



Hearing Transcript

| | |
|-----------------|---|
| Project: | Morecambe Offshore Windfarm Generation Assets |
| Hearing: | Issue Specific Hearing 1 (ISH1) – Part 3 |
| Date: | 24 October 2024 |

Please note: This document is intended to assist Interested Parties.

It is not a verbatim text of what was said at the above hearing. The content was produced using artificial intelligence voice to text software. It may, therefore, include errors and should be assumed to be unedited.

The video recording published on the Planning Inspectorate project page is the primary record of the hearing.

FULL TRANSCRIPT (with timecode)

00:00:05:04 - 00:00:40:16

All right. Good afternoon again, everybody. Um, can I just confirm that the live stream has come back up and the recording has stopped again? I'm getting thumbs up, so thank you very much. Um, the hearing is obviously resumed. Uh, we've come to item six on the agenda. Um, the examining authority's questions on the draft DCO. Um, as you'll be aware, we set out in annex, uh, f one points and questions relation to the draft DCO. So I intend to go through them now. Um, and I'm know from where we've been already that the we have got fair view of the points.

00:00:40:29 - 00:01:12:21

We can go through them quite quickly. Um, although there is some more to add. Um, so if there is anything more you want to add in response to what's just in writing, please do. Um, there may well be some points we discussed discussed this morning, which in which case will come again. So we'll do them quickly. Um, if any other interested party was to make comments at this point, please indicate either by raising your hand in the room or similarly on Microsoft Teams, and we'll invite you to speak. We'll do our best to keep an eye on both, but it's clear we've missed someone.

00:01:12:23 - 00:01:47:17

Then please let us know. Hopefully between the three of us, we'll pick them all up. Um, as I said in the agenda, the primary purpose of the agenda item is to raise our initial questions. Other interested parties are very welcome to participate, but you'll be able to set out your own detailed positions with submission of written representations and and potentially participate in a second development consent order. Issue specific hearing later in the examination if we need one. However, before we go through the list, um, we note that in the response, relevant representations, uh,

00:01:49:09 - 00:02:16:21

the relevant representations, which last week the applicant indicated that it was looking towards signed agreements with both Harbour Energy and Spirit Energy, and I was wondering if it. And I'll go to confirm with spiritual energy in a minute. Uh, whether it whether it was the case and that if they are completed, whether it's from the applicant's point of view, they've designed to obviate the need for some or all of the relevant protective provisions, or they would supplement the protective provisions.

00:02:19:11 - 00:02:40:03

Catherine Nolan, on behalf of the applicant, um, I would say that the applicant is intending to defer to Spirit and Harbor for both of those. Um, the applicant is content to either, you know, obviously, if the side agreement does obviate the need for protective provisions and they will be taken out, but, um, we are kind of in their hands as to what suits them best. And that's the approach that we'll be taking. Okay.

00:02:40:21 - 00:02:51:04

So, uh, miss Mr. Gibson. Yes, please. Can I have your view on that, please? Yes, sir. James Gibson, spirit energy.

00:02:51:11 - 00:03:31:27

Um, yeah. Just as a general update on progress. Um, we we are planning a or split our planning. Hold the discussion with um representatives of the applicant, including their technical advisors, on aviation matters. Um, later this month, um, which should hopefully, um, help inform, uh, negotiation of protective provisions relating to aviation matters. Specifically, I suspect there may be in the interim, um, a need for, um, technical discussions to take place and for that to be recorded in the statement of Common Ground, which will obviously submit at deadline one.

00:03:32:10 - 00:04:05:13

Um, separately. Um, if we, if we park, uh, helicopter and aviation matters. Um, we, we have entered into discussions with, um, spirits legal advisors who are obviously with you in the room today, um, with a view to progressing draft protective provisions on all other matters, um, including shipping and navigation, decommissioning activities and obviously safeguarding of spirits. Morecambe net zero project. Um, it's it's very early in those discussions.

00:04:05:15 - 00:04:36:23

Um, and I think, um, we, we anticipate that we'll be in a position to draft protect provisions. The intention is that we would hold the pen on those spirits. Legal advisers would hold the pen on a first draft. Um, and we'd be looking to progress that following the forthcoming meeting at the end of the month between the parties. Um, in terms of whether those are secured in the DCO or by way of a side agreement, um, uh, we're not in a position to confirm that one way or the other at this stage.

00:04:37:06 - 00:04:44:02

Um, it's foreseeable that we do require both. Um, but I'd be very happy to provide an update on that at deadline.

