

## **ISH5\_30 March\_PT1**

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### FULL TRANSCRIPT (with timecode)

00:00:05:17 - 00:00:37:21

Good morning and welcome. It's now 10 a.m. and I am starting issue specific Hearing five for the application made by Equinor Limited for the Sheringham Shoal and Dudgeon Wind Farm Extension Project. We'll introduce ourselves fully in just a few minutes. Before we do that, a few housekeeping matters. Can you hear me at the back? Um, and have the meeting. Recording and live stream started. Thank you. Um, Miss Harry, were there any requests for reasonable adjustments? No.

00:00:37:28 - 00:01:08:11

Okay. There are no fire alarm drills today. If the fire alarm sounds, please exit the building via the main entrance. Um. Out into the garden as per the signs. Toilets are located to the right. As soon as you enter the building onto introductions. I am Ms.. Sahai. I have been appointed by the Secretary of State for levelling up housing and communities as the lead member of the examining authority to carry out an examination of the above application.

00:01:09:00 - 00:01:13:09

I'll hand over to other members of the examining authority to introduce themselves. Mr. Wallace.

00:01:14:05 - 00:01:23:20

Yes. Good morning, Mr. Wallace. I'm appointed as a member of this examining authority, and I'll be leading on the agenda today with input from my fellow panel members as appropriate.

00:01:25:17 - 00:01:35:18

Good morning. I'm Mr. MacArthur, also appointed by the Secretary of state to be the member to be a member of this examining authority. And I will also be noting hearing actions today.

00:01:37:00 - 00:01:41:27

Good morning. I'm Mr. Manning and I've been appointed by the Secretary of State to be a member of the examining authority.

00:01:43:28 - 00:01:48:12

Good morning. Mr. Rennie also appointed as a member of this examining authority.

00:01:52:17 - 00:02:05:22

I can confirm that all panel members have made a declaration of interest corresponding to the planning inspectorate's conflicts of interest policy. And I can also confirm that none of us have declared interests in relation to this appointment.

00:02:08:03 - 00:02:39:09

Also present today are members of the case team. A case manager is Miss Louise Haraway. Ms.. Haraway is supported by Mr. Tom Bennett here at the venue and by Ms.. Harper and Mr. Christopher Glaser Online. If you have any questions or concerns about today's event, please contact a member of the case team. The audiovisual service today is provided by a team led by Mr. Stuart Avis. So that's

the team on our end. Turning to attendees today, first I want to acknowledge and welcome those who are watching the live stream.

00:02:39:12 - 00:03:15:02

Welcome and thank you for joining us. We'll start with introductions from attendees. Um, my running order today is going to be the applicant. Uh, Marine management organization will be here a bit later and East Suffolk Council. So we asked them to introduce themselves when they join. Um, and then I understand National National Trust and Natural Natural England, they've confirmed they're not attending, but they have provided written submissions in advance of this hearing, which have been published on the Planning Inspectorate website on the project web page.

00:03:15:28 - 00:03:31:19

Um, we've got attendance from Mr. Aldous and I understand we might have a few other attendees, but don't believe they're online yet. So my running order, in short, is going to be the applicant. And Mr. Aldous, can we start with the applicant, please?

00:03:33:12 - 00:03:47:02

Dawn. Good morning, madam. My name is Julian Boswell. I'm a solicitor and partner with Burgess Salmon. We're advising Equinor on the application. I'll ask the rest of the rest of the team sitting up at the table to introduce themselves, starting on my right.

00:03:48:08 - 00:03:52:24

Good morning. Patrick Munroe, solicitor and senior associate at Burgess Salmon, representing the applicant.

00:03:55:11 - 00:04:00:28

At the morning. Ross Bower from Royal Husker Ornithologist acting on behalf of the applicant.

00:04:03:17 - 00:04:11:04

Good morning. I'm Paul Morgan at Royal High School. I'm the offshore technical lead on the seven day projects.

00:04:13:11 - 00:04:18:24

Good morning. Adam Farrow, project director with Wallace Koning on behalf of the applicant.

00:04:21:10 - 00:04:24:21

Good morning Sarah Chandler development and consents manager for Equinor.

00:04:28:17 - 00:04:30:13

Is that everyone on the applicant sinned.

00:04:32:18 - 00:04:37:05

Yes, madam. There will be other people later on and they'll introduce themselves at that time.

00:04:37:18 - 00:04:39:10

Okay. Understood, Mr. Aldous.

00:04:40:07 - 00:04:44:00

Thank you. Good morning. Derek Aldous, a resident of Norfolk. Thank you.

00:04:45:22 - 00:04:49:24

Is there anyone else who's in attendance and wishes to introduce themselves?

00:04:51:15 - 00:05:26:03

No. Okay. I'll move on to agenda item two, where I'll set out the procedure for running the hearing today. I appreciate that some of you who were here yesterday, you've heard me set this out twice already. But ask everyone, bear with me. I must repeat this for the benefit of attendees who join us today and for the recordings. Um, a few words just to acknowledge the format of the event today. This is a blended event. It allows attendance both in person and virtually through Microsoft teams. It's expected that blended events and fully virtual events will be a part of Planning Inspectorate.

00:05:26:17 - 00:05:27:02

Um.

00:05:28:22 - 00:05:52:07

Will be a part of planning Inspectorate's operating future operating model. We, the examining authority, are attending the meeting from Holt, as are several of the attendees. Um, for the attendees, for those attending virtually we do have our attention, even if you're not looking at the camera to avoid noise and visual distractions. Please keep your cameras and microphones off unless we invite you to speak.

00:05:54:10 - 00:06:25:24

The proposed timing of the day will take a 15 minute break at approximately 11:30 a.m. and a lunch break around 1:15 p.m. in the afternoon. We'll take a short break, around 3:45 p.m. with the aim to finish no later than 5:30. But we will keep this under review. These timings are approximate. If you're joining for a particular agenda item, we do recommend you keep in touch with the case team who can tell you if the sessions are running a few minutes later ahead of the indicated times.

00:06:26:23 - 00:06:41:01

Um, for virtual attendees. If you leave the meeting during the breaks then you can rejoin using the same link provided in your invitation email. And if you're watching the live stream then please refresh your browser to resume each subsequent session.

00:06:42:27 - 00:07:19:17

The third point is to just make you aware that this event is both being live streamed and recorded. The digital recordings that we make are retained and published. They form a public record that can contain your personal information and to which general data protection GDPR applies. The planning Inspectorate's practices to retain and publish recordings for a period of five years after the Secretary of State has made their decision. Consequently, if you participate in today's issue specific hearing, it's important that you understand that you will be recorded and that you therefore consent to the retention and publication of the digital recording.

00:07:19:19 - 00:07:46:17

It's very unlikely that the examining authority will ask you to put sensitive personal information onto the public domain. Indeed, we encourage you not to do that. However, if for some reason you feel it's necessary for you to refer to sensitive personal information, we'd encourage you to speak to the case team in the first instance. We would then explore with you whether the information could be provided and written format, which might be redacted before being published.

