

TRANSCRIPT_RAMPION2_ISH2_SESSION1 _15052024

Wed, May 15, 2024 11:26AM • 1:33:22

00:16

Good morning, everybody. It's now 930. Before I begin, can everybody hear me clearly? Yes and good. And can I confirm the live stream has begun.

00:29

Thank you. Good morning. It's now plus nine, and welcome to you versus first time and welcome back. If you're here in February. This is the issue specific hearing in relation to an application made by ramping extension limited for the proposed ramp into offshore wind farm, which is now open. My name is Richard Allen. I'm a chartered town planner and I'm an examining inspector and I've been appointed by the Secretary of State to be the lead member of the panel of inspectors to examine this application. And if I could ask my colleagues to introduce themselves, please.

01:06

Hello, my name is Steven Rainey. I'm a chartered planner and a member of the royal Town Planning Institute. I'd be appointed by the Secretary of State to be a member of the examining authority for this application.

01:18

Good morning, my name is Claire below. I'm a chartered scientist and a member of Siam, the Chartered Institute of Water and Environmental Management. And I've been appointed by the Secretary of State to be a member of the panel of inspectors to examine this application.

01:33

Good morning, my name is Joe Sullivan. I'm a chartered town planner. Now I've been appointed by the Secretary of State

01:42

to be a member of

01:45

the examining authority for this application.

01:49

Morning everyone. My name is Richard Morgan. I'm a chartered engineer and fellow with the Institution of Civil Engineers. I've been appointed by the Secretary of State to be a member to the examining authority for this application.

02:00

Thank you and together we constitute the examining authority for this application. For those joining online in the arrangements conference and for those present in the room you will have already spoken to Lily Robins who is the case manager for this project and she is supported by colleagues from the case team at the planning Inspectorate. And before we move on to the agenda this morning, we will need to deal with a few housekeeping matters and opening comments that I have and I will try and get through these as quickly as possible.

02:32

Can I start with just making sure mobile phones please are off or switch to silence

02:39

those of you who've been here before know that where the location of the toilets are which are back in the hotel reception area, the lobby area

02:48

are not been made aware of any fire alarm testing today. So if the fire alarm were to go off, I take it it will be the real thing. And we will follow the exits out this door and then into I think it's to the left when we get outside the fire exits aren't clearly marked.

03:10

A noting that this room needed stairs to get to here. I just wanted to check. Does anybody know of anyone who had any accessibility issues? Accessing this room?

03:21

Nope. Thank you.

03:24

Now the February hearings, I did explain what who we are and what our purpose is. I'll just run through those quickly. For those who are new to NC IPs, national infrastructure projects and how they operate. We are appointed by the Secretary of State for the department leavening up Housing and Communities. To examine this application in accordance with the Planning Act 2008. Our role is to examine the following. Whether the application complies with relevant legislation, policy and guidance, the power sought by the applicant including in relation to land rights, how the proposed development would be controlled the balance between the benefits and dis benefits of the proposed development and ultimately, whether development consent should be granted.

04:10

The XA will gather the evidence needed to help us consider these matters during the examination. We will then submit a report to the wreck with our recommendation to the Secretary of State for energy

security and Net Zero, who will ultimately decide whether these developments should be consented or whether consent is withheld.

04:32

Throughout this process, I'll be supported by the planning inspector as case team. They will answer any queries you may have about the process and will assist with the examination events.

04:44

The exci has decided to hold this section second issue specific hearing as we have a number of important and detailed questions that we wish to ask following the submission of the application. Written representations local impact reports

05:00

and answers to our written questions. The agenda reflects those matters we wish to discuss today and tomorrow.

05:09

But I do want to remind interested parties, however, that if a matter is not scheduled on the agenda today or tomorrow, it does not mean that the item is done and dusted or that the XA has already made up his mind on it. It is likely that on other issues, the XA will have sufficient written information that it does not need to ask further oral questions, or that we consider matters to be dealt with by the continued process of written submissions.

05:40

The purpose of today's for the essay to examine the information submitted by the applicant and also by interested parties and others. As a result, I would like to reassure you that we are familiar with the documents that you have sent in. So in answering a question you do not need to repeat a link something that may have already been submitted.

06:00

If you want to refer to information already submitted the examining authority be very grateful if you could give the appropriate Inspectorate examination Library Reference. Could I please ask that the first time you use an abbreviation or an acronym, that you give the full title as there will be people today, or listening on the audio that may not be as familiar with the application or documents as you are?

06:25

The hearing today will be a structured discussion which I and other members of the examining authority will lead based on the agenda that has already been published.

06:36

Throughout the day, the certain issues will reoccur and examined as we examine them from different angles, or in relation to different elements of the scheme are therefore asked that you bear with us.

06:48

Bear this in mind when you give your evidence and ask that you focus on answering the questions that have been asked of you for

06:56

the purposes of identification and ease of reference, please could I ask that every time you speak, you give your name and whom you represent.

07:07

Where can conducting this meeting in accordance with sections 9194 of the Planning Act and the infrastructure planning, examination procedure rules 2010.

07:17

And specifically, rule 14 resides relating to procedures at hearings, you are reminded that section 94 Eight of the Act Planning Act allows that the examining authority may refuse to allow representations to be made at this hearing. If the examining authority considers that those representations are irrelevant, vexatious or frivolous, relate to the merits of policy set out in the national policy statement. Repeat other representations already made or related to compensation for compulsory acquisition of land or any interest in all rights over land.

07:55

As I previously stated before the hearing is being recorded. The only official record record of the proceedings is the recording which will be up which will be uploaded to the inspectors website as soon as practicable after this meeting, tweets or whatever they call these days blogs or similar communications arising out of this meeting will not be accepted as evidence in this examination.

08:23

So now like to turn to the agenda, please. Rule 14 Two of the examination procedural rules requires that at the start of the hearing, the examining authority shall identify the matters to be considered and you will have had that agenda which was published last week.

08:40

The agenda for those hearings was placed on these restrooms on the eighth of May.

08:45

So we will start in a few moments with item two on the agenda which has to do with onshore ecology, including matters concerning biodiversity net gain,

08:55

HDD, horizontal directional drilling and the adequacy of the commitments register, clumping beach AAA sign again the adequacy of the commitments register, protected species the outline landscape and ecological management plan. ecological areas within the South Downs National Park and European sites

09:15

will then move on to offshore ecology including underwater noise fish and shellfish benthic environments, marine mammals, and general matters and international matters.

09:25

And then, towards the end of today, we will discuss a number of other matters which are listed on the agenda and Item four for clarification and updates.

09:34

We will then adjourn the hearing after item four, even if we complete those matters earlier than expected. And so that is to say we will not move on to item six until tomorrow.

09:47

And that is because the relevant people may not be here today to for that or maybe expected it tomorrow anyway, so and then tomorrow when we resume the hearing we will move on to seascape landscape and visual effect

10:00

Next, including the development test for the National Park design principles the adequacy again of the current maintenance register, which is becoming, which is a little bit of a common theme in these matters, assessment of harm of the special qualities of the National Park and the cumulative effects with rampion. One

10:19

with We'll then move on to traffic and access including those arrangements around the proposed onshore substation at Oak and Dean and other areas as listed on the agenda.

