



Hearing Transcript

Project:	Five Estuaries Offshore Wind Farm
Hearing:	Issue Specific Hearing 3 (ISH3) - Part 2
Date:	29 October 2024

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FULL TRANSCRIPT (with timecode)

00:00:09:12 - 00:00:10:25

Well it is,

00:00:12:17 - 00:00:48:25

yeah. It is uh, 12:20. So this issue specific hearing three is resuming just before we go to onshore ecology. Um, during the German, the examining authorities reflected, reflected on where we are on timetable. And we are clearly of the view that onshore transportation type matters, which will affect the likes of National Highways, potentially Essex Highways Suffolk, if they've got anyone in the background, will be something that we won't get to until tomorrow.

00:00:48:27 - 00:01:20:07

So what we're going to suggest is if anybody with a transport, um, interest wishes to depart the hearing, um, and return tomorrow. That is fine. Um, what I think we would suggest, though, is that all the transport, um, witnesses or parties with an interest to check in at the start of the morning at 10:00. So, again, we can reflect on where we are and where we think we might get to, because it might be that we we don't get to transportation until early afternoon.

00:01:23:20 - 00:01:35:09

Is there anybody from the transport side of things that wants to raise a comment before we move on to, um, onshore ecology, or are you content to go away and do other things this afternoon?

00:01:40:19 - 00:02:01:17

Uh, Sarah Marshall for National Highways. Um, you read our minds. My my hand was up to ask if we could be released until tomorrow, but thank you. Um, Mr. Bloom and myself will, we'll we'll leave the hearing, um, for the remainder of today, and, um, obviously log on tomorrow morning at 10 a.m. for 10:00. Thank you sir.

00:02:03:03 - 00:02:06:18

I'm presuming Essex. You're happy to proceed on that basis as well, sir.

00:02:06:20 - 00:02:17:17

Thank you. Mark Wood, County counsel, we are. And what you just said, actually, um, um, is in direct correlation to any, uh, a text I just sent Mr. Huff about ten minutes ago, so thank you for that.

00:02:23:13 - 00:02:24:15

Okay. This is Webber.

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Right. Well, moving on to item 3.5, effects on onshore ecology. Um, for clarity, um, we will not relate to the offshore ecology and related compensations which will be addressed in the sections, uh, that section of the of the agenda, um, documents referred to during the discussion are likely to be AP 86 098132142149 inclusive.

00:03:02:07 - 00:03:45:24

One five 3 to 1 five eight inclusive. 255 As 04004006 and RR 2703080. Rep 1068 PD 2002 PD 20012. Um and also any relevant submissions made at deadline to now the next one and only or one and only section that we'll be going to be looking at is the biodiversity net gain.

00:03:45:26 - 00:04:17:22

Environmental mitigation. Although not initially identified as a specific item following receipt of submissions for deadline, two matters relating to BNG have been raised. As stated previously. Um, and this is a, this is a drawing that I would hope that can be put up. The old. Yep. RAF 20228 has been substantially revised with a number of new drawings added illustrating landscape planting and habitat creation strategies.

00:04:18:00 - 00:04:46:25

However, habitat impacts EQ section 7VE Biodiversity Net Gain Assessment AP149 drawing one sheet 19 of 19 covers the same areas as the Olmec, pp. Which we alluded to earlier. So I'm asking if that drawing can actually be put up, which is AP one for nine,

00:04:48:23 - 00:04:51:19

sheet nine drawing one, sheet 19.

00:04:54:16 - 00:05:32:27

The latter stating that the latter being the old MP stating that the existing habitat lost and new habitat created is illustrated on those on those documents. In ish one E reference EV 009, the applicant stated that that IPPs were confusing environmental mitigation and biodiversity net gain. They are completely different concepts and the land taken at the substation is driven by environmental mitigation, suggesting that the proposed landscape planting was not the same as BNG creation.

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In addition, excluding those areas immediately to the north and east of Norman's farm, the same proposals appear in the north full submission as provided by Rep to 095 by T and our Family Farming Partnership as Landscape mitigation, which also illustrates additional planting to the east of the access track of Ardley Road and west of Norman's Farm, which Eevee illustrates as agricultural land.

00:06:06:27 - 00:06:45:17

So I'm looking now to the applicant, um, for avoidance of doubt, can the apparent disparities be ang or environmental mitigation outlined above be explained? And that's between what's being proposed as environmental mitigation, what's being proposed as biodiversity net gain, and why there are areas being put forward by North Falls that appear to be encroaching on areas of agricultural land that's been identified in V as being restored back to agriculture.

00:06:53:15 - 00:06:57:24

Is the question about North Falls. Julian Bosworth, the applicant.

