adam Farrow for the applicant. Um.

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I think firstly, I would have to check the the point of detail in terms of whether or not the nest boxes and chick shelters have been used on the farms in the in the past. I think I think it's I think it's the case that they may have been. But the the point that we picked up from our review of the draft management plan is that it appears that in that draft management plan, they are proposed to be used at a much reduced scale relative to what we have

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set out ourselves. And so the, um, the, the edition, if you like, would be through that increase in the number of structures that would be installed. Okay.

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Okay. Thank you very much. On a similar vein and moving on to the next sort of question on the agenda, you've reported about using bamboo canes, if you like, if it was said that predation was not, um, curtailed, but by your measures. Um, the National Trust have come back with their in their additional submission and said that the Canes have been deployed experimentally. It's reduced the number of attempts to predate on on the terns, but the success of any attempts has remained unaffected.

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Hence they don't believe it to be a successful measure. What obviously you're saying that sort of afresh this week, but do you have any immediate reaction to to that?

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Yes. Adam Ferry for the the applicant. So yes, we note natural England. Sorry, National Trust's comments in that regard. Um, and I would respond to that by saying firstly that clearly any reduction in losses of eggs or chicks would be of benefit in a situation where it is clear that a a sort of multi-faceted approach to intervention and management on this site is is necessary to halt the prolonged decline in in breeding numbers that that we've already discussed.

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Um, and a second perhaps more specific point, um, responding to the National Trust's comment, is that a reduction in, in gull attacks um, by, for example, 50% does in fact achieve the same as a reduction in successful predation attempts. Um, for example, if you have 100 gull attacks of which 80% are successful, then 80 chicks would be lost.

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But if you reduce the gull attacks by 50% to 50 attacks, but the success of those predation attempts remains at 80%, you would only lose 40 chicks. Um, therefore, our position is that there remains a significant potential benefit in implementing bamboo canes. And I think as set out in our submissions to date, that's also something that is recognised in RSPB sharing good practice guidance.

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Thank you very much. Now we turn into your your point about the energy security bill, um, in terms of enabling developers to undertake work already identified by government to improve the conditions of protected species. Can you just clarify in terms of the management plan that's been produced by the

National Trust to be endorsed by Natural England, does that represent a government document to which that laws would apply?

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And Adams for the applicant. Our understanding is, is yes, that that is a government document and therefore

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that that quote from the energy security bill could could imply.

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And at the moment in terms of could I.

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Julian Boswell for that digest supplement that DEFRA issued a draft guidance on compensatory measures some time ago and there was a lot of feedback on that from different stakeholders. And then the originally it was intended to be finalised and issued at the end of last year and then a decision was made because of the range of other government sort of attention in this space that it would be delayed until the end of this year.

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Um, but in the course of that. And I'm certain this is in icing somewhere. One of the things that they said they were specifically looking at for the new draft and was that the whole question of additionality, which has always been something of a grey area anyway. And so I think we are confident that, um, whether from this source, the policy statement that you've referenced or other sources, that there is a very real focus within DEFRA as the lead department on whether the current management measures approach and how that links to, to the way the regime operates is, is operating in a in a in an appropriate way and that things that um, could very usefully be being done at different speeds and SACS are currently not happening because of um additionality concerns.

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So we are confident that that is definitely within government sites at the moment. And the current stated intention is that the guidance would be finalised and issued at the end of this year, which I appreciate, um, may not be ideal in terms of that form.

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Sorry. This this process.

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Okay. So did you want to come back?

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Yeah. And Adam's the applicant. Just to expand on that. We are engaging regularly with Deborah. Um. Um, with the most recent meeting being this month. Um, and one of the kind of, um, we've had a steer that the, there is a going to be a consultation undertaken this summer with regards to the DEFRA guidance and that the additionality principles will be included as part of that. So just to reinforce that, the point made by Julian that it's very much, as he said, within within their sites, they recognised that the additionality point is quite a significant challenge and for developers.

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And so, um, we understand this, there's definitely kind of um, intention to explore that and to provide further updated guidance within the, the final draft, sorry, within the final DEFRA guidance due to be published at the end of the year.