00:04:44:04 - 00:04:44:19

One

00:04:46:04 - 00:05:18:26

that would be useful, Mr. Gibson. Again, it's more just so that we know how things are progressing. Clearly, at this stage of the examination, we fully appreciate things will change. Um, it's just if we if it's the it's a classic. Suddenly, for example, the whole that all the provisions in favour disappear out the order without knowing what and we weren't aware that everything was going on the background. We get what you know, we don't want, we need. It does help if we know what why things are happening and what things are happening for that very reason.

00:05:19:21 - 00:05:20:18

Okay. Thank you very much.

00:05:21:06 - 00:05:53:09

For me, sir. Just one final point at James Gibson Spirit Energy. I should also say this will obviously be informed by the level of progress that we make with spirit in terms of, uh, with with the applicant who should see in the coming weeks and months. Um, plainly, if we are having difficulty agreeing protected provisions, there's a higher prospect that we'll need to submit a draft version into the examination, um, and request that you secure those or recommend there that they're secured. And, uh, the DCO was made by, as may be made by the Secretary of State.

00:05:53:21 - 00:06:32:10

Thank you. Now, the the normal arrangement. Is that not. Yes, but not normally on the second round of questions. Questions, if we haven't got agreement at that point is to ask all those parties to say to put out their alternative, the interested parties apart from the applicant, to put their alternative form of protective provisions out with an explanation as to why they prefer their wording, conversely, to the applicant to explain why they aren't happy with the, uh, the the other interested parties, uh, proposal say because.

00:06:32:12 - 00:06:39:21

So if we do have to make a judgment in our for for the recommendation of the Secretary of State, we have got both sides. Thank you.

00:06:41:28 - 00:07:14:16

Right. Uh, now, return to the list on annex one. Um, you have produced the list a month ago. and as we continue with our preparation for the meeting. For example, from the relevant representations, um, response. From reparations received last month. Last week. Um, there are other matters have come to our attention. Uh, we'll raise them as we go through, as they would appropriately fit in the list. So please don't just necessarily assume we've answered one point, it'll be straight on to the next. There might be other queries we wish to raise too in that sort of general provision.

00:07:14:19 - 00:07:47:09

Okay. So right. Uh, number one on the list was the bank holiday, which has now been dealt with. So thank you very much. Item two was the system International unity uh, issue which has generally been done. And we have discussion yesterday about clearing cleaning those documents up. Uh, definition of the Marine Management Organisation has been resolved I think. Um, the coordinates there's the MMO in part of that also requested, um, that exact coordinates be used.

00:07:47:11 - 00:08:24:27

You've set out what you believe to be exact coordinates, as we had such a discussion this morning. It depends on how many decimal places you go is how exact you get. Um, so clearly we need to ask the MMO are they with their content with this? But we'll assume that they are for these purposes of this conversation. Um, and some number four, which is moving into article two, uh, which is still in article two is the definition of offshore wind. Wind up offshore substation platform. And I was just wondering why the adjectives high and low rating when it energy to uh, to voltage would still be left in there.

00:08:24:29 - 00:08:55:01

They seem to me to be somewhat ots on the garden path of that. Um, yeah. So high voltage refers to the equipment in the substation to undertake its functions as a substation. Low voltage just refers to the other equipment that might be needed, for example, to run the air conditioning system for for the computers, uh, for anything ancillary, you know, that you might need in the room. So it's it's, uh, the power sockets and the like, if you like. Okay. It's just it wasn't quite clear. It hasn't been explained. I think the explanation probably.

00:08:55:03 - 00:09:09:21

Fine. Um, the rest of that one rest. The use of the OSP term has been dealt with as in number five. The, uh, definition of UTG has also been dealt with. Right. Um, now we move on to article four

00:09:11:12 - 00:09:14:04
coming up. Um.

00:09:21:19 - 00:09:23:07
There's a,

00:09:24:28 - 00:09:57:01
uh, this this is more to do with the appeals mechanisms rather than anything else. Um, the, uh, I can understand the desire for appeals mechanisms, but related matters, non secretary state bodies. Um, but just wondering what my reading of this, I may be incorrect is that both the Secretary of State, the Secretary of State, could have an appeal against a decision of the secular state. And my experience of DCF is they won't allow that to be provided.

00:09:57:12 - 00:09:58:08
Germany. Comment on that.

00:09:59:06 - 00:10:10:10
Catherine Nolan, on behalf of the applicant, I think, first of all, just to clarify, I think this is article 14, not article four. Um, and would it assist if we pull these up on screen as we work through the questions?