10:30

We have some matters to discuss regarding the onshore ecology, including field evaluation and assessment of significance, as well as again, the adequacy of the communities register and requirement 19 of the draft DCO. And the adequacy of the outline, onshore written scheme is an investigation in this matter.

10:50

Those areas that we're not discussing in the relevant topics, We'll then move on to the draft DCO, where I've got again as listed, and a number of matters that need to be discussed and others. And again, we will conclude with some clarification points.

11:09

On the matter of the item nine, the DCO agenda, the XA has decided to discuss certain items within the related topic on the agenda. For example, we discuss matters concerning requirement 14 within the agenda item to a, because it seemed to us to be a more sensible place to discuss it, rather than hold it back and keep it till tomorrow afternoon.

11:36

However, we are aware of conversate comments from the marine management organisation

11:44

regarding concern at that, and particularly regarding Article Five and the deemed marine licences, sheduled, 11 and 12. That they should be held within Item nine. Now when I come to introduce or when the MMA introduced themselves in a few moments, perhaps I can ask, well, their views on that because it is my intention to deal with it hit today, where you're all here, but if if you prefer to want to hang around tomorrow afternoon, that's fine. But if we aren't, I'll ask you that when I come no Introduce yourselves in a few moments.

12:21

to

12:26

We also note that the applicant provided an updated DCO at deadline three, which was contrary to the timetable where we asked for the deadline for that's okay, but in order to revert back to the timetable, and for comments to be made on it, please can I ask for the applicant.

12:45

And I'm sure they will be updating the DCO following this hearing to provide another DCO updated at deadline for so that the we can then go back onto the agenda of having comments then at deadline five. Thank you. So if I can ask any comments on this DCO to be just held back until the next version is produced at the next deadline. Thank you.

13:09

And as I read out in the agenda a few moments ago, various points we have mentioned the adequacy of commitments contained within the commitments register. One of the issues I was going to discuss over this hearing was the applicants response to written question DCO 1131. Regarding whether the commitments register should be a certified document. The response from the applicant in the question suggested it was not going to do that because it was clearly as an aide memoire.

13:39

And I was going to I have to say take some issue with the applicant over that, because I think it's far more than that. However, we do note that the examining authority so we do note the applicant has now or in the latest version of the draft DCO included the commitments register within sheduled 16 along with a reorganisation to make it easier to read. And can I just say to the Atkins of the XA very much welcomes that inclusion at the conclusion of the Commission's register into the DCO. We thank the applicant for doing that and feel it is very much the right decision that they've come to they're many interested parties and the examining authority have placed a great deal of importance on this document. And I think the security within the DCO ensures that those commitments must go forward and cannot be substantially changed into other documents to be submitted. When they are approved. Should the Secretary of State be minded to make the order.

14:41

We will seek to allow sufficient time on each issue to our proper consideration of them. We will look to have a break around 11 o'clock for about 20 minutes and we will look to take lunch about one o'clock usually for one hour.

14:58

With an afternoon break if we're still

15:00

We're going, we'll be around half past three. If for medical or other reasons anyone requires a break a specific time, if you could please let the case team know. And we will try to accommodate your needs.

15:14

Should the consideration of these issues take less time than anticipated? We may adjourn this hearing as soon as all relevant contributions have been made, and all questions asked and responded to.

15:26

Equally, if the discussions that take longer than anticipated it may be necessary for the XA to alter the agenda, remove areas for discussion, and defer to written questions.

15:43

The agenda is challenging, and we want to get through as as much information as possible. To assist us in that task. The essay will try to keep the pace of discussion going and will resist repetitive comments from being made. We hope he will understand and assist us in that process.

16:02

It's important to get the right answers to the questions we're going to ask therefore, if you cannot answer a question that's being asked of you, or you require time to get the information requested.

16:14

The essay rather was rather you went away and provide that in writing rather than potentially give a wrong wrong answer.

16:27

Okay, so now I want to turn to the attendance list. We have a list of those persons here today who are attending today and online.

16:38

It's not my intention to ask everybody to introduce themselves, I'm just going to go down the list. And if you could just put your hand up that you're here or online, if you could do the same thing.

16:51

So I'm going to start with the applicant. Mr. Malik, good morning to you. If you could just introduce yourself and and your team as as, as you propose.

17:10

It may be a communication issue with that thing over there, you might have to just move the microphone to sort of turn towards it. We did a sound test yesterday we found that that was the issue.

17:30

Thank you, Sir Paul, male solicitor and partner at eversheds Southern that eversheds Sutherland LLP appearing on behalf of the applicant?

17:40

What I suggest I do, sir, is I'll introduce people as we get to agenda item by agenda item because obviously there is a substantial amount of attendees from the applicant team in attendance today, some of whom will also be appearing online via the team's link. But I'll I'll make you aware of of who's where as we go along. But one other thing that it may assist you with is that there will be quite an interchange between the onshore ecology team and the offshore ecology team. So if we could potentially have a break between those two agenda items so that the personnel can switch around I'd be very grateful. I

18:19

think that's our intention anyway, but yes, noted. Thank you.

18:25

So I'm going to start with the

18:28

local authorities. We've got a number of people from West Sussex County Council that are online today.

18:38

Good morning, Mr. Herrera. Do you do you want to introduce your colleagues or do you just want to

18:45

Good morning.

18:46

My name is Amy Harrower. I'm the project manager for West Sussex County Council. I've got three colleagues all online and they'll introduce themselves at the relevant agenda item if that's okay, sir. Okay, thank you.

19:00

And Mr. Porter from Horsham District Council. Good morning to you. Going so, my pupil to Horsham District Council with Councillor Lampard would like a ward member. I've also got colleagues online but I'll do introductions when necessary. The point

19:23

that just just all I've got on my screen is one colleague online at the moment.

19:27

Yes, that's archaeologists. Linda. They can Yes. Yep. Okay. Thank you.

19:32

And then if I could come to

19:36

draw limb from our Industry Council. Hi. Yes. James GERALYN. On behalf of our Industry Council.

19:45

Thank you.

19:47

And

19:50

continues to Tony from South Downs National Park. Good morning to you.

19:55

Morning, sir. Richard terney Kings counsel with

20:00

Vicki Colwill to my right, who's planning principal Planning Officer at Southtowns. And Lindy Robinson to my left who's going to deal with ecology?

20:11

Thank you.

20:15

Now, I'll turn to the that's all the local authorities I have on screen. I'll turn now to the statutory parties. And that's just the MMO. So if someone from the MMO could join online this Good morning, and if you could address my point that I made in opening as well about where we do with Article Five, thank you. Good morning.

20:37

Good morning. This is Tony from memory management organisation. Just to address that particular point about Article Five, I spoke to somebody in the case team about this. There was confusion, we thought maybe that our section would come up both today and tomorrow. And we just wanted to clarify if it was in tomorrow's agenda, nine or today's agenda three, and we realised it was all going to be included today. So that's not an issue anymore. And it will be here for agenda three, and we will not be coming tomorrow just to clarify that. We're also joined by internally, we have Hannah Hoth and Elsebeth removed from our legal team. I've got either Lakeman, who is the case officer working with me

on this case in the marine management organisation. And lastly, I'm joined by Ruben Taylor Casey, who is providing us with external legal representation today.