00:07:50:15 - 00:08:22:00

The fourth point is about the substantive matter of today's issue specific hearing, which is offshore matters. The agenda for this hearing was published on the Planning Inspectorate National Infrastructure Project webpage on Tuesday the 14th of March. Those are the only matters for discussion today. Just to be clear, it's not intended to discuss all matters relating to the

offshore environment. Some matters will be pursued through rounds of written questions or at future hearings. It is a full and ambitious agenda.

00:08:22:24 - 00:08:37:18

Mr. Wallace and I will keep under review our progress, and we may request certain aspects to be held over and addressed as part of your responses to the second round of written questions. Second round of written questions are being issued on the 12th of April.

00:08:39:24 - 00:09:16:05

The final point is regarding post hiring actions should they arise during the hearing. Uh, Mr. MacArthur will be noting the hearing actions as they emerge, and we will go through the entire list as the close of the hearing. The assumption is that the Post hearing actions will be expected at the next deadline. In deadline at deadline three. Um. Unless otherwise indicated. Given responses to written questions are also expected at deadline three. It is likely that the examining authority will place many of the post hearing actions in written questions if it is felt that would be appropriate and to avoid duplications.

00:09:19:02 - 00:09:21:01

Does anyone have any questions?

00:09:25:28 - 00:09:31:15

Okay. That's all from me now. I will. Let's turn to agenda item three, and I hand over to Mr. Wallace.

00:09:32:26 - 00:10:10:16

Thank you, Mr. High. We have listed on the face of the agenda the principal questions that are to be explored today. But supplementary questions may follow depending upon the answers we receive. Whilst the National Trust and Natural England are unable to attend. They have provided written summaries of their respective positions. These are in the examination library at references A0 41 and A0 42. I appreciate that these have only been in the public domain since Monday, so I acknowledge that the applicant may not have had time to fully digest the contents of these.

00:10:11:13 - 00:10:19:25

I will be referring to them where possible. That's not me putting their case for them. It's purely me summarizing what's been said there.

00:10:21:27 - 00:10:31:05

So without further ado, let's move on to the first question under this section, and that is in relation to the common scouter feature of the greater wash

00:10:32:29 - 00:10:58:20

and the level of assessment that's been undertaken regarding that species. I note that Natural England have said that that they are relatively content with the environmental impact assessment position in terms of the loan level and the numbers of the species being affected, but have said that further work needs to be done from the habitats regulation assessment side. Does the applicant have any response to this, please?

00:11:00:26 - 00:11:01:11

Um.

00:11:01:24 - 00:11:12:29

Thanks to Ross Bauer on behalf of the applicant. So just to confirm that we, the applicant, is broadly in agreement with Natural England's position that they've set out. Um.

00:11:14:00 - 00:11:20:06

Very sorry to interrupt. I think we're having some trouble hearing you. Is your microphone either close enough or increase the volume?

00:11:21:27 - 00:11:22:25

Is that any better?

00:11:22:27 - 00:11:23:22

That is a lot better.

00:11:23:24 - 00:12:10:14

Thank you. So sorry. Yeah. Um, yeah. So just to confirm, sorry to go over that again that the applicant is broadly in agreement with Natural England's position that they've set out in their response. Um, and just to confirm that low numbers or low densities are common scope to be recorded within the survey area and that none were recorded within the seven DEP array sites themselves. Um, we've also, in accordance with Natural England suggestion, we have reviewed the information that's presented in the Departmental brief for Common Scouter, and that confirms that very low densities of common CO2 are present both within the seven DEP array sites and also along the route of the cable corridor.

00:12:10:27 - 00:12:43:19

Um, so on that basis, we conclude that the natural that comments go to can be screened out for both the purposes of and for both the construction and operation and maintenance. Um, we acknowledged that unfortunately um comments go was omitted from the screening tables which are set out in 061. And just to confirm that, we will update the screening tables to include comments go to before the end of examination.

00:12:44:07 - 00:13:05:11

Um, but on the basis of the low densities of species that are of common scope that are present both within the array and along the cable route, we anticipate that the species will be screened out from requirement for appropriate assessment and we consider that aligns with with Natural England's position as set out.

00:13:09:16 - 00:13:43:23

Excellent. Thank you very much for confirming that. Probably in a similar vein on the next question regarding great black backed gull. Um, Natural England have set out their concerns regarding this species and said that they are long standing with regards to the cumulative effects. Um, one of the reasons that they say there's a difference of opinion between themselves and the applicant on, on the impact on the species is quote unquote, if you like, that the applicant relies heavily on sensitivity matrices.

00:13:44:08 - 00:13:51:04

Can you explain how have you done that and why is that a bad thing compared to natural England's position? Please.

00:13:54:06 - 00:14:27:02

Um. Ross Bauer. On behalf of the applicant. I think the first point that we make is I don't think there is a fundamental disagreement between the position that the applicant is taking and natural England. Um, in the, the statement of Common Ground, which is rep 204 five um, at 35, we've stated that there is a cumulative moderate adverse impact on great backpack gull. Um, and which is the same position as natural England is taken.

00:14:27:21 - 00:15:11:16

Um, and also we would add that the overall position is the same as for East Anglia one North, that there was a, there's a moderate adverse effect cumulatively for great backpack goal. Um, and also that that no additional mitigation was proposed for that project and that it was considered acceptable by the Secretary of State. Um, on a sort of planning balance basis. Um, so like say, think overall we would say that there isn't necessarily a difference of opinion between ourselves and naturally, and we're both accepting that there is a moderate adverse effect on greater backpack bowl, sorry, greater backpack goal cumulatively.

00:15:12:10 - 00:15:21:02

Um, I don't know whether you also raising your question about the requirement for additional mitigation for that species.

00:15:21:22 - 00:15:39:04

Yes indeed. Mean, I realized that part of the embedded mitigation, if you like, is the air gap between the blades and the sea level. That seemed to be the the only mitigation from my reading is. Is that correct? And if so, why isn't more being done or could more be done?

00:15:39:16 - 00:16:13:00

Yeah, that is correct. That the primary mitigation is is the increase in air gap, which has been provided between the peer stage and the the application stage where the the air gap has been raised from 26 to 30m, which we estimate has reduced the effects for the project alone, effects by approximately 50% on greater goal. Um, natural England. Um, obviously in its response, which I think is set out excuse me for a moment.

00:16:13:02 - 00:16:53:10

Um, in the statement of Common Ground, um, Natural, England has acknowledged and recognized that that, um, benefit from increasing air gap has occurred. Um, and. The applicant's position also is that increasing the air gap further is not technically feasible for for a number of reasons. And that's set out in our um, the derogation provision of evidence document, which is app 063 and Natural England also acknowledges that within their um, the statement of common ground that that that's the applicant's position that that additional

00:16:55:13 - 00:16:57:06

air gap is not technically feasible.

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Okay. And just for confirmation, I'm sure I have read this, but in terms of that 30 meter air gap that will be maintained regardless of the power output of each turbine. So if it's a 15 megawatt or a 24 megawatt, you're still going to have that 30 meter gap, is that correct? Yes, that's.