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Okay. Think once again, when Mr. Boswell referred to earlier this unusual position we're in, we also find ourselves in an unusual position regarding this. Um, obviously, you know, the examination for this application closes in July and we're not going to know too much more in terms of how. How would you recommend to, to us, to the panel how to deal with this matter? Um, when we are looking at this and reporting upon it on the evidence that's available before us at the current time.

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And add ons for the applicant. Um. Think we.

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As Julian has, has kind of identified this. This has been a long standing, gray area that we've we've sought to navigate as safely as possible. And we've done that through undertaking kind of detailed consultation. During the PRE-APPLICATION phase as part of the evidence plan process and also kind of wider engagement with with DEFRA. Um, we have been in a position where we, you know, we, we could only work with the information that we've, we've had available to us at the time.

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And in terms of kind of pre-application engagement, this idea that we had from National Trust was that the measures, um, were additional. And so we kind of put them forward on, on that basis. Um, there were concerns raised by natural England with regards to um, potential historical use and also, um, the, the proposed measures were regarded as simple but within the bounds of the draft DEFRA guidance which we are working to.

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Those, those two reasons are not reason enough to just discount the proposed measures. Um, so, you know, we felt that there is merit to take those measures forward. Didn't SAP application. We've obviously had had further steers from both natural England and and National Trust with regard to the additionality point. Um, but it's only been very recently that we have seen the, the management plan itself. And, and as my my colleague Adam has alluded to, we're still digesting that.

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And we would like to kind of review that in in the context of the draft guidance. Okay.

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Thank you. Thank you very much for for that. Um, there's one further question, just looking at the next item on the agenda. Appreciate. We take a twist towards Loch Ryan, but just in terms of the Farne Islands National Trust in their statement of Common Ground, have basically, as we said earlier, have said there's no point discussing this further.

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An.

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Penn National Trust put up the door against you. And if they don't allow you on the Farne Islands, is that a possibility? Can they do that? Should they do that? How would we overcome that?

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And add ons for the applicant. So as I've already identified that during the Pre-application process, um, National Trust were enthusiastic about the measures that we were putting forward. Um, I think if there's further clarity, not just for ourselves but for everyone with regards to additionality, then we would, we would hope National Trust would, um, would be welcome well would invite re-

engagement with regards to, to the funds. In any case, we would certainly be be happy and open to further engagement with them.

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Um, irrespective of that, that updated guidance. We would certainly welcome opportunity to discuss the management plan now that we've seen the details of that specifically.

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Okay. No. Okay. Thank you very much for that. Um.

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The next question is is on the agenda that if the sandwich turn, compensation and respect of the foreign islands is is found insufficient or unsound or not additional for whatever reason would that of its own result in the compensation package as a whole being inadequate? Bear in mind only a single strand approach. Then being with with Loch Ryan Natural England have said in their additional submission zero 41 that a compensation package should consist of multiple measures in multiple locations to increase the risk, the chances of success, and that then it becomes a higher risk option, if you like.

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All your eggs are in one basket, pardon the pun, but how does that leave the compensation package as a whole if the foreign islands was to be excluded?

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Adam Farrow for the applicant. Yeah. So firstly, think. Think it is useful just to refer to those comments received from natural England last week. As you've said, they have said that they advocate the development of compensation packages comprising multiple measures to provide resilience, and that's exactly what we've we've sought to do. And they also go on to say that if habitat creation at Loch Ryan was the sole measure brought forward, this would inevitably raise the level of risk regarding whether sufficient compensation would be provided.

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Um. It. It strikes me reading that that natural England have stopped someway short of saying that they think a single strand approach for long run would be inadequate. So think that is just a point that is worth bearing in mind as we as we look at this in a bit more in a bit more detail. But to respond myself as as set out in our deadline one submission sandwich turn quantification of productivity benefits Technical note Reference rep 1058.

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It is our position that the proposed measure at Loch Ryan is on its own and in time likely to be capable of fully compensating for the predicted impacts from the projects. And just quote briefly from that that note reasonable estimates of numbers of sandwich terns likely to breed at Loch Ryan at a restored breeding site. And best estimates for demographic rates suggest that a new colony at Loch Ryan would provide compensation greater than them required, even when accounting for the high levels of precaution within the assessments.

