



Hearing Transcript

Project:	Five Estuaries Offshore Wind Farm
Hearing:	Preliminary Meeting – Part 2
Date:	17 September 2024

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Five Estuaries_Wivenhoe_17 Sept_Prelim_PT2

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FULL TRANSCRIPT (with timecode)

00:00:05:08 - 00:00:10:28

Well, it's just a little after 1140, but the preliminary meeting is resuming.

00:00:13:28 - 00:00:23:19

Thank you. So, um, onto agenda item five, uh, which is the examination timetable.

00:00:35:06 - 00:00:52:05

Um, so for this agenda item, uh, it would be useful to have annex E of our rule six letter in front of you. Um, and I'll ask the applicant to share that on the screen, which is just appearing now.

00:00:54:12 - 00:01:24:24

So annex E, uh, sets out the draft deadlines for written submissions and dates for hearings. It also includes dates for the examining authority to issue documents such as our written questions, and please note the latest time for making submissions at each deadline. Um, is 2359. So, um, 11:59 p.m., although with wellbeing in mind.

00:01:24:26 - 00:02:05:09

Um, the examining authority would not want this to encourage late evening working. Um, the Exa would just take this opportunity to remind you, um, what we said about deadlines in the rule six letter on on page nine, um, which was just to say, each deadline within the timetable should be treated as being a not later than time and date. There is therefore no reason why submissions relating to a particular deadline cannot be made to the Planning Inspectorate in advance of the stated deadline.

00:02:06:12 - 00:03:12:17

In the interest of efficiency, I don't intend to go through the draft timetable in its entirety, but we would take this opportunity to highlight a couple of key points. So we decided to hold a compulsory acquisition hearing. Uh, CRH one and two issue specific hearings is H1 and H2 at a very early stage of the examination? The holding of c H1 will enable the examining authority to receive some initial oral evidence relating to the compulsory acquisition powers and temporary possession powers being sought for the proposed five estuaries offshore wind farm alone and in connection with the proposed North Falls Offshore Wind Farm and the proposed East Anglia Connection Node substation.

00:03:13:11 - 00:04:01:15

Um and the approach to progressing the land rights negotiations tomorrow, commencing at 10 a.m. and going on to Thursday morning if required. Uh, we will be holding each one in which we will be hearing initial evidence relating to a range of environmental matters. And thereafter on Thursday, uh,

commencing at 230 in the afternoon, we will be holding ish two, in which we will be asking questions and hearing initial evidence relating to the drafting of the Draft Development Consent Order.

00:04:03:11 - 00:04:51:00

As soon as practicable after this week's events, we will publish our rule eight letter, which will finalize the examination timetable. Moving on to deadline one, which is timetabled for Thursday the 3rd of October. This deadline, amongst other things, provides the opportunity for parties to submit post C, H1, H1 and H2 written submissions and make comments on the relevant representations, if not previously made, and any other documents following the acceptance of the originally submitted application.

00:04:52:09 - 00:05:30:18

The examining authority will publish its first written questions, known as Q1, on the 8th of October, which are expected to be similar to the questions included in our draft written questions, which we issued on the 30th of August and deadline to on Tuesday the 22nd of October includes, amongst other things, the deadline for the receipt of written representations from interested parties.

00:05:30:26 - 00:06:01:11

The submission by the local planning authorities of their local impact reports and responses to the examining authority's first written questions. Further days have been allocated for hearings, if required, during the week commencing the 28th of October, if required, then we propose to publish a further set of written questions.

00:06:01:15 - 00:06:12:24

EC2 on Friday the 8th of November, with a deadline for responses to those questions on the 3rd of December. Deadline for

00:06:14:15 - 00:06:54:08

Act deadline three. On Tuesday the 12th of November, there will be an opportunity for the applicant and the other IPPs to submit post hearing written submissions. If the hearing scheduled for week commencing the 28th of October are required at deadline for on Tuesday the 3rd of December. This includes the opportunity to respond to our second round of written questions if required, and requires Natural England to submit its first substantive principal areas of disagreement.

00:06:54:10 - 00:07:37:15

Update at deadline five uh, Tuesday, the 7th of January, 2025. Amongst other things, this includes the submission of final and signed statements of common ground. This deadline will be just after three months into the examination, and the examining authority considers it important that statements of common ground in their final forms should be submitted at this point in the examination to avoid the potential for the statements of common ground to be treated as afterthoughts or uninformative documents.

00:07:37:17 - 00:08:18:24

The examining authority's early sites of final statements of common ground will enable it to establish what matters are agreed and what might be subject to disagreement, and potentially still with sufficient time remaining within the examination period for it to examine matters, um, of

disagreement through the asking of written questions and or the holding of the hearings. Um, the examining authority would stress that, um, the once final and signed statements of common grounds have been submitted at around the examinations midpoints.

00:08:19:05 - 00:08:51:19

Um, that should not be taken as precluding the applicant and other IPS from continuing to engage with one another, to consider any outstanding areas of disagreement and potentially narrow their differences. Um, something that can be recorded in subsequent written submissions. And just a final reminder that we are under a duty to complete the Examination within six months of opening and therefore by the 17th of March 2025.

00:08:51:23 - 00:09:24:25

Once the examination closes, no further submissions can be accepted. So I think that there the initial sort of points that we just wanted to highlight, um, I think we, we have had, um, uh, IPS who wish to comment on this, um, and those who have already raised some issues within their, uh, pre examination, procedural deadline de submissions.

00:09:25:12 - 00:09:43:13

Um, I think starting with those who wrote the, uh, submissions in at deadline day. Um, so I think that was, uh, Mrs. Fallows who made some comments there. Um, did you wish to briefly, um, elaborate and on those submissions.

00:09:48:16 - 00:10:31:28

Thank you, sir. Marion fellows. So, um. A matter of clarification first. So you referred to the, um, comments I included when I reply to your invitation to attend these hearings. Will those be made available so everyone can see each other's, uh, uh, comments? Because I couldn't find a way of accessing what I had, uh, submitted to you or to read what others had. So that's the first question. And then, um, thank you for your, uh, clarification going through the timetable just then verbally, um, I don't see any reference to, uh, the deed of obligation and when that might be drafted.

00:10:32:00 - 00:11:15:18

So I understand the draft DCO and when that will be, uh, compiled, put together and understand statements of common ground and, uh, As a natural. England's slightly different approach, all of that, how that will dovetail together. But when will you start drafting the duo? Because again, from my previous experience of these matters, that was quite crucial and it was somewhat misunderstood by stakeholders as to the relevance of that and having statements of common ground, will that be extended to all parties, not just statutory consultees? Because again, to it's what you don't know at the time.

00:11:15:20 - 00:11:49:09

With hindsight now, in the process of actually living through a do, uh, deed of obligation and how projects are being managed on the ground within our communities, it really that's why I've devoted time to take part in these proceedings, to assist you and others who may hear this, these matters, to understand that actually it's really important to engage now in this process. So two things, um, there, which hopefully you'll be able to give me some feedback on.

00:11:49:11 - 00:11:49:26

Thank you.

00:11:52:25 - 00:12:23:03

Yeah. Um, I think I can probably take the first one. And then I might ask Mr. Gould to comment on the second point. Um, so, uh, the case team may, uh, correct me, but, uh, I believe, um, the deadline de submissions were, um, posted up on to the examination website. So I think your, your comments and anybody else who, uh, submitted, um, it is now published.

00:12:23:05 - 00:12:32:03

I don't know the exact. I'm just checking my messages to see if the case team are going to tell me when they went up, but, um, they, they were there when I checked.

00:12:34:20 - 00:12:38:19

Yeah, I've had confirmation they have been published, but so it.

00:12:38:21 - 00:13:09:14

Might be I. I checked again yesterday and it might be because they're called something else. And again, I apologize. And you're the experts and your team know exactly. You know what they're doing and where they're putting things. Uh, for somebody like myself who's purely a volunteer with no professional training other than trying to represent communities and to, I have no answers. I only just have hopefully some helpful questions. Um, if you don't know what it's called, you can't find it. So I couldn't find it, but great.

00:13:09:18 - 00:13:18:00

Perhaps offline? Perhaps offline. One of your team would be able to assist me to, uh, navigate to that point, and I appreciate your assistance. Thank you. Sir.

00:13:24:12 - 00:13:49:07

Yep. So we've just been messaging the case team these comments about timetabling and issues raised, um, when people registered to attend this preliminary meeting. They apparently have not been published. Um, because they're made on the registration form. So they're not a document as such that can be published. Um.