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Fine. Saying that's correct. Yeah.

00:17:24:04 - 00:17:59:03

Okay. Thank you for for clarifying. That. Then moving on to item three three in terms of the lesser black back go again. A an adverse cumulative impact has been assessed for the species, but no further mitigation proposed. Natural England have said they've historically not taking a view that significant adverse effects could arise at the scale. But can the applicant confirm what progress is being made to ensure that that position remains intact here?

00:18:01:13 - 00:18:34:29

Uh, Ross Bauer on behalf of the applicant. Um, I think just in, confirm that again, our position with natural England and the applicant are aligned and and also recognizing natural England's position that

as you, as you mentioned, that there's no, um, there's no significant adverse effects on less of that goal at the scale. Um, and I think it's also really to reiterate the point, the same points in with regard to the great Black Bat goal that the increase in draft height is providing mitigation for that species.

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And and similarly, that that technically is not possible to increase the draft height further. Um, so we on the basis that that there's only a minor adverse effect on the species and that all the mitigation that can be provided is being provided. Um, we consider that an acceptable position in with regard to that species.

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Okay. Um, with regards both of the, the greater and the lesser black bat goal, obviously there's the air gap. Um, one of the things that we're looking at is obviously the scenarios and the various layouts that could happen with a DEP north and DEP sale for developed or whether 17 to 23 turbines. All these sort of variables in terms of the actual layout and spacing of the turbines, the gap between them. Is there any science or evidence to say that greater gaps there may be further mitigation or would have any effect on the on the numbers at all? Um.

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Ross Power on behalf of the applicant, um, I don't think there is sufficient evidence to, um, to justify given, given that the application is on the basis of the overall parameters for the, for the, for the wind farm. Um, I don't think we're in a position to, to say whether that, that we could provide any additional mitigation from, from the same as you suggest, either the layout of the turbines and the relative numbers of turbines in north and south.

00:20:06:25 - 00:20:21:04

I don't think there's any evidence to suggest that that um, for example, putting more of the turbines in north or more of the turbines in south would, would have any significant effect on the on the overall impacts to to those species.

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Okay. Let me just rephrase that slightly. In terms of the actual physical distance between them, say if they were instead of one kilometre apart, they were two kilometres apart, for example, would that have an effect in terms of the actual spacing themselves?

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I don't think there's any evidence to suggest that that would that would make any difference to that.

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Okay. Thank you for that.

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Okay, now we come on to red throated diver, where there appears to be a bit of a sticking point, if you like, between the applicant and natural England. Um.

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Appreciate this may stray into the discussions later on, but let's see where this takes us. Natural England have identified a significant adverse effect at the scale on red throated diver, irrespective of whether SAP and depot are included in the totals. Now, that is a difference of opinion, of course, with the applicant. Can the applicant explain why there is that difference of opinion that is so stark? Please.

00:21:30:08 - 00:22:02:15

Um, Ross Bauer on behalf of the applicant. Um, I think firstly, I think, um, obviously we will await Natural England's further response on this deadline three, and we can obviously respond again on that further. Um, but I guess the first point we'd want to make is with regard to the effects from construction and operation and maintenance vessels on red throated. Diver um. Natural. England, as we understand it, is confirmed for Hornsea Project four.

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That commitment to best practice protocol in respect of red throated diver would enable natural England to advise that there would be no contribution to in combination effects. That's specifically within in respect to greater wash. But we would consider that carries over, as it were, to the impacts. Um, and just to confirm that the applicant is committing to full adherence to that best practice protocol for 30 divers and that's being secured through the the outline project Environmental Management plan, which is REP 1017.

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Um, so in that respect we consider that effects in respect of the construction and operation maintenance vessel activities are fully addressed and we consider that that aligns with natural England's position on that and we would hope the natural England would would agree with that. With respect to the second DEP application, um, I think probably the key point of difference is in relation to the displacement effects or step in depth from the operational windfarm arrays.

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Um, within the environmental statement, which is 97, we the view that there's a cumulative minor adverse effect which is not significant. And our key basis of that is on the uh, what we consider to be the realistic, um, mortality effects on regulated diver arising from that. As you know, natural England like to present a range of mortality from 1 to 10%.

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Um, but we consider there's substantive evidence that even the 1% mortality is, is very, very precautionary. Um, and on that basis, um, we would consider that the, the cumulative

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effects would be below the 1% threshold for the, for the population, for the population against which it's assessed. And furthermore that our contribution to that is very small. So assuming that a 1% mortality which we consider to be the realistic level, as previously mentioned, that we are only contributing approximately 0.2 birds to that cumulative effect. Um, so I think in essence that's the difference. Whereas natural England obviously seek to consider the full range of mortality up to 10%, but we don't really consider that at all a realistic scenario in terms of the overall effects on the target population.

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Okay. Um.

00:24:57:13 - 00:25:05:01

Playing devil's advocate, if you like. If you were to assume a 10%, what would that do in terms of a figure?

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So if. If you give him a moment, I'll just have to force. Of course I'll find out. Bigger for you.

00:25:31:20 - 00:25:55:18



Sorry. So, yeah. So just to confirm that at a 10% mortality. Oh, sorry. Yes. The 10% that would effectively well, actually translate into a 10% increase in in mortality, which the equivalent of 318 birds. Um, so that's that's a cumulative mortality for, for those.

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Yeah. And that's over the the lifetime of the development.

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That's the annual mortality.

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That's the annual. Okay. So when you said earlier on that the 1% only contributed 1 or 2 birds.

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That's that's annually. Yes that's. Yeah, yeah. Sorry. Sorry if that wasn't clear. Yeah that's.

00:26:13:26 - 00:26:51:07

Okay. No I'm with you on that. That. Now, um, as promised, this is going to stray briefly into the side of things. Yeah, obviously we'll come on to the, the guillemot and razorbills species later, but for those species, um, without prejudice, um, derogation measures, compensation measures were proposed in terms of red throated diver. Can you just explain on the basis of those those numbers why without prejudice, compensation has not also been proposed for red throated diver?

00:27:27:04 - 00:27:58:05

And Ross on behalf of the applicant. So think I mean, the key to this really is the fact that our position remains that that there isn't a significant cumulative effect on red throated divers. So we haven't proposed additional mitigation in, in that respect. Um, and also that think this issue has arisen fairly recently in terms of natural England's position on this. So it's it's not a matter that we've considered any detail at this stage.

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Okay. Fair enough. And just one final sort of question here. And now this obviously going along with the best practice protocol with regard to vessel movements. Um, as I understand it, a lot of the the vessel movements associated with the construction will be going if Great Yarmouth is chosen as the operations port, going out into the main column and along to the main SIP and DEP sites in terms of a proportion of vessels that go along the export cable.

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What sort of frequency level of traffic are we looking at along the export cable and the duration of that? That's actually within the greater wash.