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In addition, restoring lost breeding range represents a major qualitative conservation gain. And just to elaborate slightly on on that latter point, by restoring the lost breeding range, the proposal and this is something that's been recognised by natural England in the in their comments to date, The proposal does go beyond the requirement to maintain the coherence of the network by significantly improving and restoring the geographical coherence of the sandwich tern breeding range in in Britain and Ireland.

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And it does that by providing greater resilience, by spreading the breeding distribution over a wider area and counters the long term trend of sandwich tern nesting in fewer sites. So with that in mind, it is clear that that is a significant beneficial aspect to the proposal which must be taken into account in weighing up the overall level of risk if you like.

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Um, just as a brief side note to, to update you. So we, we receive comments from natural England on the productivity benefits note that just referred to at deadline two. We're in the process of responding to those and will provide an updated version of that of that document at deadline three.

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Um. A couple of other points, if I may. Um, in responding to this question, I also think it's important just to be clear that the, that the other measures that we have proposed as part of our package have not been put forward to address specifically the issue of scale, but rather they are more aimed at addressing the uncertainty that is involved with implementing what is a relatively unique proposal to restore breeding sandwich turn at Loch Ryan.

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Um, but I would balance that with the observation that and as we've been discussing in relation to, to some other species today as well, there is of course uncertainty associated with any proposal for compensating for impacts from offshore wind farms on, on seabirds. And so SAP and DEP is certainly not unique in that regard. Um, the, there are two main ways that you can deal with that uncertainty. The first is to add the resilience through a package of different measures as we've already discussed.

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Um, the second route is to consider the role of adaptive management, which would involve measures being adaptive if necessary, or new measures agreed and introduced in the event that monitoring indicated that the required compensation was not in fact being achieved. And of course, adaptive management is something which is included in our proposals and secured via the sandwich tern simp. Compensation, implementation and monitoring plan as included in the draft.

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Um.

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And so to, to, to, to sum up, um, whilst the applicant has made all reasonable endeavours to put forward a package of measures to help respond to any uncertainties in the delivery or implementation of the measures that lock Ryan in, in the event that measures at the foreign islands were not able to be taken forward. Our position is that the measure at Loch Ryan would be capable of fully compensating for the predicted impacts from SAP and DEP, and the arrangements for adaptive management provide the appropriate mechanism to ensure that that is the case, including details of the factors used to trigger alternative compensation measures and or adaptive management measures and so on.

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And then just a final point takes us back to to the sort of strategic side of things. So as you will have seen, we have a further option within our proposals for a contribution to be made to a future strategic compensation fund, such as the Marine Recovery Fund, which could be wholly or partly in place of our proposed measures. Um. As as as just outlined or as an adaptive management measure.

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So. I think as we've already touched on, it's currently unclear exactly what measures will specifically be contained within the approved library of compensatory measures intended to support the the Marine Recovery Fund or any other such fund, and whether any of these will be intended to address predicted impacts to salmon. But our position is that based on the information that we have available to us at this time, this nonetheless represents a potential alternative option that may become available to us within the necessary timescales for for the delivery of our project.

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Thank you very much. Thank you for that. Um. So related. But moving on to the next question on the agenda, a lot of the focus so far has rightly been on Loch Ryan and Farne Islands and the strategic Fund as sort of a backstop position alternative. There's also a reference to Foulness Island in Essex as a possibility, but couldn't see too much literature in the submission so far as to what whether an option there was being considered rigorously or what what was actually being proposed there.

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Could you just sort of shed some light on the role, if any foulness island would play in your proposal?

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Adam Ferro for the applicant. Yeah. So first to to clarify, so Foulness has been considered as a possible alternative to the Farne Islands. So the wording in the compensation document is improved breeding success at sites other than North Norfolk coast, e.g. Farne Islands or foulness.

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Um, so our proposals have so far focused more on the on the Farne Islands in addition to Loch Ryan. Um, primarily because it's not been not been possible for us to progress matters meaningfully through engagement with the mod. And secondly because natural England feedback through the the

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has been the sort of particular characteristics of foulness mean that it's it's perhaps not that well suited to the development of a of a project specific measure.

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Um.