00:13:57:23 - 00:14:29:28

Which which goes back to my point, sir. I could find no way of saving them myself as I was unless I cut and paste to a word document. But you don't know at the end of the form that you're not going to be able to kind of do that. And, um, I have lots of experience of, of finding, completing these sort of forms and the process not intuitive. You don't know until the end that you can't do something you would have done if you'd known. And as you quite rightly said, they're not published, whereas colleagues thought they had been.

00:14:30:00 - 00:14:48:00

So it's no criticism at all. Just some simple comments from me that indicate that you may believe things are quite straightforward, but they're really not from, uh, you know, somebody sitting at the other end of a computer like this and, uh. Thank you.

00:14:51:28 - 00:15:25:12

And I think you raised a point on statement of common ground. The norm is that statements are usually for statutory undertakers, other regulators, um, sometimes where you'll get perhaps an action group that participates, it can be helpful, um, for a statement of common ground between the applicant and the action group. So again, um, items that can be recorded as to whether any progress is being made with respect to particular issues that may be raised by the action group.

00:15:25:14 - 00:15:52:26

So we we wouldn't be proposing any more statement of common ground being produced because I think we had a list. Something on the order of 25. Off the top of my head. It was quite a substantial list, which the applicant may have been slightly surprised to get. But anyway, that's where we we ended up having reviewed, uh, the representations that we got from various undertakers and statutory parties. Does that assist Miss Fowler's Missus Fowler?

00:15:58:11 - 00:15:59:11

Yes. Thank you sir.

00:16:00:28 - 00:16:06:16

And then the second question was with regard to, um, the deed of obligation.

00:16:14:12 - 00:16:37:03

Uh, as I indicated, most, most of that side of things will be dealt through with through the consent order side of things. Um, and there will most certainly be discussions with the applicant is holding with other parties, and no doubt will keep us apprised of what's going on in terms of any agreements they're reaching. Mr. Boswell.

00:16:38:20 - 00:17:11:26

Julian Boswell for the applicant, I'm assuming that Mrs. Fellowes is referring to a section 106 obligation under the Planning Act, and it may just be helpful to say that no such obligation is currently proposed. I don't doubt that there was a monster, um, deed of obligation for the Sizewell, um, uh, application, but it's there are many, many applications where there aren't, uh, section 106 deeds of obligation. And as things stand at the moment, that's the current direction of travel.

00:17:16:11 - 00:17:54:02

Okay. Um, I'm grateful for that clarification. I would say, as well as, um, section 106 matters. The deed of obligation is very helpful in terms of how a project will be managed. So I understand a deed of obligation. It may be I'm using the wrong language, but is the Bible by all the sort of manual by which things like working hours, um, routes that are taken by traffic? Uh, you know, so that's what I'm looking for. That document that eventually ends up after a DCO is approved and is in draft during the DCO.

00:17:54:29 - 00:18:08:14

Um, but very quickly comes out, if you like, or as published as how this project will be managed on a day to day basis and against that can be held to account or enforced. Sorry. Apologies. Yeah.

00:18:08:29 - 00:18:23:01

I think for this case you'll find it is described as a code of construction practice, which is something that's subject. I often can't remember which of the requirements, but it's maybe requirement ten in the draft DCO.

00:18:30:11 - 00:18:37:10

Foreign fellows. Thank you sir. I'll research that and come back to your case team, if I may, if I'm not able to find what I need. Thank you very much.

00:18:37:19 - 00:18:45:01

So I could see some nods coming from the applicant team. Is somebody able to confirm that I've perhaps got the right requirement number?

00:18:47:17 - 00:18:50:01

It's definitely in schedule two of the draft order.

00:18:51:09 - 00:19:06:06

For the applicant, the Code of construction practice, which you would cover a lot of the elements. Mr. fellows is referring to his requirement eight of the DCO. There are other requirements of elements such as working hours and so on as well that I would also, um, um, advise Mrs. Fellows to read them in the round.

00:19:08:25 - 00:19:11:17

She says assist with the point that you've raised.

00:19:15:16 - 00:19:17:00

Yes. Thank you very much.

00:19:19:17 - 00:19:20:03

Okay.

00:19:21:22 - 00:19:40:03

Um, now, I believe, um, when we were, um, at the introduction stage, uh, that I think the Port of London Authority were the only other, uh, body in the intro that said that they wanted to comment about this agenda item and authority.

00:19:41:00 - 00:20:06:23

Mrs. Victoria Fowler, um, on behalf of the Port of London Authority. Um, yes. So it's it's a, well, a minor point, but it was just regarding the potential dates for the next set of hearings, which do overlap with half term. So it was again, it was just the practicalities around that and, and and appropriateness. But I appreciate, um, sir, that you're, you're working to a very strict timetable. So it's probably unavoidable. Thank you.

00:20:09:06 - 00:20:16:03

Thank you. Um, and we note, uh, people have, um, written to us about that as well. Um. Oh.

00:20:17:07 - 00:20:59:08

Yeah. On the point of half term, it seems to be that half term is a bit of a moveable feast, depending on where you are in the country. Um, because when we were compiling this timetable, we were looking at that from our perspective as well. And it did appear that there's considerable variation in days gone by. It used to be everywhere, had the same half term week, and everybody knew what was what. But that seems to have changed. Um, Natural England I think, have picked up on that point on a number of occasions in their submission. Uh, we from that perspective, have tried to do the best that we can, and generally with timetabling, um, it does need to be borne in mind that this is not the only examination that's ongoing.

00:20:59:10 - 00:21:39:18

There are various examinations that have either just commenced or will follow this one shortly. Within the inspectorate, there's a fair amount of juggling going on at the moment to try and make sure that all of these cases are resourced, because what happened back in the spring was that there was a considerable number of applications, all lodged at the same time. There have been some further applications that have been submitted not long after this one. Um, and it is also worth bearing in mind, although this is an energy case, uh, there will be other colleagues dealing with transport cases, um, and some other um, related ins at work.

00:21:39:20 - 00:21:54:18

So, um, timetabling is proving for us at the moment to be quite difficult. We literally have to bid to try and get some slots so that we know that administratively there is backup to service the various examinations.

00:21:57:03 - 00:21:58:15

Um, for the applicant.

00:21:59:20 - 00:22:11:09

Julian Boswell for the applicant. Just a couple of observations, if that's okay. On the, um, on the programme, firstly that um.

00:22:15:00 - 00:22:52:03

The deadline on the 22nd of October and preparing for the hearings on the week commencing the 28th of October. There's there's a bit of a pressure point there. Um, and we're not sure whether you're about to ask us to comment on, um, Natural England's letter, where they highlight the different offshore wind examinations that they're involved in. Um, but if you were rejigging anything in response to that, we would ask that you bear the point I've just made in mind.

00:22:52:06 - 00:23:23:14

We would also ask that for wellbeing reasons. And I was pleased to hear what you said earlier, sir, on that subject, that, as currently is the case, that deadlines aren't put on a Monday because there are no Monday deadlines, we would very much appreciate that position to be maintained. Um, on the on the, um, Natural England request for there to be three, three clear days. We're sympathetic to that, that we've just heard what you said about them.

00:23:23:16 - 00:23:55:12

I hadn't heard about this bidding point, but I'm not surprised. Um, given how many concepts there are sort of in motion at the moment. But the so our headline position on that, if it's helpful, is that we're sympathetic to that. We would highlight and I'm sure you're tracking this that the Mona um and SIP has, has now got different dates from the ones which um Natural England highlighted because they, there was, there was a request to change various dates which was accepted in their rule eight letter.

00:23:55:24 - 00:24:28:24

And then the, the final observation was that, um, heard everything you said, sir, about some common ground and your, um, desire to see them completed and signed earlier in the process so that they then have a sort of more material impact at um, about the 7th of January. Deadline is inevitably going to be challenging around Christmas, and lots of organizations just shut down, um, for a material period, as as I imagine you're aware.

00:24:28:26 - 00:24:36:00

So we will always do our best to hit that deadline, but just wanted to make that gentle observation.

00:24:39:02 - 00:25:24:00

Thank you, Miss Boswell, on the Statement of Common Ground deadline. You may be alarmed to hear that. Actually, we had it down earlier. Um, and we did shift it, um, because of the Christmas period, um, will reflect on whether or not it can be perhaps moved by a few days. Um, but we don't want to see it moved too far because we will then be potentially running into hearings not too far down the line. Um, and we need to see the statement of common ground, um, so that we can prepare for those hearings? Um, certainly in other cases, we have encountered issues with Stapleton common ground coming so late in the process that you just cannot do anything constructively with them.