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Um. Ross Bauer on behalf of the applicant. So just to clarify your position, so you're asking about the duration of works within the Yes or the cable laying? Yeah. Um, so we've undertaken some

00:28:57:21 - 00:29:26:00

sort of preliminary analysis of that. Um, my understanding is the whole cable laying duration or for, for the, including, you know, including the, but also the areas outside the, um, a sort of maximum value for that would be approximately 110 days. Um, but the area that would be impacted within the, within the spa would comprise approximately 25 days of that of that total duration.

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Um, and is that a project or is that if it's a, the sequential mode, is that 25 days that's then another 24.

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No that's, that's for what that's my understanding is that's for both projects the total duration, both projects is 110 days. Think that's correct.

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And would. Appreciate this, what you said for both projects, if both projects were being undertaken concurrently, would that shorten the 25? That does.

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Yeah, that should shorten the duration of that. Yeah. Yeah.

00:29:57:12 - 00:29:58:01

Thank you.

00:30:04:22 - 00:30:34:07

Okay, Returning to the agenda then. Item three five here you provided the collision risk modeling context technical note at the previous deadline. And within that there was figures provided for little girl species. Um, I was curious in terms of those, I don't think there's any objection from natural England on that particular species. But are there any unresolved issues or concerns regarding that at all?

00:30:35:16 - 00:31:21:01

Um, Ross, on behalf of the applicant. Um, yes. Just to again, to reiterate, obviously we can provide a further update on this one. Natural England has confirmed its position at deadline three, but the the collision risk update note, which is 1056 um, hasn't changed the conclusions that were set out in the environmental statement. Um, and that um sorry, the collision mortality is lower in the updated collision risk note compared to those that were published in the environmental statement, and that we conclude that there is no significant adverse effect on seven DEP alone, um, and that the level of mortality is very low indeed.

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It's less than three birds, which is equivalent to less or approximately 0.02% in the increase in mortality for the biogeographic population. Um, and on that basis that we can see the level of mortality is too low to contribute to any cumulative effects. Um, we also note that in Natural England's relevant reps, which is RR 063. Um, they confirmed or in respect of Hornsea project for or their position for Hornsea project for which included the project for collision contributions, their confirmed content that there was no significant adverse effect on little gulls.

00:32:05:00 - 00:32:12:03

Um, and we don't consider this likely that natural England is likely to change its position in that regard.

00:32:13:09 - 00:32:44:09

Excellent. Okay. Thank you for confirming that. The final point I've got under this agenda item relates to the highly pathogenic avian influenza or for sure, because I'm not going to say that every time, um, the applicant at Deadline two in particular said that you would be advised or guided by the statutory nature conservation body as to how best to incorporate that within your assessments going forward.

00:32:44:24 - 00:33:13:00

Um, in putting this item on the agenda, Natural England have responded and said that within their relevant rep they attached an appendix appendix B2 suggesting that the applicant should make a

summary report of the effects. Suppose the first question is, do you have enough guidance? Do you know what you need to do and when in order to to accommodate the into your assessments?

00:33:15:08 - 00:33:47:07

Um, Ross Bauer on behalf of the applicant. Um, so I think in summary, the, the additional guidance the natural England has provided is quite high level. Um, and um, we, the applicant continues to maintain the position that we'd be very happy to provide further assessment of the effects of, of avian flu. Um, but at this stage we don't consider we have sufficient data to inform that.

00:33:47:27 - 00:34:05:16

We will be very pleased to work with, with natural England and RSPB and other relevant stakeholders to obtain that data. So that, you know, could include things like relevant colony counts for, for species that have been impacted by avian flu during 2022. Um.

00:34:07:07 - 00:34:37:17

It kind of makes sense. Is our view makes sense for natural England or another body to coordinate the gathering of that information, because obviously it has wide ranging implications, not just for our project but obviously for many other projects and, you know, other aspects of, of avian ecology across the UK. Um, but obviously we would be very pleased to, to work with, with natural England and we

00:34:39:18 - 00:34:46:27

propose to provide an update but, but hope that natural England will provide us with some further guidance on that before we're able to, to undertake that.

00:34:48:01 - 00:35:16:05

Okay. And just in case there listening on the recording, if you like, because I'm keen to move this forward, what exactly are you hoping for to enable you to do what you need to do and then the time frames for that will we have if you get the information you need, say by deadline three, for example, will there be enough time left within the examination for those assessments to be updated and then examined and whatnot?

00:35:18:15 - 00:35:22:12

Um, Ross Bauer. On behalf of the applicant. I think we

00:35:24:01 - 00:36:11:27

think we basically clear a guidance from natural England on the assessment process that they would like us to follow. Obviously, they've given us an indication. Think in the in their previous response. Um, but I think we would like specific guidance about, um, it's kind of hard to explain really, but, but yeah, exactly how we, how we, they would like us to undertake that assessment. So for example, whether they want us to undertake population viability analyses for all of the relevant species, um, and um, which colonies in specific colonies and such like they would like us to consider, and also an understanding of the data that's available for, for those, for those colonies.

00:36:12:20 - 00:36:13:05

Um.

00:36:51:03 - 00:37:29:03

Yes. Just also just to add to that, that just to reiterate the point that, um, a natural England accepts and we've also made the point that we would obviously with the reducing population or if is assume that there is a reducing population as a result of avian flu, that that would proportionally reduce the impacts of our development on those, on those species, if that makes sense. Because you've got you've got a reduced population and obviously so the numbers are but for example, the numbers of birds that would be at risk of collision would reduce proportionally to the reduced population.

00:37:30:19 - 00:37:39:01

So our effects would reduce in proportion to the to the reduced numbers of birds that might be present as a result of avian flu.

00:37:52:00 - 00:38:00:05

Okay. So the position being that if there's less birds then there's less birds to collide with the turbines as such. Um.

00:38:06:05 - 00:38:12:00

Is that a sort of a scientifically verified conclusion to draw on that?

00:38:14:14 - 00:38:43:07

And Ross Bower on behalf of the applicant, think yes, we would argue that this is also natural England's position. It's not just our position. So, um, but yes, I think there was there is strong justification and evidence that that obviously a reduced population would result in reduced densities of birds present at the wind farm site and that would obviously reduce, you know, result in that effective proportionate reduction in numbers of birds impacted.

00:38:43:24 - 00:39:24:01

Okay, So let's just pick out a specific species for the sake of argument. Let's talk about Gannets, for example, at the moment that are without prejudice compensation measures proposed. But a position appears to have been reached between the applicant and natural England that actually compensation is not required for Gannet, but as a result of lower numbers in the population, for example. Does that does that change your position or affect it? Or is the position that where there's less birds, so less birds would hit the turbines, so therefore there's no no change?

00:39:26:26 - 00:40:16:16

Um Ross Bauer of the applicant think probably at this stage it's too early to say whether whether that would whether effect would occur. Um, but, but in general, yes. Mean again you know we could we can be confident that the numbers of um, collisions would reduce proportionally. Um, and I guess the question then is what effect that has a population level. But, but like say but, but our position and which Natalie didn't agree with is that would that be that proportionate reduction um, mean it's also worth adding just specifically in respect of as you say, think natural England and ourselves are in agreement that there isn't going to be a significant effect on organic populations.