00:06:59:03 - 00:07:29:12

It's because the information has been put forward as part of somebody's representation, and they're showing that there is an area for the North Falls that's showing restoration back to planting for biodiversity, net gain. I don't know exactly. I'm just saying that given that North Falls and five Estuaries have worked together on this, I'm surprised to find that there is a disparity in that area.

00:07:31:13 - 00:07:38:06

It's in and around the, um, access route to the o n s of Bentley Road.

00:07:45:06 - 00:07:54:29

I'm quite happy to take that as an action point for you to respond going forward if you want to, but, um, if you're able to answer that now, that would be good.

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Testing data.

00:08:28:02 - 00:08:29:14

Julian Boswell for the applicant.

00:08:32:24 - 00:09:15:08

We just want to emphasize the point made already, and hopefully we're not at disagreement that in the end we can, um, we can only explain the decisions that we have made. There may be examples of five, sorry, of North Falls, um, making different judgment calls in relation to similar issues. So we're, as you'll have gathered, we're very keen not to be drawn into commenting on why or why what you know, why they have done or not done what they have done, because that's for them to talk about in their application.

00:09:15:10 - 00:09:33:22

And we are obviously focusing on our application. You've also raised the point about, um, BNG and uh, landscape mitigation, which we we're very happy to explain how we've approached those two things and how they have interacted.

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Right. Well, we will be coming on to that at some point. Anyway. Um, Mr. Church, um, I presume Mr. Fairlie is leaving you to respond.

00:09:46:03 - 00:09:51:13

In church, on behalf of broccolini. The, uh. Honestly, I don't know. Right. Okay.

00:09:51:15 - 00:09:52:09

Okay. In that case.

00:09:52:11 - 00:09:58:14

He's got to get back to a farm. Um, I think the the

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frustrations on behalf of t fairly was a different, different approach between, uh, five estuaries, Yadkin and North Falls in their ecology drawings and the visual and biodiversity mitigation drawings around substation.

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Potentially.

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I think it's probably it might be one that.

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Needs to be directed.

00:10:19:11 - 00:10:30:18

Yeah. We had a meeting with the applicant two weeks ago on the matter. Um, and ultimately, we'd like to see some significant changes to their proposals for substation site. Right. That may be what?

00:10:30:20 - 00:10:35:11

Well, we'll leave it at that then. I think as as Mr. Farrell is not here to respond. Thank you.

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Uh, so moving on. And this is to Sir.

00:10:41:19 - 00:10:48:03

Julian Boswell for the applicant. We are quite keen to respond to what you said earlier about the RNG And and mitigation.

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Yeah, I'm about to come on to that.

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So the next question is how much, if any, of the proposed environmental mitigation at O n s is also calculated as being part of the biodiversity net gain.

00:11:07:14 - 00:11:42:22

Jessica Holbrook on behalf of the applicant, um, I think there is quite understandably a bit of confusion and, um, use of the term BNG and biodiversity net gain is being used to cover different elements or means different things to different people. So I'm really keen on what we've tried to do with the update of the O lamp is distinguish what the project has set out to do, and where the biodiversity net gain assessment that has been provided as part of the DCO, um, application, where that's it. So that hopefully in the um recently submitted updated o lamp is explained.

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But I'll try here too. So to start with, the design of the scheme at the onshore substation, um, hasn't been driven by the requirement to deliver a specific number of biodiversity units or a specific quantum of biodiversity net gain, and that's because the scheme is not subject to mandatory biodiversity net gain.

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What the project has done is design the uh, onshore substation engineering wise to start with. Thereafter, landscape screening was designed thereafter. Biodiversity enhancements were sort of overlaid or interwoven with that. The requirement for the project to deliver biodiversity enhancements is a part of existing legislation and policy.

00:12:38:26 - 00:13:11:03

It must be delivered at at scale, if I could quote the policy, but I don't think I need to. So that's the reason the scheme has delivered biodiversity enhancement at the onshore substation location with the landscape screening, because it minimizes the overall land take of the project and enables the project to meet existing legislation and policy requirements. Turning to the biodiversity net gain using the metric that we provided, the metric is a tool.

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It's a proxy to measure and changes in biodiversity amounts after changing land use.

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The project is not subject to the requirements of mandatory net gain at the moment, but we sought to use that tool to provide um consultees with information they asked for, and also as another way of explaining what sort of things, a sort of a new, um, quantitative way of explaining what the project was doing. That tool was used after the event. So we did all the thinking between the engineering, the screening and the enhancements that we needed to do.

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And then we used the tool which came up with the answer which we provided there. So that's also explained in the updated Olympe as the approach. And what the project has committed to is to deliver as much biodiversity enhancement as it can within the order limits. And if it fails to achieve 10% net gain, as calculated using the metric tool, using the assumptions that we set out in our Biodiversity Net Gain report, then the project will seek to deliver the difference offsite.