00:25:24:02 - 00:26:00:12

That's why we've gone around. It's now a little bit beyond mid-point. Um, so that we, in fact have a useful tool to work to. Um, but yeah, we'll we'll reflect on that, that deadline. Um, in preparing the final timetable. Um, what I would also say is that in moving, trying to move deadlines, it often then has a knock on effect. Um, and one of the knock on effects that none of us see is actually the amount of work that has to go on behind the scenes to get documents published.

00:26:00:18 - 00:26:29:02

And none of us sitting in here today or online will know precisely how many documents might be yielded by this examination, and how many other documents are being yielded, um, through the other cases that may be on similar trajectories. Um, and hence the reason why I think we've gone with Tuesdays and Thursdays again to try and relieve the pressure that will be occurring behind the scenes, to try and get documents out and published as quickly as possible.

00:26:32:02 - 00:26:33:12

Julian Boswell for the applicant.

00:26:36:00 - 00:27:20:24

I'm sure you know everything I'm about to say, but I'm going to say it anyway, if that's okay, that there's sometimes a tension with these statements and common ground, isn't there, where sometimes they get they're actually getting in the way of substantive discussion. Um, and it's better to spend the

time from our side of the table, as it were, along with whoever we're negotiating with, to be resolving the the more the more detailed issues, as it were, as opposed to how they then get precisely reflected in the statement of common ground. But but I think the I think the message that you're sending that we're hearing is that even if it means that there's a more, slightly more brutal approach to finalizing a document, because clearly you can just leave more things in the non agreed part of it.

00:27:21:05 - 00:27:51:21

Um, if that's what it takes to get something signed. You know, if you say you must sign something by that date, we might be sitting there saying, well actually you get a better outcome if it was a month later. But if you insist on getting it then then we'll we will get something to you and we will cut through whatever however it's presented for the sake of getting it signed. So I guess there's that tension playing out. I suspect that this examination is perhaps going to doesn't have as much of that issue as some others do.

00:27:53:27 - 00:28:27:13

Thank you. Yeah. I mean, it's always difficult. I think what we would reiterate in terms of comments I made earlier, that the emphasis for these statements should be, in fact, the areas of disagreement. Um, we often also see very long documents that include the full trial of all the dialogue that's taken place. But preamp, uh, through the early stages of the examination and then to wherever you get to, uh, when you sign the statement, a lot of that information doesn't really assist us.

00:28:28:06 - 00:29:02:29

Um, we really want to just see the nitty gritty of what perhaps has been agreed, what might be agreed with a bit more work, and what can't be agreed for whatever reason. Um, a much if you like, slicker way of presenting parties difference. What we've also said is, although we're seeking submission around about mid examination, that doesn't mean that the parties who just say, okay, we're not going to talk to one another are there anymore. Um, because it might well be on a highway point on, uh, junction design.

00:29:03:22 - 00:29:43:05

Um, the reason why a point couldn't be agreed on January. Whatever it is, is because there was a need to run another safety audit or something. Um, okay. Record the fact that the safety audit is going to be done or whatever, and we can then receive an update, either at a relevant hearing or at the next deadline that the audit was completed and issue was resolved or was not resolved. Um, so it's important, I think, for everybody involved with the statement of common ground to realize that, yeah, just because we've said we want meet examination doesn't mean you should stop talking to one another to try and resolve matters.

00:29:43:09 - 00:29:44:15

Does that assist?

00:29:48:21 - 00:29:49:26

Yes. Thank you sir.

00:29:52:06 - 00:30:06:29

Thank you. Um, I can see Mrs. Fellows has got a hand up, but I'll just quickly, um, check. I'll come to her in a minute and just check whether any other IPPs have got a hand up and I think I can see, uh, Suffolk County Council.

00:30:07:11 - 00:30:53:02

Thank you sir. Uh, Michael Bedford, Suffolk county Council. Uh, there were three points I wanted to raise, which were clarifications rather than, uh, points where we, uh, were suggesting any revisions to the timetable. And then there was a fourth point I make, um, uh, about, uh, a particular date in the timetable. The first point of clarification was we noted that you had indicated that in relation to deadline dates, they are to be treated as no later than date, and that you would be perfectly receptive of submissions, uh, to that deadline coming in earlier than that.

00:30:53:04 - 00:31:27:16

The point of clarification I just wanted to understand is, is that likely to mean that there would be, as it were, A piecemeal publication of material. Or would the practice be in line with the previous practices? I think generally follows that all material that parties submit to a deadline is published simultaneously. And I see I'm getting a nod that that's the case. So so in a sense, if we submit material earlier to the examining authority, it might well benefit the examining authority.

00:31:27:18 - 00:31:35:00

But there's no point in us checking online to see whether or not there's early publication of anybody else's material, because that's not going to happen.

00:31:35:03 - 00:31:44:03

That you're correct. But that doesn't mean to say that if there's a point between you saying the applicant, um, I'm sure that between you.

00:31:44:05 - 00:31:44:20

Yeah, we can.

00:31:44:24 - 00:32:16:04

Liaise and and get whatever information might be likely to be published not long after. Um, but certainly it does assist us to see things earlier. Uh, as I highlighted earlier, there's quite a lot of work that goes on behind the scenes to get things published on the day that they end up in the library. Um, and certainly Mr. Harrison and I, on another case, encountered, uh, one of the regulators who perhaps has a reputation for being, um, a bit last minute.

00:32:16:06 - 00:32:46:15

But in fact, for that case, I'm not going to say who it was. Um, they managed to produce things days in advance of the deadlines, which we found very helpful when we were compiling questions. Um, and that's a practice that we, we would encourage because, you know, human nature is what it is that everybody tends to leave things to the last minute. Um, but, uh, that doesn't always produce the best piece of work.

00:32:47:05 - 00:33:14:18

Um, and you'll have noticed in our timetable we've kept away from Friday deadlines because that's what lots of people tend to do. Again, that's part of trying to manage the pressure, um, for the various examinations that we know have either started or will be starting. Because if everybody goes for Fridays, which has been the tradition, um, it just means that there's an awful lot of work that colleagues have to do on the Monday to try and service perhaps 3 or 4 different examinations. Okay.

00:33:14:26 - 00:33:46:21

Thank you sir. Then the second point, um, uh, slightly related to a similar point of um, dates being no later than, as it were, dates, but it didn't relate to anything directly in the timetable, because it's the date when the examining authority will expect to publish agendas ahead of hearings. And I think you indicated that the, uh, intention was that it would be no less than five working days.

00:33:46:23 - 00:34:19:15

And I know that that's a relatively common practice. Um, can I say, first of all, uh, certainly from our perspective, simply as the county Suffolk County Council. We very much appreciate the more detailed type of agendas that you have published for. Uh, ish to what is H1 and H2, because we've sometimes seen agendas which are very, very headline and leave us scrambling around to work out what it is that the expert wants to hear about.

00:34:20:01 - 00:35:06:29

Um, and we very much appreciate, as well as the, um, the more detailed points where you've referenced documents that you particularly think, uh, that the parties should take into account. So those are, those are my, as it were, uh, thank you points for because my next point is then simply to say, to the extent that it is at all possible for the examining authority to be in a position to publish the agendas, more than five working days. We would very much encourage that, so that it doesn't become a default period, that it's only ever five working days because in a sense, the more detailed the agenda, the longer it takes us to go through and prepare with the team as to what actually we want to address you on in relation to agenda items.

00:35:07:01 - 00:35:42:24

So that is simply a point to ask you to note. It's not, I say, seeking any change to your published timetable. Um, the third point is also not seeking a change to publish timetable. It's seeking clarification, uh, in relation to the statements of common ground. And we understand, particularly in light of the elaboration that has been given by Mr. Gould as to the importance of getting, as it were, a crystallization, uh, of the parties positions and particularly the parties disagreements at a meaningful stage of the examination.

00:35:42:26 - 00:36:24:21

We absolutely understand that. Uh, but we note that your letter of the 23rd of July also recognises that once the signed final statement of common ground has been submitted, that is not intended to be the closure of dialogue between the parties, and they are encouraged to continue that dialogue. The clarification I have is how does the examining authority envisage any such further dialogue being fed into the examination? Because obviously, if you look at the position with Natural England and the pads, they've got a series of successive deadlines for updating the position.