00:10:10:12 - 00:10:12:26
You probably would help people understand that. Please.

00:10:12:28 - 00:10:43:10
We'll get that in the background while I start to answer this question. So in the applicant's view, the the appeal provisions are not intended to capture decisions made by the Secretary of State. And those decisions are not, um, not being within the ambit of the appeal process envisioned or the DCO itself. Um, there's no mechanism in the Planning Act 2008 allowing for a DCO to place the decision maker above the Secretary of State, um, and were the applicant to disagree with the decision of the Secretary of State.

00:10:43:12 - 00:10:57:09
The only remedy is is judicial review. So we're of the view that no specific carve out is required, because it's just a position and law that because it's the secretary of state is the the top decision maker. That's where the the journey stops effectively.

00:10:57:11 - 00:11:17:06
I've seen draft bcos where people have tried to make it appeals to, to a different secretary of state. Um, so I think it's just whether or not it needs to be explicit within, uh, article 14 that it cannot be, uh, it doesn't apply. This provision doesn't apply to the to decisions of the Secretary of State.

00:11:17:09 - 00:11:29:21

Yeah. Catherine Nolan, on behalf of the applicant, we can we can take that away and consider, I think when we looked at some of the precedents, it's not usually that there is any carve out for the secretary of state. Um, but we can take that away and come back with our written submission on that.

00:11:30:10 - 00:11:31:05

Right. Uh.

00:11:33:11 - 00:11:36:29

We've gone back up to, uh, uh, the next one.

00:11:39:16 - 00:11:55:01

Uh, the benefit of the order and that to the MMO. Not now. Obviously they're not here today, so we can't ask them for their view. Obviously, we have read what you've put in your response to the relevant reps. Is there anything you want to add to that?

00:11:56:20 - 00:12:15:15

Catherine Nolan, on behalf of the applicant? No, I don't think we had any points that we wish to add on that. Um, if the examining authority has further queries on that, obviously we'll see what the MOS response to that is in due course, but we would be happy to follow up on any specific questions once the examining authority has read that and considered in full detail.

00:12:15:17 - 00:12:17:05

Thank you. Uh.

00:12:20:16 - 00:12:30:15

And similarly, the MMO has made comments about whether the prospective revisions would apply, where it would be the approval body rather than Secretary of state.

00:12:32:24 - 00:12:40:00

Catherine Nolan on behalf of the applicant, is this the question about arbitration? Yeah. Yes. Um, again, I think we.

00:12:40:02 - 00:12:45:27

I think my feeling reading is 15 to exclude that. But we'll have to see what the memo says.

00:12:46:02 - 00:12:46:20

Exactly.

00:12:46:22 - 00:13:03:26

Sir. Yeah, you make the point. You make the point in your honor and wraps up with my reading. But. So. Yeah. Um, right. Uh, next month's number seven on the list. Uh. Oh, yeah. We had a discussion this morning about, um,

00:13:05:17 - 00:13:32:02

numbers and how they should do. I'm just wondering whether it's slightly odd. This situation, uh, it comes from one of a previous DCO was too small. It wasn't a DCO. Uh, and therefore, you know,

whether there should be a surge or something that whilst we appreciate that you're looking at 450MW, which is clearly well over the threshold, it's whether there's something we should make essentially mandatorily require you to take over 100.

00:13:35:15 - 00:13:51:23

Robin Hutchison for the applicant. Um, yes. We we agree that there needs to be a floor in order that the project is a DCO and that 100 megawatt threshold. Um, and we have included that in the.

00:13:53:09 - 00:13:54:18

Well, we include that.

00:13:59:21 - 00:14:08:09

We've included that in paragraph one of part one of the DCO, uh, where we've established that floor of, of 100MW.

00:14:11:09 - 00:14:45:21

Again. Yeah. And by, by way of background, it used to be the case that offshore wind discos, in common with lots of other energy projects, used to have capacity as a sort of a key constraint as to the scale of development. But actually, it became clear over time that the development consent regime. Planning regime is designed to capture physical impacts, and the physical scale of development and capacity is very much, um, it is a fluid concept.

00:14:45:23 - 00:15:27:28

So a turbine of any set of given dimensions by one manufacturer might have a different capacity to that of another manufacturer. And in fact one manufacturers turbine may increase capacity as it goes and as it gets developed, much like the storage in your mobile phone, same handset increases over time. Same physical looking device improves. So there was a move away from setting capacity as a sort of threshold for the scale of development, hence why the applicant has sort of capped the scale of the development by reference to swept rotor area and the other parameters we discussed earlier.