21:28

Morning

21:32

Okay, thank you very much for that. Thank you.

21:37

So if I can now turn to the parish councils, I've got representatives from colfo caliphal, parish council in the room today. Good morning. Do you want to just introduce yourself please.

21:50

actually reading Joe Campbell parish council and I have done a rest of my left Andrew Hooper to my right.

21:57

Thank you very much.

21:59

And clumping parish council.

22:02

I've got Pauline Humphries is online. Thank you. Good morning, Colin Humphreys, county parish council and I'm here by myself.

22:14

Thank you.

22:17

That's all I have for today, as you do tomorrow, if I turn now to the interested parties, and we'll start with Smithers. Good morning.

22:27

Hello, Mira Smethurst are here to represent counsel the rampion. And I've got Daniel ball here as well.

22:36

Thank you. Good morning, Bill. And

22:41

Mr. Vishal, is Einstein just observing today, good morning to you.

22:48

Okay, and I've got a number of non interested parties who are just observing in the room as well. So I won't introduce you. So that's I think that's, I think that's everybody on my list. Is there anybody who I've missed who wants to introduce themselves either in the room or online?

23:07

Now, okay, thank you.

23:16

Nearly done, I promise. This is a hearing and not an inquiry and therefore, unless the XA has specifically requested or agreed to it, there will be no formal presentation of case or cases or question cross questioning of other parties or this or any other hearing. As such, any questions that you may have for other parties need to be asked through the examining authority. This approach is set out in Section 94 of the Planning Act. Does anybody wish to cross question and if so why?

23:48

Nope. Okay. For those persons joining online, you may need to switch camera can you please switch cameras and microphones off? If you're not participating specifically in a discussion? Should you wish to raise a hand please use the Microsoft team's hand raising function and when invited please then turn on your camera and microphone. So we may hear you see you.

24:14

For those people watching the live stream can I also advise you that we should we take a break at any point you will need to

24:24

refresh your browser in order to continue the continue watching after the after the break.

24:34

And finally to further points. You'll note from the excise rule six letter that this event is being recorded as well as streamed to interested parties who requested it. The digital recordings will form a public record that contain your personal information in which the gdpr applies. GDPR applies sorry, the planning Inspectorate practices to retain and publish recordings for a period of five years

25:00

For the Secretary of State's decision on this application. Consequently, if you participate in today's hearing is important that you understand that you will be recorded, and that therefore consent and yet for you consent to the retention and publication of the digital recording.

25:16

We will only ever ask for information to be placed on the public record that is important and relevant to the planning decision. It will only be of rarest of circumstances that we might ask you to provide personal information of the type most of us would prefer to keep private or confidential. Therefore, to avoid the need to edit the digital recordings,

25:37

please avoid giving information that you'd rather be kept private and confidential.

25:44

The examining process as this examining progresses, the XA will be note taking both in written form and on the computer. And we also may be reviewing documents as well. So please do not be put off by this and rest assured the XA is following events as they happen. In that, thank you very much. Are there any questions on anything that I've raised on the procedural side?

26:08

Or the to the GDPR?

26:12

None in the room? None online.

26:15

Thank you very much. That's my opening comments out the way on now. We now like to turn to item two on the agenda on onshore ecology, Mrs. Vela?

26:28

Thank you, Mr. Allen.

26:31

Good morning, everyone.

26:33

So item two on the agenda onshore ecology. I'd like to start with to a biodiversity net gain, including adequacy of the applicants revised biodiversity net gain appendix 22 point 15, which is rep 3019.

26:53

So responses to the examining authorities first written questions at deadline three, indicated that there were outstanding areas of concern on the applicants approach to biodiversity net gain from local authorities and the South Downs National Park, based on the applicants original biodiversity net gain appendix 22 point 15, which is a pp 193. These were such as lack of clarity concerns around the baseline how temporary losses were accounted for the spatial areas for which biodiversity net gain calculations have been presented for particularly regarding local authority areas and the South Downs National Park area, and also the requirements word, the wording of requirement 14.

27:41

At the same deadline deadline three, the applicant submitted and updated biodiversity net gain appendix 22 point 15, which is rep 3019. So the examining authority would like to understand whether this updated appendix has adequately addressed the concerns raised

28:00

to the examining authority we'd like to invite each local authority to provide a summary of their comments on this updated appendix in rep 3019. If they would like to do so

28:13

silent and after that I will then turn to the applicant for an opportunity to respond to the points that have been made.

28:20

So we'll start with West Sussex County Council with West Sussex County Council like to comment

28:29

on Good Morning, Graham Roberts, county ecologist at West Sussex County Council. Indeed, thank you. Well, the revised updated bng appendix is suddenly welcome. The presentation of data by district and by the South Downs National Park is particularly welcome. And the recommendation also that there may be opportunities for Habitat enhancement, not simply reinstatement within the areas of temporary construction, such as the construction compounds that's also most welcome.

28:59

The new section, section four point 1.7 is generally helpful. However, I have a concern that it states that habitats being temporarily lost to development will not be reinstated for up to two years

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suggest that it may actually be somewhat misleading in that there are

29:18

quite a large number of sites like Hall roads, temporary construction compounds accesses that will not be reinstated until the the end of the full construction period. So it's certainly beyond the the two years as intimated there.

29:34

I still have some concern about the presentation of data table 4.8 For example, I think I have

29:42

made comments on this previously but I believe it'd be better presented with further breakdown of the table and a bit more explanation. Whilst I can navigate through it, it's not very clear and transparent what's going on in the table.

29:58

I still have some concern about

30:00

The How to habitats temporarily lost will be accounted for on the bng calculations given that it's assumed that some will be reinstated within two years and others will take longer than two years. It's hard to follow how that has been

30:16

accounted for in the calculations.

30:21

But one further point, I think it's particularly important to understand that the bng as its proposed, it isn't just the 10% enhancement, but the bng appendix in the matrix that is calculated

30:36

includes all the comp essential compensation that is required to achieve no net loss. So it's no net loss and the and the 10% gain element presented under the banner of bng. So it's really it's critical that it is delivered and delivered in full.

30:53

I think that that concludes my comments, other than I do have comments about the requirement 14. I don't know if you want me to leave that to the next stage.

31:04

And I think perhaps if we leave that to the next stage, we'll we'll do this appendix first, and then we'll move on to requirement 14. Thank you. Thank you. Okay, okay.

31:19

Okay, could I now turn to Horsham District Council, and we're talking district out so like to comment.

31:29

My people to ocean District Council, we're in the process of looking at the latest

31:36

in our response to deadline for So whilst we provided hopefully, good steer that deadline frame to in written reps.

31:46

response to the written questions. We won't like to comment today on the latest. That's okay.

31:54

Guess that's fine. Okay, thank you.

31:57

And now I'd like to turn to the South Downs National Park Authority. Would you like to comment today?