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And just just to update you, um, in terms of the, the latest on, on this. So since application, we have been able to open a line of communication via email with kinetic, um, kinetic, manage the the site at foulness on behalf of the mod.

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With respect to the potential for for having further discussions about any opportunities for compensation at FOULNESS. Kinetic provided some information about work that is currently being undertaken on the site already with RSPB to protect nesting birds. But as we understand it, that's more with a focus on other species, including little tern and ringed plover, not not sandwich town in certain locations, and that that includes the use of electric fencing, trail camera monitoring and but the potential use of common tern rafts.

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So going forward, we intend to keep that line of communication open. But building on what I've already said and namely Natural England's feedback, we do not envisage at the current time a focus on the further development of measures at FOULNESS.

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Um.

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A final point that I would make is that given natural England's suggestion to us that that foulness would probably lend itself more to delivery of measures on a strategic basis rather than project lead. Um, any future strategic compensation fund, as I've already alluded alluded to, sorry, could feasibly also include measures at foulness and therefore that also presents another potential alternative option if it were required in the future.

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Okay.

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Thank you very much. That's that's most useful actually to, to put me in the picture on, on that one. Okay. So moving on to the next item of the agenda in terms of the the Kittiwake Tower, um, and whether natural England agree to it. I note from the deadline to response and also from the additional submission by natural England that there seems to be agreement in principle to the to the Kittiwake Tower and that the the North faces perform better than the South face.

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But note that natural England have asked for some additional information, such as stress testing and other elements. Can the applicant confirm that they are looking into providing that additional information if they think it's necessary and when we're likely to see that, please.

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And Adams for the applicant. Um.

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We welcome natural England's position. Following the submission of the the productivity note. Um, we take their comments on board and we are proposing to provide an updated copy of that productivity note. Um, at deadline three or deadline for.

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The lime tree or deadline for.

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Their very close.

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And our intention is that aim for deadline three.

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Okay. Thank you very much, Will. We'll include that as an action point. But note your your comments there. But that's that's good progress on that. And just in general, can you update me since the last time we spoke on what the progress is like with the Gateshead Kittiwake Tower?

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Kind of items for the applicant.

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So we provided a detailed update on the delivery of Gateshead. Um, at deadline one within.

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The Habitats regulations, assessment.

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Derogation and compensatory measures update document.

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Which was rep 1-061 that.

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Included as an appendix.

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A letter of support from Gateshead Council. The applicant can confirm that since then. Um so draft terms were shared with the the local planning authority in.

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January.

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Of this year and.

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A meeting is.

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Scheduled in early April to discuss the council's.

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Feedback on those.

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Um, so, so progress is being made with respect to the landowner discussions, we can also confirm.

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That the phase one site inspection and condition assessment of the existing tower was successfully completed in late February.

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And.

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Now modelling is underway using information collected during that um site inspection to.

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Analyse the stability of the existing structure as it stands.

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Currently.

00:40:07:04 - 00:40:29:17

And also to examine um, the proposed modifications to the top side. So adjusting it from a triangle shape to we are proposing a shape to assess whether the existing foundation and steel structure can accommodate such a change or whether there's a potential requirement for.

00:40:29:19 - 00:40:30:09
More extensive.

00:40:30:11 - 00:40:38:14
Upgrades to to the structure and foundation itself. This piece of work is expected to be.

00:40:38:16 - 00:40:45:29
Concluded in early April and will ultimately confirm the extent and nature of the necessary upgrades.

00:40:46:01 - 00:40:47:19
And will also inform.

00:40:47:25 - 00:40:48:12
Next.

00:40:48:14 - 00:40:48:29
Steps.

00:40:49:01 - 00:40:49:29
Including the development.

00:40:50:01 - 00:40:51:24
Of concept designs.

00:40:54:15 - 00:41:01:19
Um, the applicant is on track to consult with key stakeholders on the concept designs in, in Q2, um.

00:41:01:29 - 00:41:08:12
Of this year. And um, we hope to be able to provide a further update with respect to those, the consultation.

00:41:08:14 - 00:41:09:24
That's been undertaken and.

00:41:09:26 - 00:41:13:11
Also the feedback received from stakeholders at Deadline five.

00:41:15:28 - 00:41:16:24
We also remain.