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So, for example, once the scheme design is finalised, we will use the tool to work out what that final number is. But the tool has never driven the process. It's not appropriate for it to drive the process. And I hope that I hope that clarifies things a don't know about this one.

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I'm understanding what what you're saying. That's that's good. Um,

00:14:49:22 - 00:15:23:04

because moving forward, um, and it kind of touches on the comments about North Falls as well. They're there because they they have obviously used a similar approach, insofar as they are suggesting that that biodiversity enhancements on top of landscape mitigation. Um, I think the problem for probably for, for those people seeing both documents together, and I've got to be honest, I've not looked at North Falls in detail.

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All I've seen is what's come in via wraps. Um, that there is like an, an overlap and biodiversity net game is is one of those issues that whilst not yet mandatory for this scale of operation. Um, not both parties can claim it. So? So it's hard to say. Well, where's the demarcation line? Who's taking responsibility for it? Who's who's going to be driving that enhancement? Um, and where's the line of demarcation between you? I mean, that's, you know, this is the bit that we're going to be dealing with.

00:16:11:07 - 00:16:13:26

Um, and anything else is North Falls.

00:16:18:00 - 00:16:39:06

Thank you. Um, so the premise that the impact assessment was undertaken on, um, is described in the project description chapter for the environmental statement. And um, in effect, what we're assessing is five estuaries installing the ducts and all the cabling and substations, footprints for both Projects.

00:16:41:08 - 00:17:05:23

The, uh, biodiversity mitigation, compensation and enhancement that we outline is associated with the five estuaries impacts, and it doesn't take account of North Falls at all, quite rightly, because the DCO only applies to five estuaries. So what we're putting forward is, is in relation to the impacts for this scheme alone.

00:17:08:19 - 00:17:33:13

Okay okay. Thank you. I think we will park about one at that point. Um, because it may give rise to responses from others going forward and I don't know, do um, does Essex County Council have anything, any views on your ecologist available to put forward? Any comments regarding biodiversity?

00:17:34:04 - 00:17:42:10

Ma'am. Thank you. Uh, Mark was just to county council. Um, Mrs. Hutton is on the line, so I'd invite her if she's got anything particular to say at this juncture.

00:17:44:03 - 00:17:54:11

Uh, Sue Hutton, Essex County Council and Hendry District Council. Um, no, I'm. I have no further comments to make at this stage. I understand that the two projects are completely separate. Thank you.

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Thank you.

00:18:01:09 - 00:18:35:02

So I noted during your response that you you made comments, um, about, um, offsite provision of, of biodiversity. Um, and I note that in Essex County Council's submission, they've submitted in, in rep 0422043 inclusive, that the Local Impact Report has identified a number of habitat creation opportunities, um, as part of their Green infrastructure delivery plan.

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Um Policies hp3 and pl for. And was wondering has um five estuaries looked at what opportunities might be available for offsite delivery.

00:18:53:00 - 00:19:07:04

Jess Colebrook on behalf of the applicant. Yes we we have and and Essex uh, we've been in conversation dialogue with Essex County Council about the options that are available to the project. Um, and um, several of those are um, well, well progressed. So, um.

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I mean, I'm, I'm, I'm, I'm mindful that they've got specific areas and this project does cost through those areas where they've got like network connections and stuff like that. So, um, I'm just wondering if, if those enhancement opportunities have been been

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factored.

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So the project is, is there have been no, um, firm commitments made in any particular location for where off site uh, Compensation or enhancement might occur, but the project is still, um, in discussions about about where that that might happen. And there are there are options available to us, but it's not yet been finalized.

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But it's not a closed book yet. So it's so it's still still something in the plan. That's right.

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Um, now we're looking at this again from the point of view of where you've identified areas that are landscape mitigation. So there are specific areas. I mean, I'm looking at things like perimeter planting and such like, um, now within your restoration, final restoration thing, there's lots of areas that are

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basically meadows which are not landscape mitigation because they are wholly and solely within the site, as is, to a certain extent the orchards, because the orchards want the trees and an orchard, will not form much in the way of, of of screening because of the simply, they simply won't grow that tall. And you can't farm an orchard with trees that are 20 foot high. You know, it's it's difficult. So where habitat creation at the onset includes substantial areas of meadowland planting, not for screening purposes can the application because the applicant provide justification for not returning those areas to best and most versatile agricultural land? Um, and are not, you know, and rather looking out at offsite habitat creation that would deliver the same amount of, of um, habitat.

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Desk on behalf of the applicant. So the project has followed the mitigation hierarchy when, um, addressing impact of the scheme, the one of the biggest impacts of the scheme is the permanent loss of habitat as a result of the, um, substation location, substation footprints and um, associated, uh, access. So we have to compensate for that loss as close as possible to where the loss happens, uh, to be in accordance with the mitigation hierarchy. So, um, that's that's why large areas of around the, um, substation are used for, uh, ecological compensation.