32:05

Richard tourney for South Downs, National Park Authority. Just a few headline points, obviously, we can come back in writing on the detail. But we're still pretty concerned about the way in which this

information is being presented. We've already set set out our sort of quite fundamental concerns about the way in which this information aggregates no net loss, ie how essential compensation is dealt with.

32:35

And how it then merges that was net gain, which makes the information hard to interrogate.

32:42

While splitting down into authority areas is helpful. I think we're still concerned that it hasn't done it in the right way in the sense hasn't address the planning authority areas as opposed to the districts.

32:56

So the presentation of the information is still difficult in that respect.

33:02

And

33:05

you've indicated, we'll come back to how this is secured and requirement 14. But in any event, we're concerned that there is the risk of a gap here in the way in which the information has been structured, because we're not going through the logical process of applying the mitigation hierarchy first, and then coming back to assess the question of whether there is net gain. And how can that be secured? I don't know if

33:35

indeed, Robinson, should I bring you do you want to make any further comments at this stage? I think we'll, we'll come back in writing on the detail of the document as well. Thank you.

33:46

Thank you for those sorry, points. Are there any other organisations interested parties who'd like to make comment on this appendix before I turn to the applicant?

33:58

Yes, Mr. Jolin.

34:04

Hi, good morning, James. Jurgen on behalf of our Industry Council, passing on comments from our our ecology officer. So I think we kind of echo the fact that we welcome that metric has now been provided at the district level, and it sets out baseline and results for each habitat. We would echo the point that's been made by I think all three local authorities, all three authorities that have just spoken on the fact that no net losses is the focus. But we still like to still have concerns about

34:42

about how mitigation hierarchy is then followed. And just one final point, which is a point of clarification, which may be an interpretation point, but it does stay that the metric or statement is no irreplaceable habitats present but we're just putting

35:00

Now that there is ancient woodland present within the, within the red line boundary, I know, a bit later on the agenda. You've got questions relating to Michael Grove Park and, and beach courts, for example. So, but yeah, that I think that's everything on behalf of our Industry Council.

35:20

Thank you.

35:22

Okay. Can I now turn me to the applicant?

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Mr. Male, would you recommend like to respond to any of those points made?

35:36

Good morning, Alan Kirby on behalf of the applicant.

35:40

I just first start just by noting that

35:46

we have been undertaking meetings with local authorities, Natural England and we have met to date West Sussex County Council Southdowns, National Park Authority, awesome District Council, Natural England Sussex Wildlife Trust and the Environment Agency on this topic. So we're hopefully making some progress there.

36:07

I take those points. Hopefully, I've captured them accurately as we went through. So first, in terms of comments from West Sussex County Council,

36:20

they were referring to paragraph four point 1.7, which is around

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timing of or how the temporary losses are being considered. So I think it's first worth noting that when we're talking about both permanent and temporary losses in the metric, we are considering that those habitats are lost, and then they are created. Again. So we're not saying that there is no total loss of the habitat as the construction takes place.

36:57

And then paragraph four, point 1.7 goes on that the around. The metric has an advance and delay function. So you can account for those periods between the time when habitat is lost and habitat is put back.

37:13

Those haven't been used at this stage, because the detailed design in terms of schedule, information is is is not there. And also because the biodiversity net gain would be delivered stage by stage, you would have some habitats being reinstated at the same time that others would be being lost later in the construction process. So it will be quite a complicated picture. And that level of detail currently isn't there. But what I would say is to account for that one of the things that the applicant proposes

37:46

and is detailed in Appendix 22 point 15

37:52

Is that there is a front loading of biodiversity units that will be provided off site. And that's 70% of the unit deficit. And that unit deficit includes both of the units required to get to no net loss, but also for the provision of 10% biodiversity net gain.

38:10

So then, moving on to the second point, this was a round table, or eight in the updated appendix 22.15. So what that table is

38:27

attempting to do, and as I said, we've had meetings and talk through this table is really to show two main points. The first is what is the size of deficit to no net loss, and also what is the unit shortfall, which includes no net loss and that 10% biodiversity net gain in the metric workbooks published by Defra that is referred to as the unit deficit.

38:56

So in Table four eight, the net Unit Change shows the size of discrepancy between or the size or the number of units I should say to reach a position of no net loss. Whereas the fifth column, the unit shortfall, including 10%, biodiversity, net gain shows what needs to be provided overall following reinstatement to deliver biodiversity net gain and assure that there is no net loss.

39:31

And then, just to I think last point from West Sussex County Council was just to

39:37

agree and reiterate the point that although this is called biodiversity net gain, it's really doing two things and that is ensuring that the applicant delivers to no net loss in terms of compensation and then provides additional biodiversity net gain on top of that.

39:59

Me

40:00

Moving on to the points raised by South Downs National Park Authority.

40:08

There was concern that there's an aggregation of no net loss and biodiversity net gain. I would say that that's actually not possible in this report, because what we're actually calculating in the workbooks is a deficit to no net loss. So at the moment, everything that was included in this report can only be contributing to no net loss because we don't reach that threshold. And the additional way to deliver both no net loss and biodiversity net gain is then the securing of those habitat units

40:44

as part of the

40:49

sort of post consent work, so that will be by purchasing biodiversity units from third parties.

40:57

Then, in terms of breakdown of data,

41:04

we've obviously broken it down this time as Horsham District Council, Arun District Council and mid Sussex Council in terms of losses. And then we have put a

41:16

another calculation, which just covers the South Downs National Park Authority on its own.

41:24

I'm

41:27

I believe that what we were doing, there was what was requested, but obviously, we're happy to have further discussions to find that out.

41:38

And then I understand we'll come back to requirement 14. So I'll just move on to our District Council's point

41:47

around mitigation hierarchy. So

41:51

what we've tried to do here is ensure that the mitigation hierarchy is delivered all the way through the detailed design process. And so

42:00

there's a commitment C to nine one, which acknowledges that that would be secured by the code of construction practice requirement 22 and 23.

42:14

And then, just to pick up on the last point from our district council about irreplaceable habitats,

42:20

we take the point, it's,

42:24

yes, what we're doing is crossing areas of ancient woodland but not losing that. The reason it's not included in the calculation is the way that

42:37

the calculations are based on surface work areas or areas where works would actually take place in the surface on the surface.

42:48

Thanks.

42:54

Okay, thank you for those responses.

42:59

I'd like to ask a couple of questions around the Biodiversity Management Plan.

43:06

Requirement 22 of the draft DCO states that most of the documents listed in the requirements 22 Should accord with their outline version submitted during the examination. But this isn't the case for the Biodiversity Management Plan. So could I just ask the applicant to justify why it's not being felt necessary to treat the Biodiversity Management Plan in the same way as most other plans where an outline is submitted upon which a final version would be based?

43:52

Alan Kirby on behalf of the applicant

43:56

so the type of information that would be in that Biodiversity Management Plan, we consider as being covered in the outline code of construction practice, which is our EP three Oh 25 And the

44:13

outline landscape and ecology management plan, which is or our EP three with me our plan B.

44:39

Oh three, seven.

44:44

So, between those two

44:48

outline plans, they include things around management of protected species during construction, habitat, reinstatement, habitat creation, etc. And those are the type of things that we will do

45:00

is about to be in that Biodiversity Management Plan.