00:40:16:26 - 00:40:34:21

Um, but, but like say, but in terms of the, the, the effects of avian flu on that, I think it's too early to say. There's really just not enough data to to support either way whether whether our conclusions are going to would like be likely to change as a result of that. Okay.

00:40:34:29 - 00:40:58:21

And if you were, obviously, we're waiting to see what further guidance comes forward. But if you were to have to undertake PVS again and effectively almost update most of the what's in the environmental statement to proportionately accommodate that. How would that play out during the rest of the examination? What sort of timetable would we be looking at.

00:40:59:00 - 00:40:59:24

If.

00:40:59:26 - 00:41:02:18

For example, you got the extra guidance at deadline three?

00:41:04:08 - 00:41:41:04

Um, Ross, on behalf of the applicant. I think it would be very much dependent on, for example, I think it's very unlikely, for example, that we have to rerun everything for every species that we've considered in the assessment and again, think that would be something that we would have to come back with advice from natural England on as to which species we'd want to consider. Um, and, and the, you know, the extent to which the, the assessment would need to be updated for those species. Um, so I think I'll probably have to defer our, our response on that really pending, pending further guidance from, from natural England.

00:41:41:19 - 00:42:03:27

Um, I think, you know, if it's, if it's for only 1 or 2 species, then that's probably something that we could readily accommodate. But I think if we were looking at, you know, the whole suite of species that are being considered in the assessment, obviously that would be likely to take more time. But I think we'd we really need more information as to the extent of that to confirm the timescales that we could complete, that complete that in.

00:42:04:13 - 00:42:48:20

Okay. Think what I'd like here then is an action point drawn up, um, for both the applicant and natural England to, to, to get together and work out a way forward on this. Um, because it's been a deadline and a half now with no real progress on it, if you like. So if the applicant and natural England could get together, could talk about how best to accommodate this, what is needed and by when. And then as a result of that, the applicant could feed into the a timetable as to how that would relate to the rest of the examination, because I'm keen, if we can, to have some conclusions to draw on this come the end when we start looking at our recommendations.

00:42:48:22 - 00:42:52:17

So if that could be noted, please. Thank you.

00:42:58:27 - 00:43:37:03

Okay. I'm pleased to say that we've made good progress through agenda item three. Therefore, don't necessarily say we pause now. I say we continue on if everyone's okay with that. And so we'll come to agenda item four, which is offshore ornithology from a perspective. Um. Relation to 41. The applicant has provided the apportioning and updates technical note and it sets out the predictions regarding the puffin species. I believe this was a specific request from natural England to include um natural England have said they will respond at deadline three on this.

00:43:37:10 - 00:43:51:03

As far as the applicant is concerned. Regarding the puffin species, uh, do you consider the conclusions robust and do you think there'd be likely any outstanding issues regarding the species on its own? First of all, please.

00:43:52:20 - 00:44:26:22

Uh, Ross Bauer on behalf of the applicant. Um, so, yes, just to confirm, as you said, Natural England have indicated they're going to provide a response to this, a deadline three And obviously once we've got their position, we can provide a further update on that. Um, so the assessment of puffin displacement, which we've set out in the Apportioning and Habitats regulations update technical note, which is REP 236 um, concludes that there will be no measurable mortality effects on puffins from the coast.

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Um, so on that basis there would not be any contribution to in combination mortality for that species as well. Um, and that's primarily on the basis of the, the distance from the windfarm sites to the coast, which is the kind of outer outer limits of puffins foraging range. So it's, it's very unlikely that

significant numbers of puffins present at the windfarm sites would be associated with the number of coast population.

00:44:58:04 - 00:45:16:24

It's more likely that those are non breeding adult birds, for example. Um, which which would be, you know, which are present in the kind of in the wider population throughout the year. Um, so yes, I mean we're obviously content with our position on that and, and obviously hopeful the natural England would agree with that. Okay.

00:45:17:24 - 00:45:31:03

Thank you very much. Now, the the the puffin species was mentioned in the context of the overall seabird assemblage. And that brings us on to our next couple of items on the agenda. Um.

00:45:34:00 - 00:45:52:06

Natural England again have said they'll that will respond in in terms of the overall seabird assemblage. And just for for my understanding, if you like, in terms of the applicant's methodology and approach to the seabird assemblage. Are you aware of any

00:45:54:12 - 00:46:00:12

problems, if you like, or any disagreements with Natural England and how you've gone about calculating that place?

00:46:02:25 - 00:46:32:22

Uh, Ross Bauer on behalf of the applicant. Um, so just to confirm that, um, within the, um, apportioning and updates note we, which is rec 236, we've provided an assessment of the effects on the coast seabird assemblage. Um, and we've sought to follow the approach of natural England requested, which is the approach that they used in their um,

00:46:34:11 - 00:46:43:14

end of examination position for Hornsea Project four. So we've sought to follow the approach that they recommended for that. Um,

00:46:45:01 - 00:47:17:04

the, so for the conservation objectives, for the seabird assemblage, there are various different um, objectives in relation to species abundance, diversity and the extent distribution and quality of habitats which the support the assemblage species and the assemblage comprises nine different species. Um, or of those species there are four of those species are um, also qualifying species in their own right.

00:47:17:06 - 00:47:47:24

So that's gannet Kittiwake, guillemot and razor bill. Um, and then the remaining species are, um, one part of the assemblage only. Um, so in that respect, um, the assessment obviously makes use of the assessment which we've undertaken for those species which are also qualifying species in their own right. And then also obviously separately, um, the species which are some, which are assemblage species only if that makes sense.

00:47:48:11 - 00:48:12:27

Um, the so of the assemblage species which are. Only assembly species, former herring, cormorant and shag. We've screened out those species from the requirement for and that's set out in the screening document, which is 060.

00:48:15:10 - 00:48:52:03

Then the effects on the other species. Gannets Kittiwake guillemots and razor. Bill Wee. Those are obviously addressed within our report to inform appropriate assessment. 59 and the update note. Rep

2036. Um. And also within that update note, as we've just discussed, we've also addressed the effects on on Puffin. Um, so our conclusion to that assessment is that there would be no adverse effect on integrity both alone and in combination for the assemblage.

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Um, and can go into that further if you'd like me to. If you have another question to follow up or how you would like me to deal with it. But.

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Um, yeah, I'm happy for you to continue. Yeah.

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Okay, fine. Um, so, um. In respect. So obviously for the disgust for those those species, for my hair and gold and Chad, we've screened those out. So we don't consider that those would

00:49:20:12 - 00:49:50:13

have any contribution to any effects there might be on the assemblage. Um. Or Kittiwake, obviously. It has been concluded that there as a as a species, as a species, a qualifying species in its own right, that there would be an adverse effect on integrity for that species in combination. And obviously we are proposing compensation measures for that species.

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Um. In respect of Guillemot and Razorbills, as you know, there is a point of disagreement between ourselves and agreement in terms of the effect on those species. Um.