00:36:25:13 - 00:37:02:20

Um, my reading of the timetable is there's no specific deadline after the 7th of January deadline for a specific submission in relation to any update to the statement of Common Ground by way of an addendum. Now, that may well be desirable in the sense that it may be. And using for example, so your example of the safety audit, As an example, there may be different, um, iterations of resolution of agreement between the parties on issues.

00:37:02:22 - 00:37:37:17

So simply having a single deadline chosen, uh, in February or in early March may not be acceptable. But on the other hand, if there were to be a process by which addendums to statements of common ground could be submitted to you, it might be helpful if all parties knew that. Uh, so I'm putting that out as a, um, a floating point. I think we would just welcome some clarification as to what you're thinking as to how we would go about, uh, with the applicant updating, uh, the final statement of common ground.

00:37:37:19 - 00:38:19:04

If there has been positive movement between the parties to narrow areas of disagreement, which is presumably what you would wish them to do, and it would help you in your examination. So that's the that's my third point, which is just clarification. And then the fourth point, which does relate to the timetable, is simply that if there is any scope for the examining authority to yield to Mr. Boswell's point about the date of the 7th of January for that SOG final sign document date, I think we would support the applicant that if there can be some flexibility on that, to push that back a few days.

00:38:19:12 - 00:38:32:04

Bearing in mind the Christmas break, etc. that I think would be appreciated by us. But we also note all the points that you've already made about the importance of that deadline. Thank you sir. Those were my points.

00:38:38:18 - 00:39:17:14

From the applicant team. Have you got any thoughts as to perhaps how updates to state on common Ground might be dealt with? I'd like to suggest addendum. Um, because what we might then see is parties just okay. We won't bother with whatever date in January. We'll we'll see what we can get away with. Um, and, um, Mr. Harrison and I encountered with another case, um, a different statutory party that decided to go native in that respect with the applicant and did their own thing, which did not help us at all.

00:39:18:10 - 00:39:53:11

Um, so I think we want to be pretty firm about substantive statement of common ground arising when we have suggested some either 7th of January or we move it slightly. Um, but from the uplands perspective, any thoughts? I don't know whether maybe technical notes that are jointly signed by, uh, applicant and whichever party might be, whether that might be a way forward that dealt with a specific issue because as Mr. Bedford indicated, there might be some points that can be moved quite quickly and other points that will take some time.

00:39:53:21 - 00:40:07:13

And you wouldn't want to do an addendum for. Because if you've got a raft of issues not just transport radiative, but covering historic stuff, that might then prove difficult. So anything from the applicant in that regard.

00:40:33:04 - 00:40:34:29

Duly impossible for the applicant?

00:40:38:07 - 00:41:14:09

We don't have specific experience from another insight to sort of bring to the to the discussion, as it were, obviously heard the war story that you've just mentioned. I guess getting and statement of common ground signed is quite often fairly painful. And so having got it signed the once and then having a further step that might involve a further set of signatures. We would. I guess our immediate reaction is to, to not want to go down that track.

00:41:14:12 - 00:42:00:09

And therefore clearly if there are further deadlines after a statement of common ground has gone in. If the parties if if things that are not agreed have moved on, and therefore the purpose of a potential addendum would be to reflect the fact that things have moved on, it would either potentially just come out in the wash in terms of the different responses to whatever it is, questions or whatever that that as long as people are referencing one approach would simply be that if things have moved on, that there is a very clear cross reference in further submissions to to, um, what it was that was outstanding or not agreed.

00:42:00:21 - 00:42:31:19

Um, and then I guess the killer question is, are you going to have reached a settled position with, with the other party on, on on that thing? And for the most part, um, there are constructive relationships in play that mean that you ought to be able to do that, but equally, things can just get in the way in terms of, you know, timing and availability and sign off and all the rest of it. So I'm struggling to give you a hugely helpful answer, if I'm honest.

00:42:31:23 - 00:42:34:00

Um, yeah.

00:42:34:03 - 00:43:13:22

I think what the examiner authority do will take the point away and try and see whether we can suggest a route root through. Um, it might be something like an issue specific technical note that hopefully, um, if the if the point weren't too detailed, they might be addressed in 2 or 3 pages, and hopefully the parties would be able to share that between one another and then agree, either through a signing or at least be able to make up the relevant deadline, a submission that both parties have seen whatever note it is, and they're both signed up to it, or they're signed up to parts of it.

00:43:13:29 - 00:43:27:16

Uh, but there are bits that they're not signed to try and do it some sort of route that way. But we'll take we'll take the point away, have a think about it. And, uh, when we issue the rule out, we'll be able to include a procedural decision that covers the point.

00:43:31:21 - 00:43:43:29

Thank you. Um, I'm conscious that, uh, Mrs. Fellowes has been, um, patiently waiting with a virtual hand up. So I'll turn to her for her comments on the timetable.

00:43:46:25 - 00:44:34:08

Thank you sir. I appreciate the time to share with you. So today, as we've all talked about, is all about process, not merits of this application. And I think I'd like to reflect on on hearing especially the comments of the applicant that, um, a timetable and how we progress these matters is going to be very reliant on their ability to be able to provide good quality information and for us to therefore then also respond effectively to assist your decision making and both in terms of accuracy and completeness, the applicant says in their application in many points that that um, I suppose to paraphrase, that it will be refined as, as things continue to evolve.

00:44:34:18 - 00:45:05:23

So none of us have a crystal ball. One would hope by this stage of of getting to statements common ground that it is exceptions. Only the things that are in progress, and the things that cannot be agreed, that are brought to you because it's vital for you to know these, um, so that you can, you know, make your recommendation appropriately and for mitigation to be considered. Um, if you can't design out, you have to mitigate.

00:45:05:25 - 00:45:45:05

If you can't mitigate, you have to compensate. Um, and the balance then in terms of approval or not, uh, will be weighted upon, upon those bits. So, um, yeah. Um, I would just raise an element of concern that, yes, we have to progress. Yes. We have to be succinct. Yes. The inset process as outlined in law is six months, but that should have been frontloaded. And to share with you that there hasn't been that element of front loading this application to enable the insect to progress, as it should do during the six months.

00:45:45:19 - 00:46:18:25

Um, so we need we are where we are. Um, we need to try to move forward together. And I would say as well, um, kindly, but with some humor, hopefully the applicant has, um, uh, commented, uh, in terms of their side of the table, I would like to go with the King Arthur approach. We're not different sides of the table. We're here together in this process, in the round, the theatrical term as well as the King Arthur term. So please, let's not have different sides, um, moving forward.

00:46:19:03 - 00:46:58:00

And then the process can go to be effective. And then lastly, I would say with regard to the timetable to note that this week North Falls has entered the stage of asking for relevant representations and interested parties to register. There is no time frame, no dates, but one would imagine that there will be an overlap. Uh, when it comes to November. December in reality. Uh, so there will be two projects going to, uh, intersect with, uh, DCO processes, live hearings happening at the same time.

00:46:58:08 - 00:47:29:07

And my experience of a couple of years ago when we had SPR and, uh, size or C overlap during a period of Covid as well, it was extremely difficult for everyone to be able to manage those timetables and to juggle responses and to provide what you need from us. You know, you need effective,

transparent communication, and we want to assist you in your decision making. So I would encourage you to speak to colleagues that will be looking after the North Force, uh, DCO as well.

00:47:29:09 - 00:47:29:26

Thank you.

00:47:31:23 - 00:47:40:03

Thank you very much for those comments. And, uh, yes, we're very mindful of North Falls and the, uh, the timetable for, for that.

00:47:41:20 - 00:47:53:04

Um, there's any any other IPPs or indeed the applicant wants to come back on any other comments regarding the timetable.

00:47:55:19 - 00:48:44:29

Okay. I'm not seeing any virtual hands either. Um, my comment, my colleague, Mr. Gould alluded to it earlier, but, um, we're obviously aware of and mindful that we had submissions about timetabling, um, from the Marine Management Organisation and Natural England, um, talking about resourcing pressures. Um, we have mentioned that and we are aware of what they have said. Um, and similarly, just to round up again and reiterate that, you know, when we come to timetabling, uh, for this examination, uh, we've sought to minimise and we will seek to minimise the potential for timetabling clashes, uh, with other examinations that have either commenced or will be starting shortly.

00:48:46:13 - 00:49:29:09

Um, you know, and we'll just as a final comment, say, you know, there are several competing aspects when drafting an examination timetable, um, including several internal deadlines for the inspectorate that we need to be aware of and build in, um, such as publication of notifications. Um, I think as such, and my colleague has already said it's it is a very difficult task to draft a timetable with which everyone will be completely content. Um, however, we will take all of the comments made, um, about timetabling into account when the final timetable is issued as part of our rule eight.