45:04

Thank you.

45:06

Could I just pick up now on a point on the mitigation hierarchy that is just being discussed. So I think both Natural England and South Downs, National Park Authority have concerns and they were raised just now, between the mitigation hierarchy has been adequately followed in respect to biodiversity. So could I turn to the south, there's National Park Authority and ask whether what you've heard today clarifies those points at all. Thank you.

45:36

Richard tourney first house dance National Park, I think the short answer is no.

45:41

I think we understand what the applicant has done. But it's not good enough, as far as we're concerned to ensure that you can report appropriately on no net loss to biodiversity for this project. And the difficulty is that at the moment, we're putting both essential compensation and an attempt at delivering net gain into the same pot.

46:10

And there is insufficient information before you to distinguish the two.

46:17

There are a number of specific points that we've picked up in our representation, some of which we'll come back to so for example, particular impacts of severance and on protected species and so on where there's specific information. But I think the overall picture is that there's a shortage of information about the approach to avoid and mitigate the impacts on interests of biodiversity interest generally.

46:46

We don't have, as we've just explored a Biodiversity Management Plan in draft. And I think from our perspective, we don't think it's helpful to say, well, you can chase down various requirements and other documents that might help you on biodiversity, I think we want to see that spelled out. We have in the ES

47:10

an absence of sort of clear articulation of the biodiversity specific mitigation proposals,

47:19

we have new biodiversity information coming into the examination, in terms of baseline survey work, which is not reflected in the ies and not reflected in mitigation measures, which are being set out in any document or at least clearly in any document.

47:37

And then when you come to the question of compensation,

47:42

we have, as I say, have leaped to the application of a metric rather than looking at the particular points that might be of importance. So for example, the essential compensation that's required whether a particular hedgerow losses, those are lost, in in the, in the biodiversity net gain assessment. So

48:07

I think our overall point is that this document, it might have a place, but we've leaped to it in this examination, and we need to take a step back, look at the measures that are in place to achieve

48:22

the hierarchy, the mitigation hierarchy, make sure that those measures are secured appropriately in appropriate documents and on the face of the DCO. And then look at whether this is a project that can deliver net gain, and we say of course it should deliver that gain, at least in the National Park.

48:45

Thank you.

48:48

Mr. Attorney. Thank you.

48:51

I think before before we turn to requirement 14, with the applicant like to respond to any of those points.

48:58

Yes, please. Alan Kirby on behalf of the applicants, I

49:03

think we have

49:06

some confusion around

49:12

the assertion here that compensation and biodiversity net gain are being muddled up as we are following

49:21

you know,

49:24

rather closely to differ and natural England's position on biodiversity net gain, which inherently includes that compensation element into in in the way that the metric is structured. So, our argument here would be

49:43

that Defra and Natural England between them have come up with a mandatory system which is not mandatory for DCO projects as yet, but has been adopted here as a very good model in order to deliver that no net loss and by

50:00

Diversity net gain, there is some compensation being delivered on site in terms of habitat creation around the substation, but in terms of the nature of this linear project and taking small areas of arable fields for example, you know,

50:19

the approach of reinstatement and then delivering of offsite units is in line with the recently consented Yorkshire green project which was consented on the 14th of March of this year, where similarly, reinstatement was occurring, some habitat creation around substation, and ceiling and compounds, and then the remainder being provided off site as biodiversity units purchase from third parties.

50:53

And sorry, just one last point in terms of the environmental statement, we are going to be

51:01

updating chapter 22 terrestrial ecology and nature conservation, which is a PP o 63. But deadline for

51:14

Thank you. Perhaps now's a good time to move on to discuss requirement 14. And I'm going to turn to Mr. Allen for that part of the agenda.

51:29

Thank you.

51:34

I'm looking specifically at the responses to question Decio 1.19

51:43

on this,

51:45

from Horsham from South Downs, National Park and from West Sussex, have also suggested a substantial rewording of,

51:56

of the requirement 14 biodiversity net gain. Can I just before I go any further, can I just check that having read the updated

52:07

biodiversity statement? submitted that deadline three. And from what you've heard today? Can I just ask I'll start with West cans counsellor, these sort of yes, no answer. Is it your intention that the biodiversity net gain?

52:21

Requirements still needs to be updated as per your answer a deadline three.

52:30

This was Robert Graham Roberts, West Sussex County Council The answer is yes. It still needs to feel it still needs to be updated at the next day. Okay. As as per your response. Yeah, exactly as per my proposal. Thank you. Okay. Thank you. I'm just going to kind of come on to that shortly. But I just want to establish the same thing, presumably Mr. Tony, that's the same response from the National Park. If I can also

52:53

ask Horsham District Council, you've put forward your own suggested changes to requirement 14.

53:02

Is it still your case that those changes necessary? Have you have you also seen the changes requested by the county council and South Downs National Park, which is I think more substantive than yours. And do you have any comments on those?

53:16

Before I actually go on to ask some more specific questions on it.

53:21

If you Porter Horsham District Council, yes, we have seen the comments from County and Southdowns. I think our Suggested Wording is an invitation for an exploration of how to

53:38

give a more robust response to requirements. Obviously, if other authorities or through discussions with the applicant, we're not necessarily tied to that it's just a

53:51

suggestion of way to move forward to try and secure what we feel is necessary. Okay. Do you support the that wording from County and from the South Downs National Park? Is that Is that a word that you would support if if Secretary State was amend requirement 14 is such Matthew Porter Horsham District Council? Yes, you would support my wedding. Okay. Thank you very much indeed. Okay.

54:20

So

54:23

perhaps if I start with the

54:28

West Sussex again, and well,

54:32

West Sussex County Council's wording is mirrors that of the national parks. Is there someone who wants to speak I presume you've spoken to each other and come up with the site. Otherwise, it'd be remarkably coincidental if you came up with exactly the same wording independently. So I'm assuming that you've you've you've been speaking and this is the wording you both feel is appropriate. Is there someone who wants to speak for both of you or or Mr. Roberts, you would do you want to speak for the National Parks I asked Mr. Turney.

55:02

It's Graham Roberts, West Sussex County Council, I came up with the majority of the wording. So to kick off, but the National Park may well wish to add to my comments. I'll do that. Okay. Thank you. So, Mr. Roberts, can you just very briefly perhaps explain why you feel the changes are necessary as as worded, please? Thank you, sir. Well,

55:27

the current condition, requirement 14, is hinged on the fact of producing about a biodiversity net gain strategy. And that will be signed off. But in my opinion, that won't secure delivery on the ground, given that these biodiversity net gain will involve purchasing units from third party providers then have to be registered on the Natural England register of biodiversity net gain, and delivered on the ground or within a timely manner, given that the applicant has

56:01

offered that 70% of the biodiversity net gain will be delivered pre construction, which I think is a fantastic way of dealing with it. And I think that's,

56:13

like agree with the approach of delivering 70% pre construction, it's just I don't understand or can't see how we can get there from the current requirement 14. So what I'm proposing is that a much more robust requirements that really will secure that it's delivered on the ground pre construction, I don't think it's giving any more owner saw demands on the applicant to do this. It's just, we will feel confident that the bng will be delivered in in a timely fashion. If that makes sense. Yes, it does. Thank you. So really, it's if I look at your wording for requirement 14

56:50

And we go 14 114 One, and then the small i That's just the rewording of the original, isn't it? You've just indeed attitude. Yes.