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But obviously it's a slightly different position in respect of the assemblage as opposed considering those species in isolation and of the different

00:50:18:08 - 00:50:22:00

criteria which apply to the conservation objectives. So the

00:50:24:04 - 00:51:08:02

species diversity, for example, there's no likelihood that the diversity of that assemblage would be diminished by the by the proposed step and that projects, i.e. it's not at all likely that any of those species will become extinct as a result of our project loner and combination. So we can be confident that there's no effect on that. So really the only point of potential disagreement natural England, is with regard to the abundance estimate and the abundance estimate for the coast at at designation, the total abundance is 200 was 216,730 individuals.

00:51:08:04 - 00:51:15:15

So that's all of the the total number of all of the different species which comprise the assemblage. Um,

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and the, the conservation objective requires obviously that that abundance should be should be maintained, but it doesn't actually specify which species that should comprise is only in the sense that the total abundance should, should remain at that level. Um, so currently, based on more recent counts for the assemblage species, we're estimating that there has been an increase in the numbers of birds of the overall assemblage since, since designation.

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Um, and that for a number of those species, for example, Kittiwake, Gannet, Guillemot, Razorbills and puffin that population numbers are increasing for those species or have increased. So for example since since the turn of the turn of the century. Um.

00:52:06:20 - 00:52:43:06

So even if it were the case that the numbers of those species were were being reduced by by small numbers as a result of our project or in combination with other projects that wouldn't necessarily result in a net reduction in that overall assemblage because, for example, that might be balanced out by increases from, from other species. Um. So currently we estimate the, for example, that the total number of birds is approximately 20 20,000 above that which was at designation.

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Um, and we don't consider, for example, if it was accepted that guillemot and razorbills populations were diminished. And just to re-emphasize is not the applicant's position that's the case. We consider that there isn't any evidence that those populations would diminish. Um, even if that were the case, that wouldn't result in any appreciable small change in the overall abundance. Um, for the, for the assemblage. Um, so on, on that basis, we, you know, we are content that there isn't going to be any effect on, on the abundance, the overall abundance for, for the assemblage.

00:53:21:07 - 00:53:51:13

Um, and think furthermore, we're going to say even if it were accepted that there is an effect for example on the razorbills and guillemot populations, obviously at that stage there would be a derogation and compensation requirement which would obviously then assure that there would be no no net effect on those species and through that we consider would again deliver any required compensation would be effectively delivered for the assemblage as well.

00:53:52:04 - 00:54:07:12

Um, if that makes sense. So overall, like say our position is that that there would be no adverse effect on the, on the assemblage on the basis of our assessment. And obviously we will, you know, provide further response to that once. Once natural England has reviewed that and provide their response to deadline three.

00:54:07:27 - 00:54:33:09

Of course now now the next the next sort of sub question to this is going to be a little bit hypothetical. So so bear with me when I go along. Obviously, we're going to look at how the has has affected the seabird assemblage. Just say, for example, that one particular species that contributes to that seabird assemblage has suffered particularly hard.

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Notice this is an extreme example, but let's say there's ten left of a particular species and that your project would affect two. That would be a potentially major impact for that species on its own, but not necessarily for the for the not necessarily for the rest of the assemblage. So how how would that play out in terms of looking at compensation or mitigation if one particular species of that assemblage has suffered? As a result of I.

00:55:07:23 - 00:55:10:19

I'm Ross Bauer. On behalf of the applicant. Think.

00:55:12:05 - 00:55:50:16

Oh, it's as you say, it's very much a hypothetical question. And I think it's a very it's a very difficult question to answer because obviously, as previously stated, you know, think in the event that one species declined, it may well be balanced out by the increasing populations for the other species that overall assemblage would assemblage abundance value would be maintained. Um, obviously in the



event that, um, avian flu was resulting in, um, you know, marked declines in the, the overall abundance, that's obviously something we'd need to look at further.

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But it's, it's hard to make a response on a hypothetical, you know, a hypothetical situation. We, you know, we'd obviously actually need to look at the figures and numbers and discuss that with natural England. Um, and consider that in the round really. And again, going back to our previous point, you know, it's very much reliant on the further advice that we will be receiving from natural England on, on how we should be approaching the avian flu, um, assessment requirements.

00:56:20:28 - 00:56:50:06

No. Okay. Okay. So leading on to that, back to the agenda sort of item free on this, talking about, you know, the impact being so significant as to warrant compensation. Obviously your view is No, not at all. Out of pure curiosity, is there a kind of magic number in terms of the seabird assemblage where or if there's a showing of a progressive decline that then compensation is considered a necessary intervention?

00:56:53:06 - 00:57:28:05

I'm Ross. On behalf of the applicant. Don't think there's a magic number. Think it would just need to be demonstrated that there was a decline. In essence, where you would need to demonstrate that the the conservation objectives are no longer being met. So obviously, there's there's the the threshold number as previously set out, that was set out with the abundance for the for that population and also the requirement that it's not declining from its current position. So in essence, that would be that would be the requirement if there was evidence that that that decline was was likely to occur.

00:57:29:01 - 00:57:30:06

Okay. Thank you.

00:57:40:12 - 00:58:00:16

At the next two questions on here were kind of answered earlier in terms of our discussion on red throated divers. Um, obviously the question there mentions the offshore operations and maintenance plan, but as you've said, the mitigation is in the Project environmental Management plan. Um.

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Other than that, is there anything else that you want to say to try and if you like, convince me, if you like, that red throated divers are going to be okay as a result of this project?

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I'm Ross Bauer. On behalf of the applicant. Think.

00:58:21:00 - 00:58:53:02

The you know, as you've just said, think the first point we obviously reiterate is the is the implementation of of the the best practice protocol which we we consider fully addresses the operation and maintenance and construction effects. And we hope that natural England will agree with us on on that position. Um, and again I think would just reiterate the main point of disagreement with natural England relates around the.

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The realistic mortality effects of displacement effects on red throated diver. So as we previously discussed in Under the matters, our

00:59:08:27 - 00:59:24:07

natural organs position is that we have to present that range of mortalities from 1 to 10%. And obviously we do present those in our in our documents so that those those information is available for review. But the reality of the situation is that

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the the higher particularly the higher values, 10% are really inconceivable that that such high mortalities would ever occur in the real world considering the the numbers of birds that, you know, if you could imagine that the natural mortality of that species would be of that order from all the various different things that might affect disease, um, predation, you know, and all the other things that happen throughout the birds life. Um, so therefore the, the 1% mortality and there's, there's good evidence to support the fact that we consider that that the 1% is, is itself a, a precautionary value.

01:00:11:16 - 01:00:32:24

Um, and that if you consider that 1% mortality that our we don't consider the thresholds for overall in combination mortality you know are below the 1% threshold. Um, and so therefore we consider it reasonable that no adverse effect on integrity can be concluded. Okay.

01:00:33:07 - 01:00:55:02

And just in terms of the the best practice protocol and the project environmental management plan, who would be responsible for enforcing compliance with that? Would that be the contractor contracted to do the work or would that be the applicant who would actually make sure that the measures in the pimp are followed?