00:41:16:26 - 00:41:21:03
On track to undertake formal pre-op consultation with the local planning authority.

00:41:21:05 - 00:41:24:27
Again in Q2, most likely mid to.

00:41:24:29 - 00:41:25:24
Late April.

00:41:28:17 - 00:41:34:11

And overall, we you know, we are broadly on track with against the indicative program outlined in table.

00:41:34:13 - 00:41:38:00

Seven of 1-061.

00:41:39:22 - 00:41:46:16

Excellent. Thank you very much. And yes, appreciate. Not much can be done before deadline five on that one. So happy with that. Thank you very much.

00:41:50:07 - 00:42:20:15

Moving on to the penultimate question on this section in relation to the compensation proposals for Guillemot and raise. Bill, appreciate what was said earlier in terms of that position, not not going back on that, but if the compensation was required, I notice that there appears to have been some degree of change in the approach there. Originally the focus for compensation was on the north east and now it's switched to the to the north west.

00:42:20:27 - 00:42:37:26

Um, taking that into account, combined with natural England's and the RSPB hesitance regarding both the measures of bycatch reduction and luminous buoys, what confidence can the examining authority have in the proposals as a whole?

00:42:43:15 - 00:43:24:06

Out in ferry for for for the applicant. Um so yes you you're correct and that we have um shifted the the focus of our proposals from the the northeast to the southwest. And that's, that's largely on behalf of the feedback that we receive from stakeholders but also as a result of some um, additional work that we were able to, to, to carry out post application just to help us sort of confirm the level of, of, of fishing effort and bycatch in the Northeast.

00:43:24:08 - 00:44:14:19

And that led us to conclude that in order to give this measure the best possible chance of success, then the, the the the right thing to do was to, um, refocus to, to the southwest. So to address specifically the points on uncertainty. Um, so the, the project led measure for bycatch reduction refocus from the Northeast to the southwest, uh, is considered by, uh, by the applicant to be the most appropriate and proportionate measure that is within our gift to deliver on a project led basis.

00:44:15:10 - 00:44:54:11

Um, and that remains the case despite the issues, as you've alluded to, that have been raised by, for example, natural England and RSPB with respect to the effective effectiveness of bycatch reduction and specifically the the use of, of looming buoys. Um, so accounting for those uncertainties, um, the measures will of course be monitored to demonstrate that they have delivered effective and sustainable compensation for the impact of the project.

00:44:54:28 - 00:45:41:15

Um, and similar to, uh, Salmon's turn, the monitoring and management strategy requires further action to be taken as part of an adaptive management approach if the compensation is not successful and that is secured through the draft via the relevant simp. Um. Notwithstanding this, we do acknowledge the stakeholder concerns and are we and we are exploring options to support the existing evidence base and we will be in a position to provide some further information on that at deadline three.

00:45:42:13 - 00:46:13:23

Um, specifically, that will include the submission of an ORC bycatch reduction feasibility statement, which is something that we have produced with input from an organisation called Fish Tech, which is the same contractor that has undertaken the Fisheries liaison equipment, design and installation on Hornsea project for bycatch reduction trials.

00:46:14:22 - 00:46:48:15

So the note will describe the distribution extent and seasonality of net fishing activity in the south west of England. It reviews the evidence, the available evidence demonstrating that bycatch is an issue in the South West. Um, it demonstrates fish attacks, fisheries liaison credentials. It describes the the technology and how that's used and explains how that's been successfully implemented elsewhere.

00:46:50:05 - 00:47:23:18

And it will outline the process and the time period for the applicant to secure vessel involvement in in a scheme for the purpose of delivering the proposed compensation for for for the projects. Um, alongside that, we will of course continue to explore what other options might be available to the project beyond Deadline three to further reduce uncertainty.

00:47:24:18 - 00:48:05:17

Um, and we do intend to discuss what those possible options might be with, with stakeholders, um, namely natural England and RSPB. And we will feed in any progress that is made through those discussions into the examination as it progresses. Um, and then the final point that would I would make, as I have done for the other species, is that the, the collaborative and the strategic approaches to the delivery of compensation for, for orcs, um, do still remain a key strand of our proposals.