00:49:30:14 - 00:49:50:15

So thank you very much for your contributions to this item. Um, we will now move on to item six of the agenda. Uh, being led by Mrs. Norman on the handling of potential commonality issues with the proposed, uh, five estuaries and North Hills offshore wind farm applications.

00:49:52:17 - 00:50:34:18

Thank you very much. So moving on, as we've explained in the rule six letter, which is referenced PD 007 and our letter of the 30th of August, which is EV 1-001. The examining authority considers potentially there will be commonality issues for the examination of both the proposed five estuaries offshore wind farm and North Falls offshore wind farm applications. That's because there are physical elements of both wind farms proposals which will overlap with one another, and those overlapping elements may be of particular interest to individual interested parties and or affected persons, the latter in their capacity as owners and or occupiers of land affected by both of the proposed projects.

00:50:35:06 - 00:51:15:14

Separate applications have been submitted for the proposed windfarms, including their associated onshore works. Each application will be the subject of a separate examination overseen by its discretely appointed examining authority. The examinations will therefore be conducted independently, and it's likely that there will be a gap of several months between commencement of each of the examinations. Each application will be decided with reference to its own complete set of documents. Neither the Secretary of State nor the examining authority will be able to have regard to documents submitted in relation to one application that, by implication or express statement, are relevant to the other application, unless they have also been submitted to the application to the examination for the other application.

00:51:16:15 - 00:51:49:03

Given that background is important that the applicant or other interested parties and affected persons note that when written or oral submissions are made during the course of one or other of the examinations, and which might be common to the other application. Any such submissions will not automatically be made available to the examining authority for the other application. Accordingly, the applicant or other interested parties and affected persons should proceed on the basis that if they wish to make written or oral submissions that will be relevant to both, then it will be their responsibility to make that information available to both examinations.

00:51:49:20 - 00:52:32:06

By way of an example, should one of the highways authorities wish to raise a matter concerning a road equally affected by both of the projects, then that highway authority will need to make submissions to both the five estuaries and the North Falls examinations. The examining authority is aware that the handling of commonality of issues have arisen during the examination of other NCP applications. One approach has been the use of a color coding system. As we understand it, one colour was allocated to one examination as its identifier and another colour allocated to the other examination under the color coding scheme documents or sections of those documents with information relevant to both used both colors and were submitted to both examinations in accordance with the timetables.

00:52:32:08 - 00:52:54:19

For documents relevant to only one of the applications, its allocated color code was applied to it and then submitted to the examination to which it related. Um, I've got a note that there's several people who sort of wanted to make, um, to speak on item six. But if we start with the applicant, do you have any observations as to how it intends to address potential contaminant, uh, commonality issues, please?

00:52:57:19 - 00:52:59:25

Julian Boswell for the applicant.

00:53:02:29 - 00:53:20:29

I think our approach to this subject is to want to assist the examining authority. As you've already said, madam, this is, you know, the process that we're all engaged in right now is specific to to North Falls. Um, and

00:53:22:15 - 00:54:16:15

in preparing the applications, the two teams remembering that the projects are separately owned, albeit there's one common shareholder. They they operate, you know, very much at arm's length. Um, there clearly has been a dialogue to produce the applications with the, the alignment that you've already alluded to. Um, but the, uh, in terms of how that plays out in the examination, our working assumption has been that given that, you know, in the end, this is an inquisitorial process that the panel is leading, that it's for you to to ask us what you need, you know, assistance on or to, to query or to, you know, test and so on.

00:54:16:17 - 00:54:28:20

But, um, the we have endeavored to draft a DCO that is deliverable, um, in its own in its own terms. Um,

00:54:30:06 - 00:55:06:16

I'm not familiar with the color coding. Uh, uh, matter that you that you referenced before. Um, and I'm struggling to see what that would, what that would relate to in terms of how we would conduct this examination. So I guess when we saw this item added to the agenda, um, we were wanting to see where you were coming from rather than particularly coming to this agenda item with, with anything, uh, particularly material to say.

00:55:10:06 - 00:55:42:22

The, the there's probably two strands, uh, to this issue. One is that, um, there may be issues, particularly for interested parties. Um, if you like the fatigue where they believe they've made a submission to five estuaries and that if that submission is similar to North Falls, then automatically North Falls, examining what it will get to see whatever it was.

00:55:43:00 - 00:56:23:09

So the key point is that, um, if I use my example of the the troublesome junction from a highway authority's perspective, if this case there's a junction that is of concern, um, to highway authority, it's equally likely that that junction may raise the same issue for North Falls because of the common, uh, corridor, um, for the export cable. Uh, therefore, it's important that the highway Highways Authority makes sure that it makes if it wants to make the point to the second examining authority, then it does make it to the second examiner.

00:56:23:11 - 00:56:33:19

So it doesn't just leave it on the basis of what we've already said. We've got a problem with junction X, Y, z. Um, and that equally applies to the other project. Um,

00:56:35:08 - 00:57:20:15

there is then also the potential for information to be flowing, perhaps from the applicant side into one examination to resolve coming back to the access point. Um, that would equally be applicable to the other project. Um, but it's therefore important, important that, um, again, the applicant doesn't assume that the other examining authority will get to see the same information because neither examining authority, if you like, go on a fishing trip to have a look at the respective libraries to actually hunt down where there might have been a common point that's been addressed in one case, but not the other through whatever submission.

00:57:20:20 - 00:57:51:26

Now, the color coding, um, concept, as I understand it, came about to, uh, a couple of the East Anglia wind farms, which were examined concurrently. And I think what they did there was they nominated one of the applications had a blue color, I think the other had a yellow color. If there was a point that related to both, um, examinations, then the document will be colored up on the front cover with the blue and the yellow notation.

00:57:53:21 - 00:58:25:15

Um, if in making relevant rep's sorry responding, say to relevant reps or written reps, there were points that the applicant was making in a very long document that were common to both. They might have used the color code against whichever point it was that they were raising. If, however, there was a point that was only relevant to one and not the other case, then they would use the relevant allocated color to indicate that that point related to whichever of the two projects that they wished it to relate to.

00:58:26:03 - 00:59:11:11

That ensured that certainly where there was common information that both examiner authorities needed to see, they were both seeing it because there would be nothing potentially worse than a situation where because of where we are timetabling wise, this examination concludes, um, but perhaps 2 or 3 weeks before we close, there was information put to the, uh, north panel, which we didn't get to see. We then write a recommendation to the Secretary of State based on a set of information, uh, which was actually incomplete, at least at the point that we closed because there was a document that the other examining authority had, which clearly said something quite different to the document.

00:59:11:13 - 00:59:16:04

That was before that, the Five Estuaries Examining Authority.

00:59:18:18 - 00:59:43:07

Because, if nothing else, um, the Secretary of State's consents team, depending on what they get in terms of recommendations and might query why one examining authority had concluded one way, when clearly there was a document of the same age that could have been put to it that said something quite different and might have led to a different recommendation.

00:59:46:10 - 01:00:28:18

Color coding has been one way that's been used. I'm aware of, certainly in at least one case, perhaps not others. Um, but you between you might think there are different ways of addressing and ensuring that there isn't a mismatch. Uh, an obvious mismatch of information. um. And I say that equally applies to applicants, equally applies to interested parties. And it perhaps um, is relevant, um, most particularly to members of the public who are not engaged in this process and may not appreciate that because there will be two separate examinations, two separate examining authorities.

01:00:28:25 - 01:00:43:14

The assumption should not be made that just because you've made a comment, both examining authorities get to see it, because that's, I'm afraid, not how the process works. Um, the comments do need to be made to both examining authorities.

01:00:47:15 - 01:00:51:13

Mr. Boswell, anything further before we perhaps look at some of the other IPS?

01:00:51:22 - 01:01:26:12

Yes. Julian Boswell for the applicant. I guess there's one absolutely crucial difference, which I imagine you are aware between our situation here and, um, what happened with the East Anglia one, North and East Anglia two applications, namely that they were made by the same applicants. So ScottishPower renewables was that the applicant for both of those, and therefore they had full authority to speak on behalf of both projects. Um, we can only speak on behalf of, of five estuaries and anything that is sort of leading us towards making statements.

01:01:26:19 - 01:02:01:15

Um, we just can't make statements on behalf of, of, of North Falls. We have a, a good neighbour agreement with them that, um, exist to try to sort of facilitate, um, uh, you know, and has facilitated a constructive, ongoing relationship in relation to the preparation of the, of the application and things going forward. Um, we very much hear what you say about the need for each project to protect its protect its own interests in relation to the other project.