01:01:10:11 - 01:01:32:00

Julian Bowles of the applicant. The obligations are binding on the the person the entity with the benefit of the the marine license. And that in practice is is sell or del as appropriate. And they will then have to pass that down contractually to the different entities that are delivering the project.

01:01:32:29 - 01:02:04:15

Okay. The the reason for me asking the question, perhaps slightly unfair, if you like, at the open floor hearing last night, there were concerns raised that it was actually residents going out and speaking to the contractors and reminding the contractors of their obligations under the DCO to follow certain traffic patterns or to put in place certain mitigations. And that's just sort of concern me a little in terms of, well, is there a proper chain of command? If someone.

01:02:04:17 - 01:02:05:15

Knew.

01:02:05:28 - 01:02:11:25

If you like, that there was potentially a breach of this best code or of the that someone.

01:02:11:27 - 01:02:12:17

Could.

01:02:13:16 - 01:02:21:28

See? No. Get in contact with someone and say, actually, you know, the vessels are not doing what they're meant to or whatever else if that's why I'm raising it.

01:02:24:28 - 01:02:26:06

Julian Bosworth, the applicant.

01:02:27:23 - 01:02:30:05

Obviously I hear what you say. Um.

01:02:31:21 - 01:02:36:20

Obviously this is an offshore question. Yes. Um, I'm.

01:02:38:06 - 01:03:18:08

So for what it's worth, I'm the chair of something called a renewable offshore consents and licensing group, and that has most of the offshore wind developers represented on it. And we have a good level of sort of engagement with the Marine Maritime Organization, the MMO. Um, if there was a sort of any kind of industry issue with lack of compliance with marine licence conditions, I think it would be something that would be known sort of as as it would be recognized as a as an issue. It's never I've been on that group for over ten years and it's never, ever been raised as an issue that there was a sort of issue to do with compliance with with conditions.

01:03:18:10 - 01:03:38:07

So I'm not saying it never happens. Um, and I think the level of marine license enforcement is generally very low. It operates, I think there is a high level of compliance and there is a generally a very pragmatic relationship between developers, contractors and, and the MMO.

01:03:40:13 - 01:04:06:04

If no one's looking like they disagree with me. So hopefully they do agree with me. I mean, that's obviously not. Yeah, I think that's probably the best type of answer that that I can provide. Think you could you could, for example, ask a question of the as to whether they have, you know, any, any issues with marine license compliance on this type of type of point. But as I've just indicated, my expectation is that they would say, as a general, a general rule, no.

01:04:06:23 - 01:04:31:03

Okay. Thank you very much. I'll I'll hold that over for the just to get their view on it. But I'm sure no, I'm happy with what you've you've said there. One final question on the agenda with regards to Red voted diver. We're back in that territory again. Here was a relation to SEP and DEP and where the the issue was. Um.

01:04:32:26 - 01:04:48:16

The natural England have maintained that even after the vessel movements have gone, that just the operational presence of CEP would have an impact on the on the red throated divers. There's is that of a concern for the for the applicant.

01:04:53:00 - 01:04:58:01

Um, Ross Bauer. On behalf of the applicant. Um. I think

01:05:00:00 - 01:05:13:26

to be honest, we think we are slightly unsure about the about the the process behind this question. But I think I mean, our overall position is that the the contribution of

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our development to the income donation effect is very small indeed and that in effect, whether it's CEP or DEP or or neither of them, it doesn't actually it makes very little difference to the actual total in combination values. So, so in that respect, it really makes it should make no difference to the overall in combination effect whether or not our our project is are there or not.

01:05:46:04 - 01:05:58:02

Um, but obviously reiterating that our view is the, the in combination effects would not leave to a significant adverse or um adverse effect on integrity in respect to the, the.

01:05:58:21 - 01:06:35:04

The logic, if you like, behind the question, it was not said outright, but implied, if you like, in natural England's previous response that potentially the issue was with CEP and CEP alone as opposed to being with DEP. Now obviously we're looking at a scenario. I appreciate that the the intention is to bring both projects forward, but the rationale, if you like, behind the question was to say that if DEP went ahead on its own, would that resolve any issues natural England had now had? Actually, his response is no, because it's the export cable corridor, but also.

01:06:35:06 - 01:06:35:29

CEP.

01:06:36:04 - 01:06:44:08

Due to its operational presence, would still be a concern for them. And that's what they they clarified in that that recent submission. But that was my rationale, if you like.

01:06:44:10 - 01:06:45:02

Behind the question.

01:06:45:04 - 01:06:46:13

Just to find out where the the.

01:06:46:15 - 01:06:47:06

Issue lay.

01:06:48:23 - 01:07:31:27

Ross Powell on behalf of the applicant. Yes. Guess we'd also go back then to refer to, you know, the the implementation of the best practice protocol, which. It appears that Natural England would agree would address the the operation and maintenance effects and also the assessment which which we've set out in the the update habitat update. Note that the numbers of or the duration of the cable laying and the small area of affected of the cable laying activities would not result in a significant effect on the on the

01:07:34:00 - 01:08:01:10

populations. So yeah think and and like say a combine and and again that our position that the effect the effect of area within the affected area within all the effect of the development is is so small that it doesn't make a significant contribution to any in combination effect. If it were agreed that there was a significant effect on on in combination.

01:08:01:12 - 01:08:49:18

Thank you very much. Um, coming to the last question under this agenda item now there remains at the moment pending a natural England's response at deadline three, but there remains the fundamental dispute as to whether compensation is required at all for glimmer and razor bill. Um, notwithstanding any sub arguments regarding the the appropriateness of the measures which will come on to later, um, in light of recent submissions by both parties, does the applicant believe that we're closer to a resolution on this? Are the applicant and that you England's view is becoming more aligned, um, as to the nature of whether there is or is not a requirement for compensation here.

01:08:55:02 - 01:09:31:00

Julian Boswell for the applicant before turning to. Ta ta ta. Ross. Could I just set the scene a little bit here? Because, um, with Guillemot and Razorbills, we feel we're in quite an unusual situation, which I imagine you have worked out, but I think it would be helpful or we would just like to be able to, to, to set out the high level position as we see it. What's unusual is the fact that we are effectively, as we see it, and at the mercy of another project and another decision.

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So if we had been submitted sometime ahead of Hornsea four, we wouldn't be discussing Guillemot and Razor bill in terms of adverse impact on integrity, because there is a general acceptance that on a project alone basis we don't cause a problem and our numbers are extremely low, mean at the de minimis level as you will have seen. And so the only reason that we're having to do anything on this subject is because there is a large project ahead of us, which is Hornsea Hornsea four, and we don't know what the outcome of Hornsea four is going to be.

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And so we have been having to navigate through that uncertainty. If you then look at what the main possible outcomes are, I think that kind of helps to inform our our approach as well. Um, the first outcome because two of the three outcomes make this issue go away and only one of them means that there is a continuing need for it to be considered. So in no particular order, well taking the two sort of two of them and then coming to the to the more difficult one.