00:48:05:28 - 00:48:41:24

For, for the reasons already set out. Um, and we are tracking developments in this regard closely and that goes back to the discussion that we had on this earlier today. And we are also progressing discussions with other developers with respect to potential opportunities for collaboration. But as we discussed earlier, to a large degree that is caught up in the, uh, in the matters that we discussed and yes, indeed.

00:48:42:12 - 00:48:43:06

Okay. Uh.

00:48:43:21 - 00:49:12:22

I'll come back to the, the, the strategic matters in a moment. Just one really basic question and apologies for this. Um, in terms of the looming I boys, as far as I understand it, the best description equivalent on land is a scarecrow basically scaring the birds away. If that is the case, as simplistic as this approach is, could they not just be positioned around the wind farm itself to prevent collisions in the first place?

00:49:22:25 - 00:49:24:21

I'm sorry you turned your mic.

00:49:24:24 - 00:49:26:03

Sorry, Dylan.

00:49:26:13 - 00:49:59:22

Adam Ferry for the applicant. Um, I think the answer to your question is that the reason that the proposals are focused in the locations that they are is because that is where, firstly, the fishing activity is taking place at sufficient levels for this to, to to to, to to be a potential compensation measure in the first place.

00:50:00:09 - 00:50:33:14

But it also reflects, um, crudely where the birds are. Um, so there are, uh, evidenced higher densities of, um, Guillemot and Razorbills in these locations, which again make it a feasible compensation measure. The same does not apply to the area immediately surrounding the the proposed wind farms.

00:50:34:04 - 00:50:36:17

Okay. Thank you. And then.

00:50:38:11 - 00:51:11:08

Perhaps an observation because we're not going to be able to answer this. As we said, it'll be dependent on the Secretary of State's decision on Hornsey, for Mr. Boswell helpfully set out the different scenarios in terms of whether that application is approved or whether it's refused. There is another. Sort of scenario coming out of that that the secretary of state deems that compensation is required, but then deems the compensation measures themselves to be inadequate.

00:51:12:07 - 00:51:20:15

Potential can't rule it out. Obviously, we're speculating and hypothetical, but if that were to be the case.

00:51:21:02 - 00:51:22:10

Where would that leave.

00:51:22:12 - 00:51:22:27

The.

00:51:22:29 - 00:51:29:00

Current project? Bear in mind it's proposing nothing new, if you like, to the measures at Hornsey for.

00:51:31:14 - 00:51:31:29

Yeah.

00:51:35:06 - 00:52:27:22

Adam vary for the applicant. Um, yes. So our assumption in that scenario is that the project would be refused. Because there would be no. Uh, or it would be established in that scenario that there would be no no compensation, in which case the project would not. Would not be able to proceed. And in that scenario, as we have set out already, uh, our position would be that that would change the in combination impact to such an extent that we, we would not be adding or we would not be adding additional impact that would pass the threshold for adverse effect on integrity.

00:52:29:14 - 00:52:31:08

Mr. Boswell. William Boswell?

00:52:31:10 - 00:52:32:24

Yes. Just.

00:52:35:09 - 00:53:05:20

What's been happening in offshore wind in the last few years has been sort of taking the debate in relation to different habitats, regulation issues into sort of uncharted territory in a number of areas. And there is a classic issue which you've identified, which is what if there isn't, you know, appropriate compensation? How does the system deal with that? And the straight answer is nobody knows yet.

00:53:06:12 - 00:53:34:03

So there is a genuine difference of opinion in that space. So Mr. Farrow has just given everybody everybody's well, not actually everybody's, um, a large percentage, I think. And people in this space would say that the assumption is that if you can't identify something, then that means refusal. But there is a counter view. Um, which has which which says. That.

00:53:35:22 - 00:54:13:04

The member states back in 1988 would never have put the habitats directive on the European statute book. If it were the case that the lack of compensation would stop an overriding public interest project, which is obviously what we're dealing with by definition, because they've got through the no alternatives and ropey test on the on the basis of of a lack of compensation. And what's generally said in that situation is that you must sort of quote, try harder, be more creative in terms of identifying compensatory measures.