57:03

Strategy, and I accept that. That's a good approach. Yep. So the additional bits that you require is sort of point two and point three of 14 one. That's right, isn't it? Indeed, yes. Okay. Now, the applicant has indicated, of course, in their response to DCO 1.38, and indeed, to bd 1.3 and 1.4 of our written questions, that those biodiversity biodiversity units will be secured by legal agreement. Is this therefore these is the legal agreement, then part of this proof?

57:38

It says if we take, for example, point to the applicants, and I think you probably mean the Undertaker, rather than the applicants in that, in that sentence, The Undertaker has provided proof of purchase of all necessary biodiversity units from third party members. Would that be through the section 106 agreement? I think it probably would be I mean, I think I'm lifted words actually out of the bng information document Sure, provided by the applicant that says that the applicant will provide proof of purchase of the units because the applicant will be the sort of go between between the third party

58:16

providers.

58:18

But it probably would have be secured through section 106.

58:25

Okay, thank you very much, Mr. Roberts. Mr. Tony's anything you want to add to what you've just heard?

58:32

Richard tourney for sale stands National Park.

58:36

First of all, it as Mr. Robert said it was it was the county's drafting. We're grateful for it. And we adopted it. I think the only other point is that we make the further point that we suggest there should be two requirements, one of them in the form that the county stressed to address, biodiversity net gain, and another one to address the no net loss question.

58:58

I think today, we haven't provided drafting for that. And although we're happy to do so.

59:03

But essentially, we think going to our points about the risk of aligning the two that it would be better to have requirement 14 Securing biodiversity net gain and a separate requirement addressing

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avoiding biodiversity loss. I think

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we were referred earlier to the drafting in the Yorkshire green DCO,

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which I'm particularly familiar with.

59:32

I think it's important to note there that there was a biodiversity mitigation strategy that was secured by requirement. So that addressed all the points that we're talking about here in terms of ensuring that appropriate mitigation measures were in place. That wasn't an outline it was in it was in final form. It's a certified document.

59:52

The second point is that net gain, whilst it was calculated was not secured at all on the FE

1:00:00

So the development consent order, and it was a matter which was agreed in a separate section 106 agreement. So the delivery of offsite units for compensation was a matter that was effectively outside of the development consent order entirely.

1:00:21

Thank you. Thank you very much indeed. Can I ask the applicant to respond to the points you've heard, and particularly whether you will be updating requirement 14 At the next iteration of the DCO?

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Thank you. So pool mail for the applicant. I'd start off by just referencing that the applicants proposed wording to requirement 14

1:00:50

chiefly replicates that there was attached to the to the Hornsey for older

1:00:56

I think as you rightly identified through the discussions with the County Council, the principal differences between the County Council's proposed condition and the applicants suite requirement and the applicants proposed requirements are largely related to Romans two and three of 14 one.

1:01:24

I think what I'll ask Mr. Kirby to do in a moment is just to confirm how he envisaged the scheme working because that informs what might be appropriate to be secured by any requirement.

1:01:39

But overall, it's the applicants approach not just in relation to this requirement, but in relation to other requirements as well, that

1:01:49

they the detail of what is required, should be within those control documents referred to in the requirement rather than particular elements pulled out of those control documents and expressly stated, then requirements because we then tend to get into discussion about which particular element should be, should be pulled out. And in practice, it's it's the applicant to that that doesn't necessarily secure anything in any greater detail than that might otherwise been proposed. So that's, that's the background to the applicants approach. I'll ask Mr. Kirby to pick up on Roman two and three in relation to the proof of purchase and 70% of the units being implemented on the ground.

1:02:41

Alan Kirby on behalf of the applicant, I may just before I come to that, I think there's one other change that needs to be recognised here is that in West Sussex is drafting at 14 One it states no stage of the authorised project

1:02:58

etc is to commence whereas the current drafting in the the draft DCO our EP 3004 says other than site preparation works and there is a

1:03:15

reason for that drafting. And that is because as those site preparation works are described in the proposed development, which is

1:03:27

chapter four,

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the environmental statement, which is

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a PP

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045

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Those that site preparation works can include things that will alter the detailed design such as archaeological trial, trenching, and biodiversity or or the

1:03:55

the ecology survey programme, which will take place and that information would feed into that detailed design. This is that detailed design, which forms the basis of the biodiversity net gain calculations.

1:04:10

There is a

1:04:14

sorry, I just wanted to point

1:04:17

that out, and that's why there is that difference there.

1:04:21

In terms of 14, one, two,

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that we were discussing a moment ago.

1:04:30

We will say that, that is addressed in paragraph five, point 4.4 of appendix 22.15.

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And then in terms of

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14 one, three, that's already covered in paragraph 5.2 point one of appendix 22 point 1.5

1:05:06

Can I just

1:05:08

ask one final question on this? The security of the biodiversity unit through legal requirements section 106. Is that set out in the in the biodiversity? Statement, Appendix 2215? Is that Is there a requirement within there that the biodiversity units will be secured by legal agreement?

1:05:27

No. So

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apologies, Alan Kirby on behalf of the applicant.

1:05:32

So in terms of securing those,

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what's laid out is the process of where they would be purchased through or how they would be negotiated and purchase through third parties. those third parties, depending on how they're set up, could hold those, or secure those units in a variety of ways. So it could be a conservation covenant could be a section 106, which is between the landowner and the council or as part of the

1:06:03

development,

1:06:05

we would say that would be demonstrated in the process of the sign off those biodiversity net gain strategies through the provision of certificates once those units have been registered on the biodiversity gain site. Right. But isn't that the counsellor? It's been 12? Isn't that the county councils and the National Parks point here is it's that element of it the securing of the biodiversity units, which is not in that statement, and therefore needs to be covered in the in the requirement. That that's that's their point, isn't it? That that's the element that's missing, hence, why it needs to be set out in the requirement.

1:06:41

Is that Is that Is that correct?

1:06:48

Thank you. So I mean, I think I think that's the understanding of what that of what the position was, is what you've identified there. I don't think there's really much between the applicant and the county council upon the principle, I think the applicants position is that in providing evidence through the certification of the acquisition of units,

1:07:11

there will be effectively

1:07:14

documentation, which sits behind that, to allow that certification to be given. And that may take the form of a conservation covenant, it may take the form of a section 106 agreement, it may take the form of some other process, which is put in place to enable those

1:07:31

certifications to be given in accordance with guidance issued by

1:07:36

Natural England. The applicant commitment, as I understand through the through the strategy is effectively to provide the certificate, which is the end step in that process, and not the sort of interim steps. But I think the applicants, quite happy to consider looking at

1:08:00

better explaining within the strategy, what underpins that process.

1:08:12

Thank you.

1:08:14

I don't have any further questions on that. I'll take those answers away and give those consideration.