01:02:01:29 - 01:02:32:03

Um, it's a statement of observable fact that North Falls, um, have registered into this, into our application. I'm sure that we will be registering into theirs. We we very much intend to protect our interests, and I'm sure that they intend to protect theirs. I'm not speaking on their behalf. I'm just I think that's pretty pretty confident that that that's their intention. And obviously, we've heard what you've said around around other parties needing to be mindful of, of the same thing.

01:02:32:05 - 01:03:06:03

So I'm not sure that that color coding or in fact, I'm fairly sure the color coding approach, um, is, is is not. I can see why. I mean, the other unusual feature of the SPR situation was that the same panel, the same five individuals were appointed to both examinations. I wasn't directly involved, but I've heard a lot about it from people that were and have had a look at documentation at different times, um, for different reasons. But the I do think that is a fundamentally, um, different, different situation.

01:03:06:05 - 01:03:17:09

And I'm not. And so I'm a bit reluctant to sort of assume that things that were agreed or work there will, will, will agree, will work here. Um,

01:03:19:03 - 01:03:54:28

so I, I guess the headline message that I'm taking away and that we will certainly, certainly continue is that we we will be we will be promoting our scheme, but at but equally protecting our interests. Who the North Falls, we are sure that they're going to do the same. There is an ongoing engagement behind the scenes, as you can imagine, whereby we both have a commercial interest in, in, uh, ensuring that, uh, that the projects can work together smoothly in the different scenarios that we do, uh, that that could play out.

01:03:55:00 - 01:04:06:15

And there has been a significant amount of joint working between the projects vis a vis third party stakeholders already, which will continue. I think that's probably as much as I can say at this point.

01:04:08:29 - 01:04:43:09

Thank you, Mr. Boswell. I mean, presumably each project in effect has got somebody behind the scenes that's coordinating as a project lead, project director or whatever. Um, at least we would hope that those two parties, uh, or whatever the descriptor is at least are liaising to try and make sure, um, that one project doesn't obviously submit something that flies in the face of what might be relevant to the two projects.

01:04:43:29 - 01:05:01:03

Uh, that does cause, um, a clear conflict. I mean, coming back to, you know, the access junction point, um, I mean, do are both projects or have both projects appointed different highway engineers? Or is there a commonality?

01:05:04:15 - 01:05:05:03

Different teams?

01:05:07:24 - 01:05:09:16

Due to impossible for the applicant, um,

01:05:11:09 - 01:05:48:12

the expert teams, with one exception to my knowledge, are different across the project. The exception is the, um, the land agents and land references. So McLaren are appointed on both. And they have been conducting joint negotiations with the different land interests. Um, but there the good neighbour agreement that I mentioned a moment ago, it's purpose, it's one of its core purposes is to address the concern that you are addressing, i.e. that we have we both have a vested interest in trying to navigate through this process in a, in a, in an aligned way.

01:05:48:26 - 01:06:27:20

Um, that doesn't mean to say that the two applications are or would be identical in every respect, because I know that's one of the topics that's raised. I think, in one of the one of the advanced written questions. So. So we do hear your concern. Um, and in that broad area, the two projects have been mindful of that for a long time and have been, uh, and have developed, we hope, a pragmatic way of engaging to to address that concern.

01:06:31:28 - 01:06:43:10

Thank you. And, uh, I think we look to the local authorities because you clearly are dealing with very similar things for both applications and the observations. Mr. Bedford.

01:06:43:19 - 01:07:33:28

Thank you, sir. Uh, Michael Bedford, Suffolk County Council. So yes, we we can see, um, the force of Mr. Boswell for the applicant's point, uh, that, um, this situation of the two applications marching, uh, somewhat similarly together, but not in step is different to the East Anglia one. North East Anglia two uh, um, um, offshore wind farm development consent order examinations, uh, which is, as I think

you've indicated, the one where the color coding was used by the same applicant to distinguish between which documents related to one project, which document related to the other, and which project was, uh, which documents were common.

01:07:34:05 - 01:08:15:13

So we can see that distinction, I think, where um, we see, uh, it being important, uh, that, uh, there is that dialogue both between, uh, the um, authority and the applicants, but also between this applicant and, uh, the um, North Falls applicant is on, um, as it were, physical measures which are intended to offset impacts of the development, uh, so that, uh, um, preferably there is a commonality of approach.

01:08:15:15 - 01:08:59:13

And if I can give an example that's relevant to Suffolk, and I know that you've already highlighted junction locations as being one area that, uh, might give a rise to issues, but in relation to, um, abnormal indivisible loads, uh, which obviously are the larger HGV movements which may be needed for construction purposes. Um, we Suffolk County Council had raised an issue in our relevant representation that if ales were to originate from Suffolk, then the county council would need to be consulted at an earlier stage to identify the work required to facilitate that, to ensure that the routes were fit for purpose, and so on.

01:09:00:11 - 01:09:46:10

That helpfully generated a response from the applicant in PD 4006, which is part of the applicant's response to relevant representations. And that response it's on page 62 of the document, is Ale's would originate from the Port of Harwich and travel along the A120 to accord with the National Highways water preferred policy and would not therefore travel through Suffolk now, provided that is then adequately secured and translated in whether it's the construction traffic management plan or some other relevant control document.

01:09:46:24 - 01:10:32:19

From a Suffolk point of view that is likely to allay the concern and be a sufficient response to the issue that we raise. Because obviously, if ales are not going to travel on the Suffolk Road network, it's not likely that Suffolk will have a concern about Ale movements associated with this project. But clearly we don't know at the moment what the detailed position for the North Falls proposal will be. And clearly we would not want to have a situation whereby, having secured, as it were, that favorable outcome in relation to, uh, five estuaries, there was a a different position in relation to north walls because effectively the impact would then arise which would need to be addressed.

01:10:32:21 - 01:11:02:26

So those are or that is a practical illustration of why the coordination is an important issue and why we would certainly hope that the applicant team is engaging with its opposite. Consultant teams for the North Pole applicants to ensure that there is a common approach to mitigation, or if there are differences in approach, therefore, in a sense clearly articulated and justified reasons.

01:11:03:07 - 01:11:33:12

Otherwise, we end up having to, as it were, fight battles twice in order to secure a favorable outcome. So that's the the point I think we would raise and we would take from your comments, are the importance of us ensuring that, as it were, we recognize the functional separation of the two different

examinations. And therefore, if there are points that we want to make, we will need to make them to the relevant examining authority for the relevant, uh, project.

01:11:33:14 - 01:11:37:28

So, so we we understand that and it's helpful to have that clarified. Thank you.

01:11:39:02 - 01:12:29:24

Thank you, Mr. Bedford. Yeah I it it it might be duplication of work but it's sounding like that repetition of the same point, um, will need to be made. By certainly the authorities, it'll apply to other statutory authority, undertakers and other regulators. Um, and I suspect the local authorities are particularly alert to it. And, um, it's not something that will necessarily be too troubling to them where, where the perhaps will be more issues are for dealing with members of the public, and particularly this perception point, that they may not realise that, yes, you have to write the same thing twice, um, to get the message home to the two, um, examining authorities.

01:12:29:26 - 01:12:53:29

I mean, we in our rule, I think we will reinforce some of what's been discussed here to make it clear, uh, as at least our best endeavour to make sure that the outside world understands there are two separate examinations, you might end up having to double up on submissions to get your points across to the two, um, applicants and to the two examining authorities.

01:12:56:02 - 01:12:59:11

So I think, if I may, mark this county council, um.

01:12:59:19 - 01:13:11:19

So I'm sorry to jump in, would it be? I would like to respond to what Mr. Bedford has just said, but is it better to do it now or once you've gone to everybody else?

01:13:12:06 - 01:13:22:06

Mr.. Are you going to be making some similar points or something slightly different? Similar, sir. It might be worth then hearing from Mr. Woodburn then if you respond.

01:13:23:23 - 01:13:30:24

Thank you sir. Um, Essex County Council, understand that these are two separate projects that are going to be considered by two separate

01:13:32:11 - 01:14:07:28

examination and members from the Planning Inspectorate. Um, and we note the comments that you make that each submission has got to be relevant to each scheme, which is absolutely necessary. I think we've talked very briefly about issues about commonality. Um, because sometimes it's it's always good to go back before we can go forwards in some respect. Um, when both these projects were, uh, first given to us, it's county council to consider. The obvious question is, why two projects? Why not one? Um, but we're moving away from that because we understand that there are two particular sets of individuals and companies that want to put these in.