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So so the first scenario would be that the secretary state grants the DCO and concludes that Hornsea four does not. Some have itself an adverse impact on on on integrity. Um, and that would then mean that they the compensatory measures that they have put forward on or without prejudice basis are not required. And in that situation we are confident, obviously subject to to the detail of the decision if that were the decision. We are confident that because our contribution is so small that our contribution on top of whatever the Secretary of State has concluded would mean that we as well would not tip the security in combination situation over the threshold into derogation territory.

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And so this whole discussion would fall away on that basis. So that's the first situation. The second one is that the Secretary of State refuses the DCO for Hornsey for.

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And it wouldn't really matter why, but it might be for a reason. It might be for some other reason. So it doesn't matter why it's refused. But if it is refused, um. Then again, that would mean that we, we don't have a problem. Because back to what said at the very beginning, we have a de minimis impact on our own. So again, it falls away. So that only leaves the third situation where we have to discuss this. And obviously that is it's the fact that this could happen, which is why we have been discussing it.

01:12:17:02 - 01:12:47:20

Um, and, and you've seen the various submissions and so on, and that is that the Secretary of State grants the DCO. On the basis that adverse impact on integrity for these two species will occur. But also accepts that the compensatory measures proposed by Hornsea four are appropriate. And that's a really big point, because what that means is that if that is the secretary of state's decision, on the one hand, it creates a problem.

01:12:48:14 - 01:13:23:21

But at the same time, it will create a solution because the secretary of state will by definition have concluded that there were appropriate compensatory measures available. And so we obviously acknowledge that there is a debate about these compensatory measures. And we're going to come on to the to the to the detail of that. Um, but it's always the case when the measure is being considered for the first time, as this industry is finding, because as I'm sure you've realized, um, for a long time this industry managed to avoid this whole debate.

01:13:23:23 - 01:14:02:03

And then in the last whatever we are now three ish years, it's kind of hit, hit with a vengeance as to what what are appropriate compensatory measures for different species and different circumstances. So we've obviously the industry has obviously engaged massively with the Kittiwake issue, which we're going to come on to later. And we now have two other species, Guillemot and a bill which may or may not be about to cross the threshold depending on the Hornsea four decision. Now of course we were all hoping and I'm sure you were too, um, that the decision would come out as it was originally intended to last month in February.

01:14:02:05 - 01:14:36:25

And obviously the discussion we would be having now would be very much, you know, completely, in fact, overshadowed by what that decision was. And we might have been in one of the first two situations or in the third one. Um, instead, as we know, as I'm sure you're aware. Um, the decision has been delayed. And in fact, I think we were counting last night. I think it's three working days between the new deadline and the examination. And of course, it might come out earlier because they've just given themselves the ability to go that far, and sometimes they don't take the full time.

01:14:36:27 - 01:15:11:14

It might be delayed further, of course, because that, you know, there is that has happened before, that there's been more than one delay in this situation or it might come out, you know, at the wire, which I guess for the for what it's worth is our working assumption that it will come out either at or close to the wire. And so we will have to put in some kind of submission or imagine you will want us to. And we're certainly expecting to. And thinking about what that submission might be and what advance preparation we can do to make it as useful for you as possible. Um, in the dying days of the examination and then in the real world and appreciate that.

01:15:11:16 - 01:15:52:17

Normally, um, you know, this process tries to minimize what happens during the decision phase in the real world. I can imagine that we would do a further update directly to the Secretary of State because that would either be we would certainly prepare one because it would be surprising if that wasn't requested, depending, of course, on what the decision is. So if it's the first two scenarios, then it goes away. If it's the third scenario, then we're into this, into this, this conversation. And so we'll back, you know, back in this conversation. And so we just going back to the fact that the industry is coping with and guess the whole process, including the examining yourselves as examining authority DEFRA based designees as they now are, etcetera, etcetera.

01:15:52:23 - 01:16:23:21

Um, as to whether or not a new form of compensatory measure for new new species, um, are sufficiently developed and credible or not. Orsted have obviously put in a huge amount of work in advance because whilst it is their position that they don't cross the threshold, they've clearly taken the approach under the new model of the without prejudice sort of system that it is appropriate for them to, to develop a without prejudice set of proposals.

01:16:23:23 - 01:17:01:07

We've obviously, you know, commented on that. And equally we have looked at that and we have said, you know, how do we firstly take advantage of the work that they have done, um, with gratitude and secondly, acknowledge that we in practice, particularly when we have got such a tiny contribution ourselves, that there has to be some degree of proportionality to how we approach that, particularly given, as I've already said, if we have a problem, there will by definition at the same time be a solution which it is highly credible.

01:17:01:09 - 01:17:40:06

We will be able to then adapt to our situation because we haven't invented anything new in our proposals compared to what Orsted are putting forward. So that, I think, is why in some ways, yes, of course there is a debate about the specific measures, but in some ways the core credibility of our

position, unusually is the process point that I have just made. Because if the Secretary of State, sorry to say it for the third time, if the Secretary of State concludes that the only basis that he can grant the Hornsea four decision is that compensatory measures are needed.

01:17:40:08 - 01:18:12:15

By definition, he will have to have approved within that, um, you know, a process for those. Measures to to to be finalized and and delivered, which is, you know, has has some similarities, obviously, to the kind of process approach that was followed when Kittiwake cross across the line. And so it is for that reason that we are comfortable that we are in the best place that we could realistically be On the unusual facts we say, of this case.

01:18:14:12 - 01:18:32:18

Not that that makes sense. And in relation then to that to that fundamental dispute, it's not going to be resolved until a decision is made effectively. No. Okay. And I understand where your you're coming on on that. And so we're about to say something.

01:18:33:14 - 01:19:04:04

Um, Ross Bauer. On behalf of the applicant. I don't know if there's. There's much value in me adding much additional to that. I mean, our arguments are as set out in respect of the, um, the assessment of effect on, on razorbills and guillemot populations are as set out in the report to inform appropriate assessment and the apportioning and updates note which is rep 236.

01:19:04:18 - 01:19:36:11

Um, so in essence, our position remains that obviously that we don't consider there's an adverse effect on integrity in combination of both of those species and that's on the basis of the population viability analysis, um, assessments that we've undertaken for those species. Um, and can go into more detail on that if you'd like me to. But, but like I say, it is set out in, in, in those, in those reports. So like say if you want me to explain further what we've done, I'm happy to do that.

01:19:36:13 - 01:19:43:11

But like say at the end of the day it all comes very much down to the position on on C4.

01:19:43:26 - 01:19:44:11

So

01:19:45:26 - 01:19:59:06

okay, no, fair enough. Thank you both for your for your responses on that. Um, I've got nothing further under this agenda item. I'll just see if any of my colleagues wish to jump in. No. Okay. Bear with me one moment.

01:20:03:15 - 01:20:21:27

Okay. We've been here now just for an hour and 20 minutes. Suggest we take a short break. Comfort break. The time is 1120. I suggest we adjourn until 1135. And when we resume, we'll be on agenda item five. But let's adjourn now. Thank you.