1:08:23

Okay, thank you. Before we move on to the next item on the agenda, can I just pick up on two points. So, Mr. Kirby with the bird diversity management plan, and it has been mentioned a few times about the you know, a strategy

1:08:42

is it would the applicant consider actually producing a document such as this that would be secured

1:08:51

Alan Kirby on behalf of the applicant, I think I'd have to take that one away and discuss with the project team.

1:08:58

Thank you if we could take that as an action point please that you will consider whether or not you will be prepared to do that. Thank you.

1:09:22

Okay, we're now going to move on to section item to be on the agenda which is horizontal directional drilling, including the adequacy and wording of commitment C five, and requirements 22 and 23.

1:09:39

To the applicant updated the wording of commitment C five at deadline one to say the horizontal directional drilling or other trenchless technology would be deployed in accordance with Appendix A the crossing schedule of the outline of construction practice rep three zero to five secured by requirement 22 within the draft

1:10:00

Development consent order, the applicant confirms it will not switch to open trenching at these locations in red 1017 and claimed the appropriate realistic worst case scenario has been assessed in the environmental statement. The applicant stated the approach in the unlikely event that other trenchless technology would be deployed at a specific crossing, and that this would require demonstration that there are no materially new or materially different environmental effects, and that any change would need to be approved by the relevant planning authority through amendment to the stage specific code of construction practice and crossing schedule.

1:10:41

So responses to this amendment sci fi were received.

1:10:46

In response to the ESA written question, cod 1.1 from Horsham District Council in web 3069, the South Downs National Park Authority in web 301 and West Sussex County Council in red 3073 and also the Woodland Trust in rep 3145.

1:11:07

Many said that the amendments could go further and provided details.

1:11:13

So West Sussex County Council noted that limited wait could be given to these commitments as they do not form part of a DCA requirement or tied into a control document. So I would like to ask where Sussex County Council does the fact that the commitments register is now a certified document does this allay their concern?

1:11:33

Thank you, mom, ami Hara West Sussex County Council, I think we very much welcome the fact that it's now a certified document, it does help toward that. I think we have a few other points on the the wording of the commitment itself and also on requirement 23 G, if I can make these points now if that would be helpful, helpful. Beefy. Thank you. So I think the Khans counsel has no remaining concerns on the reliance of HDD or other trenchless technologies and the location specified by the applicant, as you mentioned, Mom Are we did query in CoD 1.1, which was in rep three, zero 73 that within the commitments register for C five requirements six subparagraph four could be included because it does cross reference to give it clear. securement so we would make that one comment, not on the wording but within how its controlled, we would like to see requirements. 6.4 added to that. I think going on to the draft DCO we also made cod 1.1. That requirement 23 subparagraph. G could just for clarity, have reference to the crossing, said shedule. But we are genuinely content that the the crossing shedule is secured and we don't really have any further comments other than the ones we made. Thank you.

1:12:53

Thank you for those comments.

1:12:58

So Horsham District Council's concern is that there's no responsibility within requirement 22 and 23 for the applicant or the regulatory authority to take action should the impact be in excess of the impact assessed, or if it is found that mitigation measures have been insufficient? And then further measures or remediation may be required to ensure the proposed development remains beneficial to the environment. And H Horsham District Council's preferred outcome as a standalone DCO requirement for C five to secure HDD and that this would assist with transparency.

1:13:35

Hosting District Council suggests that requirement 22 Kudrow cross reference requirements six four as a Sussex County Council have also just mentioned

1:13:47

how does the applicant respond to this comment from both Halton District Council and West Sussex County Council?

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Thank you mum, it might it might assist if I just give an overview of the relationship I think between requirements six for requirement 22 and requirement 23 in relation to

1:14:09

the commitment around trenchless. Crossing. So

1:14:13

the starting point I would suggest is requirement six four, which has been amended to clearly secure that trenchless technology must be used to instal cables in the locations identified in the crossing shedule. And the relevant crossing sheduled is the one that's to form part of the detailed contract Kotori code of construction practice for the relevant stage. And that's secured under requirement 22 for q

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m and in terms of what is in that detailed

1:14:54

crossing shedule

1:14:57

for each stage

1:15:00

The outline COC P

1:15:04

specifically states through paragraph 4.22.

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That the outline cicp is accompanied by a crossing shedule which forms part of its Appendix A, identifying the locations where trenchless crossings will be provided. So in submitting a detailed plan in accordance with the outline, there is the commitment through paragraph four to two of the outline cicp. The trenchless crossings must be provided in the locations identified in appendix A to the to the outline. The only difference between those trenchless crossings proposed in appendix A and any trenchless crossings proposed as part of a detailed COC P would be any additional ones, which the applicant identifies through the course of detailed design stage. So, effectively there is a baseline position secured as set out in the outline cicp with additional ones possible.

1:16:06

The detailed designs page as then been discussed,

1:16:11

mitigation, then associated with the construction of those trenchless crossings is secured through the onshore construction methods statement, which we have referred to under requirements 23 And specifically 23, two G. And there are sections set out within the construction methods statement within section 3.4 which relates to the relevant mitigation that might be involved.

1:16:54

Thank you, Mr. Attorney.

1:16:57

Could I ask whether there are any comments from any of the local authorities on

1:17:04

the points that the applicant has just made regarding sci fi?

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Yes, 10 a rich tourney for South Sudan's National Park.

1:17:15

I think it's very helpful that we've now got the six four plus the commitments register in the secured in on the face of the DCA that's very helpful. I think perhaps, if we could just ask the applicant to look again at the way in which C five is is framed. I think it's now doing a different job from the one it started off doing. And it's supposed to secure all of the crossings that are identified as trenchless crossings. And the references.

1:17:46

The C five starts with referring to main rivers, watercourses, railways, etc. But some of the trenchless crossings are in locations which I don't think clearly fall in those categories. So it seems to me that it might be better phrased along the lines of

1:18:04

the locations identified in the crossing schedule in the outline must be crossed with trenchless technology, Mr. Mail would do a better job of drafting than I will. But it's just to make sure that it does what it's now intended to do, which is to secure all of those trenchless crossings as reflected in the outline clcp.

1:18:27

Thank you, Miss 10 for those comments

1:18:29

with the applicant like to respond to that.

1:18:33

We'll certainly consider those points and update the update the commitment for the hotel assessor. Yes.

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Thank you. Thank you. Thank you. Well. Okay.

1:18:45

Moving on to Horsham District Council considered

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to provide reassurance for effective mitigation that requirement 22 should also contain a clause requiring adaptive management measures to be implemented, and that such a clause be consulted on with relevant bodies, including such a provision they state would compel the applicant to design appropriate mitigation in consultation with relevant stakeholders and seek necessary approvals.

1:19:15

How does the applicant respond to the Suggested Wording from Horsham District Council in this regard?

1:19:22

Andy slow on behalf of the applicant. I think you've already mentioned the wording that we've we've put into the CSCP regarding no materially new or different effects. And that a statement would be submitted with the stage specific detailed, say OCP

1:19:42

to cover that off, but also that stage specific CCP would include the detailed measures required are specific to those works and

1:19:54

if they should be changed or altered slightly and there was a need for any additional mitigation

1:20:00

then that will be confirmed and included in that stage specific detailed cicp as secured by the and by the requirement.