01:14:08:00 - 01:14:38:19

That's great. Um, but there has to be a degree of commonality, because without that commonality and the Planning Inspectorate would be faced with two sets of evidence, which are probably different from each other, which we didn't think would benefit either scheme. And the other evidence that was put before an examination. And we really welcome the fact that five estuaries in North Wales now, you know, um, have looked at this and looked at their relationships and signed, um, commonality agreements.

01:14:40:26 - 01:15:14:22

To enable them to have quite a large degree of similarity between each projects. Yes, you're right, they are, they are, they are different, but they are in many respects similar. But they the my argument here was that they would have to be. So in conclusion, we are where we are with this. But as it's going to cancel on our content with submitting completely separate submissions, complete separate representations for each project and considering each project on its merits.

01:15:15:09 - 01:15:15:24

Thank you.

01:15:19:24 - 01:15:21:17

Thank you. Mr.. Would you, Mr. Boswell?

01:15:22:26 - 01:15:53:17

Julian Boswell for the applicant, if it was simply there was one point that that, um, I should have made earlier that in a funny way. Um, Mr. Bedford's comments kind of help to uh, to trigger as well, which is whilst we have done what we have done as between the two projects, we also I also need to draw your attention that we that we have had to be mindful of competition law in the way that we engage.

01:15:53:25 - 01:16:33:04

Um, and so that that is a sort of meaningful constraint to some extent. And that has been sort of taken specifically into account and continues to be, um, because and I don't know how familiar you are with the way the offshore wind market operates. But but these projects have to, in due course, bid into a contract contract for difference round where it is, you know, it's a very real possibility that that, uh, two projects on a similar timeline will be competing in the same in the same round.

01:16:33:19 - 01:17:03:27

Um, and so that is, uh, that is a so there's a there's a self-interest point in that respect, but there's also a broader, you know, competition law and lack of collusion point. And just coming back to the example that Mister Bedford gave, it simply isn't the case. And I'm not sure if he was suggesting this or not. I'm not trying to put words into his mouth, but we cannot by North Falls on a point like AIL strategy. We just can't do it.

01:17:03:29 - 01:17:34:25

And so, um, that is a point where Suffolk will have to, to, you know, make its case in relation to, to both different applications separately. Um, and each project is going to make its choices on, on, on a, on, on a point like that. And that was just the quick, the quick response that I, that I wanted to make. So there are we are doing we understand the concern.

01:17:34:27 - 01:18:01:01

We also understand. The other thing that we've been responding to, I hope is apparent throughout the application, is the the National Policy Statement, N5 in relation to its um, its policies in relation to coordination. So we have been endeavouring to address that. But but there are, there are limits to, to how that, how that can play out. Thank you.

01:18:12:04 - 01:18:24:24

Thank you very much. Um, I, I see a few hands up and, um, I've got a list just working through the list from earlier. Um, I've got item six down for Mr. Fell. Did you still wish to speak that?

01:18:27:02 - 01:18:27:27

Uh, yes.

01:18:28:04 - 01:19:09:04

Please, if I could. Um. I think my point and concern is that throughout all the negotiations we've been having with Paul McLaren, and it's rather worrying because I wasn't aware that there were separate, that the only commonality between the two was the agent, because I'd been led to believe that all the surveyors were surveying. There was one sets of surveyors, for example. The license agreements we've entered into with them have been on the basis of the same survey as ecologists and whatever, doing the work over the cable corridors for on behalf of both five estuaries and North Wales.

01:19:09:06 - 01:19:13:24

I don't believe there's separate consultants for each party, but so I'm not sure whether that

01:19:15:19 - 01:19:17:19

you know, quite what, um,

01:19:19:09 - 01:19:47:18

what the applicant solicitors was, was meaning by that, whether there is actually commonality. Now, I think you find there probably is actually. Um, but what I'm really concerned about is that, you know, they these two are being portrayed to us and to the community as being one project. And I've been involved in joint schemes as well on the Austen projects in Yorkshire and where they did. And the inspector Will was, um,

01:19:49:11 - 01:20:25:10

clear in their recommendations. I think there that they should do them together and it does create a significant, less impact where you can do them. And construction wise, it's perfectly possible to do them because you just put the ducks in and pull the cables through to the joint base. And so you only rip up the land and destroy the land drains once rather than twice. Um, and I'm also concerned that the application here, when we talk about the need of the land, the cable corridor that, uh, five estuaries are applying for is more than sufficient to accommodate them, plus North Falls.

01:20:25:22 - 01:20:50:22

So if five estuaries are just doing this on their own. Why are they applying for a cable corridor, an easement with which is far greater than what they need? They shouldn't be allowed. Or the you know,

my my recommendation, that is, they're not allowed such a wide corridor which allows them to, um, pick and choose where they want to go from everything. We've been having discussions with them. Mr.

01:20:50:24 - 01:21:07:22

Phil, I'm going to interject because we're probably getting more into evidence than procedural type matters. And I think what you're raising, uh, is probably going to be more appropriate. The discussion we'd like you to have this afternoon in the first compulsory acquisition hearing.

01:21:08:12 - 01:21:08:27

Okay.

01:21:15:02 - 01:21:45:17

I think my point is, though, how do you handle this? The item here is, is handling and potential commonality issues. Okay. So, uh, nothing I've heard so far from any anybody on both sides of the party is giving me any confidence that there is any degree of how this is going to be handled as a commonality issue. You're basically saying that, you know, you've used the planning. Spectra said these are to be dealt with individually and you're not hearing anything about North Falls. And yet everything we're hearing on the ground is that they all have the same project.

01:21:45:19 - 01:21:59:22

So what is it, one or the other? I'm afraid I disagree. I think this does need a bit more thought process about because it feels about this at all. It's either one project or two projects in my mind.

01:22:11:21 - 01:22:48:04

Would it be possible to respond to that? Julian Boswell for the applicant, just just briefly, um, in terms of the the surveys, the the data that was collected on behalf of the two projects was shared between the projects. So it was all considered together in terms of the presentation as 1 or 2 projects. Um, the paper trail really couldn't be clearer that we have consistently presented this as, as two projects. Um, and uh, our approach is set out in a coordination document, AP 263 app 263, section four.

01:22:48:16 - 01:23:17:03

Um, and the the reason that we've, uh, adopted the duct approach is to where each project has the option of putting in the ducks for the other is responding to the, um, the policies that I mentioned a moment ago in, in N5. Um, but it simply isn't the case that we've ever presented this as a single project, and we've been very clear about that throughout. And

01:23:18:22 - 01:23:25:09

forgive me, it's section uh, 2.6 of app 263. Thank you.

01:23:36:12 - 01:23:43:20

Thank you. Um, looking at my list, I've also got for item six. Uh, Mrs. Fellows.

01:23:50:08 - 01:24:30:16

Thank you madam. Uh, Mariam fellow. So I'm grateful for your efforts to highlight this potential disconnect. Um, these two projects, it is slightly different from the example of East Anglia and one

North and East Anglia. Two. Uh, because, as others have said it, that was one examination of one panel, although there were two parts to it and evidence were provided and colour coded, and that did assist. However, although that's different to what we're approaching now, I don't see why a similar approach could not be beneficial and helpful, and it would really assist interested parties not to have to duplicate resources.

01:24:30:27 - 01:25:04:13

Um, for example, RSPB, you know, um, others councils, very limited resources. And it would also help us to limit missed unforeseen consequences. You know, if things are done separately in silos, um, things can be missed. The jigsaw is not put together. Um, and I understand that you, um, as a panel, can only examine what is before you, even if it's in the public domain.

01:25:04:15 - 01:25:42:00

You know, it has to be brought to your attention or referenced to you. Um, and the cynic in me would say the reason the applicant wants to keep these very separate is if each, um, project was actually applied for. Together, it would may be less likely to be approved because of the community of impact and the combined impact in the same geographic area with overlapping timescales. So of course, the applicants want to do it separately, and until there's a legislative change of the applicants are right, they're not legally obligated to work together.

01:25:42:16 - 01:26:17:19

Um Ian five um, and all the legislation is around competing projects and Ofgem, you know, the overarching, uh, need for it to be, uh, viable for the consumer at the end. Um, I think I must say this, it really and sadly highlights that although we're looking at nationally strategic infrastructure projects, there is no national strategic plan for the for the UK to reach net zero.