00:22:20:03 - 00:22:40:07

We also have to provide enhancement under the existing policy, as I've already referenced. And so part of the area is also used for biodiversity enhancement within the red line. And the reason for that is because the project ultimately the the overall land take of the project is minimized if we do as much as possible across all technical disciplines and within the same areas of land.

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I I'm, I'm you're saying ecological loss the the loss is best and most versatile agricultural land from an ecological point of view that wouldn't rate highly as a loss of eco ecology, it would be loss of best and most versatile agricultural land. I'm just trying to understand, you know, are you are you compensating for hedgerows that have been grubbed up in other areas, all within the own land, for instance? I mean, I mean, what ecological losses are there in the önce land that need to be compensated? Because to me, you've you're putting in far more than would have been lost.

00:23:34:09 - 00:23:50:23

Uh, thank thank you. Um, so the overall land take. Um, and I can't stress this enough, the overall land taking that area hasn't been driven by by ecological requirements. It's been driven by engineering and then landscaping.

00:23:52:21 - 00:24:16:11

The ecology has been overlaid. On top of that. We have compensated for the loss of the permanent loss of land. So it's now and it's it's the future potential that we're compensating for as well. So that land that is permanently affected by the presence of the substation and the roads is gone, in effect, gone forever, and we have to compensate for that. So we do have to do more with less area.

00:24:18:02 - 00:24:51:19

And there are very strong policy drivers that mean we have to also provide enhancement as part of the scheme. The, um, other part of this is that the area around the substation, including the orchard, the orchard in particular does provide a landscaping, um, a fact that it's an important part of the overall landscaping design. But the fact that orchard trees have been chosen, that's part of the layering on top. So we could have just used short trees, which would have fulfilled landscaping requirements. But we've chosen orchard trees because that also provides a biodiversity benefit.

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Uh, right. I don't know if Mr. Church has anything to say because, um, as I said, Mr. Farrell is gone, so he's not in a position. But, um, is there any comments that any of you may have on behalf of any of your other clients that.

00:25:08:15 - 00:25:39:12

Know on the matter of a substation site? One thing we have requested, um, is if the applicant has drawn their service to come back to visual impact, and Fred just very quickly drawn their tree belt or visual screen right up to my client's residential property and what we've asked for that to be pushed back to, because in 20, 30 years time, that residential property will be very, um, dark place to live because it'll be surrounded on three sides by mature trees.

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And what we've asked for is for that tree belts to be pushed back and for mature species to be used, not saplings and whips, which 1st May take 30 or 40 years to mature and, um, create the visual screening that it's, that's required to screen the substation. Um, whether this is the right point to raise or not, I don't know, but I think we just wanted to press that point today that we appreciate. On some of the screening and landscaping proposals. There'll be young shrubs and trees, but where that's where that screening proposal is being used to screen the substation site from our client's retained property for that, for the um, varieties and species to be used are of mature ones.

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I appreciate that it doesn't come always, always come with a, um, great success rate, but it will just help minimize or reduce the time it takes to mitigate the visual impact of that substation from our client's retained property. Okay.

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Thank you. Um, is there anybody else in the room that might have. Yes.

00:26:40:03 - 00:27:24:08

Uh, Catherine Bailey, Essex County counsel. Um, I just, uh, in relation to the, um, agricultural land and its use for, um, biodiversity enhancement, I think we did have discussions with the applicant

about the fact that, um, it could be put to better use as more landscape mitigation. So we we queried the, um, shelter belt, the tree belt around the edge and why there weren't more use of, um, copses and small woodlands, which are more typical of the Tendring landscape.

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So it's a different, um, argument to the one that you're making in relation to best and versatile land. But we ourselves felt that using it for Meadowlands. So for ecological uh, mitigation, stroke enhancement was not the best use of it.

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Thank you. Um, I think given the substantial changes that have taken taking place for the old amp, um, it wouldn't I don't want you to be repeating yourself on something that I haven't read yet, so it's unlikely that I'm going to pursue any further, um, this particular subject. And I don't just have a word from my colleagues.

00:28:19:02 - 00:28:32:02

So I think what we'll do is we will now move on to, um, the effects for socioeconomic and residential living conditions, which I'm passing on to my colleague, Mr. Gould.

00:28:34:21 - 00:29:04:06

Um, well, as we've sort of arrived very close to 10 to 1, I'm going to suggest, actually, we probably adjourn for lunch rather than start a bit of a topic. Um, because I've got a few questions, particularly for Mr. Armstrong and then a number for the applicant. And I think it's just going to work better that we we try and do it in one session. So I think unless I'm hearing anything, vim in opposition will take an adjournment. Now, um.

00:29:07:17 - 00:29:17:16

If we resume at 2:00. Does that sound reasonable? Yeah. Okay. The hearing is therefore adjourned until 2:00. Thank you very much.