1:20:09

Thank you. The tourism District Council like to respond to that at all.

1:20:16

Smack reporter Horsham District Council, I think there's a comfort in knowing that it's going to be within state Pacific.

1:20:26

Okay.

1:20:29

And I believe the South Downs National Park also had a point on that very same issue. So, Mr. Turney, would you like to make any comments on that?

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Anyone got anything to add at this stage on that? Thank you.

1:20:45

Okay, thank you.

1:20:49

So finally turning to some points from Natural England and the Forestry Commission.

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Naturally, England response on this aspect in rep 3086 states that they do not agree with the applicant that the worst case scenario has been expressed in the environmental statement, or they state that currently no on site ground investigations have been carried out and therefore that Natural England has consistently advised us until such time as evidence is provided to confirm that HDD is feasible. The worst case scenario is open cut trenching.

1:21:27

The Forestry Commission comment at d3 web 3103 on this matter, indicates that despite the applicants commitment at sci fi, they, despite the applicants commitment C five in Appendix two in AP PT fi four, they remain concerned regarding the viability of the approach to avoid loss or deterioration of ancient woodland in line with the mitigation hierarchy. And they advise that the assessment within the S should be based on detailed ground investigations and geomorphological surveys,

1:22:02

then they state that there is a risk that if consent is permitted before the above measures are carried out, it could result in a scenario where open trench solutions are the only technical solution that remains

viable over alternatives. So could I ask the applicant, Mr. Male, if you have a response to both Natural England and forestry Commission's concerns?

1:22:25

Thank you, ma'am. I'm thinking in high level and I think I think we also discussed this

1:22:30

at the first round of hearings is that the order only seeks consent for trenchless crossings in the location shown in the crossing shedule. The applicant confident that those trenchless crossings based on its technical experience and expertise are viable. And therefore it's made an assessment on that basis.

1:22:57

In the hypothetical situation, that those crossings were not viable. An alternative method

1:23:07

is not currently Authorised by the by the order and would have to go through some other process which which will be considered at that appropriate time supported by whatever information might be needed in order to pursue that. But certainly,

1:23:24

that's that's a hypothetical situation which isn't advanced by the applicant.

1:23:30

Thank you. Thanks for that clarification. Okay. We'll move on to the next item on the agenda, which is to see Klimkin beach triple Si, including the adequacy and wording of some various commitments to see 292 C 112, C 217 and C 247. I think requirement six four has been dealt with in this previous discussion.

1:24:00

So

1:24:03

it would be useful I think, at this stage of the applicant could show the commitments register on the screen which I believe is rep 3049

1:24:12

Is that something that is possible? Thank you

1:24:43

so, was it the specific commitment to nine to

1:24:49

10 if we could start with commitment 112 Please

1:25:10

Thank you. So Natural England have raised concerns with commitment 112 And they state that it does not include avoiding the impacts to clipping beach trip less I buy unplanned activity.

1:25:25

And they state that to avoid ambiguity that they would advise that the terms unless remedial action is required, and the word predicted or removed in order to demonstrate that the triple si will be protected from unplanned works, and that further permissions will be required should remedial works be required. How does the applicant respond to this point from Natural England

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and Kirby on behalf of the applicants. So

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the commitments been drafted to include the phrase unless remedial action remedial action is required to ensure that in the unforeseen event of

1:26:09

a drilling fluid breakout, that immediate action could be taken to contain the spill. So that would typically be use of sandbags or the creation of a small sump.

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And then we would note that once that was done, we'd be expecting through requirement 22 5k.

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In the draft development, consent order,

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our EP 3004 that allows for the

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the agreement pre commencement of a pollution incident response plan. And it's within that plan where

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details of the process should an unforeseen event occur.

1:27:00

And in that we would expect to be able to stay you know rapid action to contain the spill but then referring on to discussions and agreements with Natural England to ensure ensure reinstatement of that could be taken could take place as appropriate.

1:27:22

Thank you.

1:27:24

Do you have plans to discuss those particular points with Natural England to allay their concerns?

1:27:31

We've got a sorry, Alan Kirby on behalf of the applicant. We have a meeting scheduled with Natural England

1:27:38

next Wednesday the 22nd. And we'll put this on the agenda.

1:27:42

Thank you.

1:27:44

Okay, I agree move now to commitment 217.

1:27:49

This confirms that horizontal directional drilling at clumping beach would be programmed to avoid the period between October and February inclusive, to avoid disturbance to entering waterbeds during the coldest period and Natural England advise that the wintering period should include October to March inclusive. How does the applicant respond to this?

1:28:15

I'll intervene on behalf of the applicant. First,

1:28:19

necessary to say that the applicant is seeking to update this commitment for deadline for to further clarify

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and provide additional information.

1:28:36

On the point of extending the period from October to February to October to March. It's based on the survey data that we have collected, and

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noting that the greatest energetic requirements of the Sanderling, which are the

1:28:55

feature of the triple si in terms of wintering birds, it's those months, typically November to February, where those grasses energetic requirements are occurring, and therefore disturbance is key.

1:29:08

We will also note that those birds are

1:29:11

disturbed most frequently by members of the public using the beach and that would continue to be the case during the time of construction in terms of how it is phased. So we don't see the need to extend to march.

1:29:31

But we can again, discuss that with Natural England next week.

1:29:36

I think it'd be helpful for that to be on your agenda as well. Thank you.

1:29:43

Moving on to commitment 247.

1:29:49

So again, natural England's advice in rep 3088 a PP. J 2.5. A published at deadline three, two

1:30:00

is to ensure that significant impacts to clinking beach do not occur. A commitment or consent is included in a named plan to be put to prevent the option of open trenching, said horizontal directional drilling not be feasible or detailed ground investigation models indicate the need for alternative options. And aid in Natural England believed that the commitment to C 247, as it currently stands does not prevent damage to the triple si in these scenarios.

1:30:33

I'd like to ask Natural England but they're not here today. So I'll ask it later on in the process, whether the fact that the commitments register is approved, lays their concerns. So I will pick that up with Natural England and the other comments that you've made later on in the examination around that commitment.

1:30:54

Do you have any further does the applicant have any further comments on that commitment at all?

1:31:02

No, other than I think it was it was covered off by my comments about the commitment to the use of trenchless technologies in those locations specified in the crossing schedule.

1:31:11

Thank you.

1:31:13

Okay. And then lastly, commitment 292. The applicant added this additional commitment to the covenants register updated at deadline three that states that mitigation hierarchy will be applied at the detailed design stage to avoid losses of key habitats eg woodland, hedgerows, scrub watercourses and semi improved grassland and the role of an ecological clerk of works.

1:31:39

The applicant states that commitment C 292 secures the application of the mitigation hierarchy through the decision making process at detailed design. So I would like to ask any local authorities or interested parties if they have any specific points on this newly added commitment. The 209 to 292 Does any do any interested parties or local authorities wish to speak on this?

1:32:08

I cannot see any hands up nine. Although

1:32:14

all in the room, so I said that didn't know. Okay, thank you

1:32:26

so it's just gone 11 o'clock. So I think it's an appropriate time before a break. So we will resume

1:32:34

at 20 past 11 Thank you