01:26:17:28 - 01:26:58:13

So each of these projects are separate. Each applicant can do their own thing and come into the same community, either sequentially or at the same time. And they're all approved as if the other thing doesn't exist. Whereas if there was an overarching, uh, consideration of the cumulative impact into our coastal communities of this much needed renewable energy, but in a way that is really destructive in terms of the offshore and the onshore infrastructure that's required to actually connect to the grid and to provide it.

01:26:58:15 - 01:27:29:03

So where the energy is being created is not where the energy is needed. So, um, I would say that we do need some coordination between the two projects because otherwise each applicant will approach this using the Rochdale envelope. You know, they'll ask for more than they actually need. As Louis mentioned. And they'll keep saying, well, we don't need it all. We're just saying that. But they'll be approved with more than they actually need.

01:27:29:05 - 01:28:12:22

And then they may. And they're able then to use more than they actually need. Um, so I would say this is a challenge for yourselves. You are only inspecting and examining this application, but you must have due regard, and we must have due regard to what is something that's going to be quite similar, almost like a twin project, I would say. Um, but until there's a change of government strategy, which

we would encourage a pause right now to actually reflect and look afresh at how these projects are actually going to come and be examined.

01:28:12:24 - 01:28:47:13

I think a pause now will enable us to make greater outcomes going forward in a coordinated strategy. But with regard to how we do this now, I would ask that if anything is in the public domain, that the Pins inspector team, because you have to resource this, working with the applicant who definitely has the resources is where the burden sits. I'm afraid it can't sit with interested parties to have to be able to do this, because we can't be effective, and we need to serve you in this manner in an effective way.

01:28:48:06 - 01:28:51:02

Thank you. I hope that makes sense. It was a bit of a ramble at the end.

01:28:51:12 - 01:29:31:19

It tells me, Mrs. Fellows, um, here what you say about the inspector. Actually, it is a problem because of the way the legislation is written. The two examining authorities are separate entities. Um, but certainly we've heard a lot about commonality. We will take the point away And we will issue what guidance we can to try. And that's an unfortunate opinion, but we will to navigate the situation. Um, currently there is a difficulty inasmuch as this examination will shortly be getting underway, whereas of course North Falls will follow on behind.

01:29:32:15 - 01:30:06:26

Um, so we're having to try and tackle this the best way we can up front, uh, being fully aware, um, that potentially, um, interested parties are going to have to double their effort to make sure they get the point across. That doesn't mean that you have to write, you know, wholly different written submissions or make wholly different oral submissions. But the point being, you will need to make sure, um, that submissions are made. You cannot rely on one examining authority picking up submissions from the other.

01:30:11:12 - 01:30:15:18

Thank you. I can see two hands up. Um, there's S.M., is that Mrs. Marshall?

01:30:19:16 - 01:30:37:03

Thank you, thank you, ma'am. Um, yes. Sarah Marshall, for National highways, it is any quickly, uh, National highways have assumed these are two separate projects and we have resourced that appropriately. So it is not a concern for National Highways. Thank you ma'am.

01:30:39:09 - 01:30:42:21

Thank you. Um, and then, um, is it Mr. Powell again?

01:30:44:03 - 01:30:46:17

Okay. Thank you. Yeah, yeah.

01:30:46:24 - 01:31:23:06

Um. Thank you. I was just going to say that Mr. Boswell confirmed there that he said earlier on that the only commonality the thing was the only commonality point was or agents, consultants or

whatever was Delco MacLaren. But he's then just confirmed after I spoke last time, that actually there is surveys happening that are being done commonly across the world. So I just want that for the record to be confirmed that Mr. Boswell hasn't been given the right information to start with. And there was a lot more commonality happening, and I believe has been led and or led to be, um, portrayed here so far.

01:31:23:13 - 01:31:53:27

Mr. Mr. If I if I've understood the point correctly, and I'll ask Mr. Boswell a minute to correct me if I'm incorrect. As I understand it, there were surveys, for instance, for ecology, which were undertaken by one ecologist or one consultancy. They then share that information with the two projects. The two projects are then got different ecologists that have gone away, assessed that information and produced application documents to support the two different cases.

01:32:09:03 - 01:32:41:13

Do the impossible for the applicant. Regrettably, it isn't quite as simple as that. The short point is that the two projects, both needed to do surveys and surveys, were carried out by different consultants. Um, but it was a bit more of a patchwork quilt in terms of the net result. What that was achieved was that that there was sufficient coverage by a combination of the efforts of the two projects, and I don't think, um.

01:32:41:29 - 01:32:45:08

I don't think spending any more time on this will really assist.

01:32:48:06 - 01:32:53:06

Thank you, Mr. Boswell. I think, uh, we do need to move on, not least because.

01:32:56:24 - 01:32:58:28

Mr. gold, have you got a quick point to raise?

01:33:01:00 - 01:33:16:28

Yes. Very good. Very quickly. Um, it sounds from what you say, as if there's no now. No point in me agreeing anything with pedestrians until we know where North Falls is. Otherwise, I could get the budget behind myself.

01:33:21:27 - 01:33:36:17

Uh, Mr. Gold, I can't really comment on your your best approach to negotiation other than to say you potentially are negotiating with two different applicants. Um, and that that's the position that you'll be in.

01:33:41:00 - 01:33:45:29

Um, difficult. Okay. Um, sounds like a buggers nest.

01:33:50:00 - 01:34:00:27

Right. I think we've heard everything that we can usefully here about commonality. Um, we really need now need to move on to. Yeah.

01:34:03:20 - 01:34:33:06

Okay, so we'll take, um, any other matters now, which is agenda item seven. Um, I've just. The examining authority has just got a brief other matter, um, which I think the appellant is probably aware of. Um, as part of the draft written questions. GC 1.01 seeking clarification about the generic liability statement. Um, do you need me to read that out or. Okay. Thank you. Um, so could you clarify what reliance can be placed on accuracy or completeness of the application documents, please?

01:34:45:15 - 01:34:55:19

Paul McKinney for the applicant. Um, that wording is the standard consultant wording. It was never intended to limit the reliance. You could play some documents. It is being removed from the documents as they're updated and resubmitted.

01:34:57:00 - 01:35:05:06

Thank you. Can you please ensure them that we receive a note that confirms that for everything that's been submitted up to this point, that note is to be disregarded.

01:35:06:20 - 01:35:08:22

It could be for that. And yes, we'll submit that deadline one.

01:35:15:07 - 01:35:20:08

And are there any other matters in relation to procedural or other relevant matters that anyone wishes to raise

01:35:21:28 - 01:35:22:28

as well? Thank you.

01:35:23:17 - 01:35:43:07

Julia. Impossible for the applicant just in advance. Warning that in preparing the summaries for issue one, there are a couple of topic areas where it's just impossible to do it within ten minutes. So we will be asking for for more time. Just to give you an advance, uh, mention of that.

01:35:52:18 - 01:35:53:09

Mr. gold.

01:35:56:14 - 01:35:58:08

Sorry, I had to change. Cancel the handle.

01:35:58:10 - 01:35:59:05

Not sea.

01:35:59:18 - 01:36:00:05

Villages.

01:36:00:19 - 01:36:03:00

Okay. Thank you very much. Is there anyone else?

01:36:06:20 - 01:36:10:11

Nope. Okay. I'll hand over to Mr. Go to finish up. And thank you very much.

01:36:10:13 - 01:36:38:12

Oh, sorry. I just wanted to say I'm terribly sorry, ladies and gentlemen, but I must leave for for another appointment. But to thank you so much for this opportunity today. Uh, and to thank you both for your patience and understanding, uh, to enable a contribution from somebody like myself and to offer best wishes for this afternoon's, uh, hearings, which I will not be attending. Um, and then hopefully to touch base with you again with regard to the environmental matters. Thank you so much.

01:36:41:11 - 01:37:19:00

Thank you, Mr. Fellows. That then brings us to the close of this meeting. I'd like to thank everybody for their contributions. Um, we will reflect on the comments that have been made. Um, and, uh, pick up matters in our rule eight letter, which will come complete the confirmation, which will include the confirmation of the examination timetable and any other procedural matters. Both a written note and a recording of today's proceedings will be made available as soon as practicable on the Inspectorate's National Infrastructure Project page for this application.

01:37:19:21 - 01:37:28:02

If you have any administrative type queries, can you please raise those either with Mr. Johanson or Mr. Burney?

01:37:33:03 - 01:37:46:07

And I'd like just to take the opportunity to remind everybody that we have a compulsory acquisition hearing, and that will commence at 2:30. This preliminary meeting is therefore closed. Thank you very much.