00:54:13:29 - 00:54:44:19

But that point has yet to be to. To my knowledge. And this. This topic came up, for example. So there was, if I can digress briefly, back in January of 2020, just before lockdown, obviously nobody knew lockdown was about to land. There was an all day workshop held um, led by was organised by the Crown Estate in its sort of capacity in relation to the offshore wind sector.

00:54:44:23 - 00:55:18:24

All of the key stakeholders were there across the UK in terms of um, regulators, developers and so on. And the whole purpose of that session was to look at the it was recognised that the offshore wind sector was moving from a situation where it had successfully avoided needing to go into the derogation space, but that it was heading towards a place where that was likely to be needed. The concept of without prejudice derogation cases was expressly discussed.

00:55:18:26 - 00:55:57:07

There were various case studies that were put forward, in fact by Royal House. Koning were commissioned to do that, to look at different scenarios in relation to compensation for offshore wind. Um, and one of the topics that came up in that scenario was the, the one that you've raised, which is what if there quotes isn't isn't enough. So it's, it's it's as a risk just rounding up and repeating myself at the same time. Our assumption is that if they are held to be inadequate that it will be refused and that would be either on the basis that.

00:55:58:20 - 00:56:08:07

More work was needed, but there wasn't that the secretary state wasn't prepared to delay the decision any longer to allow that to happen.

00:56:09:27 - 00:56:33:00

Or on the basis that the secretary of state took the view that actually even with more work, you know, an adequate an appropriate measure wasn't going to be possible and then took the view legally that in the absence of that, he was he was considered the correct decision was was to refuse. And then that would, I think, be a landmark decision. Okay.

00:56:33:28 - 00:57:08:06

Okay. Thank you for that, both of you. Thank you for your response. Is there. I'll take that on board. Coming then to the final question under agenda item five. And I propose we just take this and then we'll go for lunch. I'll read read the question out, just just because it's a multifaceted. The legal framework for Habitats regulation assessment does not require compensation measures to directly benefit and affected special protection area instead require an overall coherence of the national site network.

00:57:08:17 - 00:57:31:08

My question is if bird losses undermined the overall seabird assemblage at a special protection area combined with compensation measures effectively potentially enabling birds to move away from the special protection area, would that in itself for the seabird assemblage not require targeted compensation at the specific?

00:57:35:27 - 00:57:39:29

I'm not sure whether that's wholly clear, but if you need more clarity, can try.

00:57:42:14 - 00:57:49:19

Adam Farrow for the applicant. Um, I think I think to an extent we.

00:57:51:07 - 00:58:24:13

Tackled this question earlier earlier today. Um. I think fundamentally the response from us on this on this point is that it is not clear why compensation that is considered sufficient for an individual qualifying species. Um, that is, that is also an assemblage species would not equally address assemblage impacts.

00:58:25:12 - 00:58:25:27

Um.

00:58:26:18 - 00:59:00:04

And follow on from that by saying that that the, the principle, the principle of compensation is that um populations away from the impacted are increased, um, so that the overall resilience of the population is, is protected. Um, and that, that would seem to be compatible with maintaining, maintaining the coherence of the National National network, i.e.

00:59:00:06 - 00:59:05:05

it could benefit a range of, of, of sbas.

00:59:08:05 - 00:59:08:22

Okay.

00:59:10:16 - 00:59:23:03

No, no. I'm I'm happy with that. And thank you very much for your response there. Unless anyone else has any other items they wish to raise under agenda item five.

00:59:32:16 - 00:59:37:08

Okay, before we adjourn for lunch, I just hand over to my colleague, Mr. High.

00:59:39:12 - 00:59:42:21

And just acknowledging that we're running a bit ahead of time

00:59:44:06 - 01:00:15:03

than indicated in the agenda. And for colleagues who from Marine Management Organisation and potentially from East Suffolk Council, it's just worth saying that when we return from lunch, we will be rejoining at Agenda item six and possibly even cover off agenda item seven. Um, and so this is just to indicate, um, for colleagues joining virtually. Yeah. Okay. Yeah. Happy to close.

01:00:18:23 - 01:00:23:28

In which case the time is now. 1236. Um.

01:00:26:07 - 01:00:36:25

145. If we can adjourn for lunch now and return at 145, hopefully everyone will be suitably refreshed in that period. We'll see you at 145. Thank you.