00:15:28:11 - 00:15:42:11

And by way of precedent, there was our, um, And amendments are made to the Dogger Bank A and B DCO, which we can provide a deadline one the reference

00:15:43:27 - 00:16:09:12

uh non-material change to that DCO to remove what was the capacity of that DCO, that offshore wind DCO and replace it with over 100MW to untether the scale of the development from the capacity. Because ultimately, if we can get more capacity from turbines of the same size, more green energy for the same money then that, that's a good news story. So we wouldn't want to to constrain it unnecessarily.

00:16:09:14 - 00:16:30:13

Yeah, I think a constraint is actually at the great weight of the connection point rather than out out to sea, as it were. Yes, yes. Yeah. Yeah. Okay. Thank you. Uh, item eight, number eight on the list with design parameters, which in schedule two requirement to.

00:16:32:27 - 00:16:44:19

Go down my version of it. It's good, but the power sockets just in front of me gets to take out some of the screens. It's just easier for me to have a look at. Look at them on, on on on my save screen rather than anything else.

00:16:46:04 - 00:16:50:02

Uh, bum bum bum. I've got that in.

00:16:52:01 - 00:17:09:12

Yeah. Yes, we we obviously we had a discussion this morning over the two lines of orientation being in the, uh, d marine licence, and we were wondering whether or not that should also be in requirement in requirement to the design parameters.

00:17:12:15 - 00:17:51:02

But Robin Hutchison for the applicant. Um, I think the applicant's view is that, uh, the marine licence is the appropriate place because the mechanism there is that the detailed design will be put to the experts, the MMO in consultation with the MCA to approve that design. And so duplicating that control elsewhere, uh, is, is superfluous. Um, and actually the, the, the security of the DML condition does the job perfectly adequately.

00:17:51:24 - 00:18:08:03

But only so on only in respect of offshore matters. It doesn't affect it in relation to offshore onshore matters. Should there be anything that is affected by the two lines of orientation, because the MMO and MCA will be able to be dealing with offshore elements, not onshore elements?

00:18:09:25 - 00:18:13:11

I'm thinking, I think the severe effect on cultural heritage and things like that.

00:18:17:00 - 00:18:25:21

Robin Hutchison for the applicant, I think the applicant's view is that given the results of the environmental impact assessment on Sylvia.

00:18:26:05 - 00:18:26:20

Uh, And.

00:18:27:08 - 00:18:59:03

It isn't necessary or proportionate to have a further control by the neighbouring local authority over the design of the wind farm for, um, a sort of landscape and visual purposes, and that would sort of muddy the waters. The key drivers behind the the design statement and principles are navigation, safety. That's the that's the driver. And then separate to that it's about efficiency of the, you know, getting as much green energy as we can harness out of this area of sea.

00:18:59:25 - 00:19:20:05

Um, and the energy and efficiency piece will be for the applicant in designing the scheme. The safety piece will be for the MMO, and we've considered it wasn't necessarily a proportionate to any sort of

further control there. I mean, there probably is some collateral side benefit in having a regularly designed scheme for Sylvia, but it's not the driving function.

00:19:21:25 - 00:19:41:06

Obviously we've had this morning. You did agree that you have just a and has it on the SLA. So clearly, in relation to the removal of the other removal in inverted commas of the of the existing one. So things obviously we may have to look at back and come back then at that in the future. Should matters show that things are different?

00:19:42:28 - 00:19:43:14

Um

00:19:45:13 - 00:19:57:17

we would just similarly, another similar point was the minimum separation distance specified for the larger winter WGS be included within this part of the provision.

00:19:59:06 - 00:20:01:28

Uh, Robin Hutchison for the applicant. Um.

00:20:04:03 - 00:20:34:19

Again, I think this one can be dispatched quite simply. So the the separation distances are center point to center point. Yeah. So actually it's the same regardless of the turbine size. And of course, the appropriateness of that separation distance, which comes down to, again, marine safety and ensuring an appropriate distance is calculated on the basis of the largest rotor that could be installed with as a um. Uh. Oliver explained earlier some tolerance for micro, citing.

00:20:36:23 - 00:20:37:08

Um,

00:20:38:21 - 00:20:59:16

the well, next one we've got maximum holodeck height was again querying whether that should it's been specified at 70m above highest, highest astronomical tide. I'm just wondering why it didn't appear in this. You put the pipe for the OSP, but not for the holodeck thereupon.

00:21:01:17 - 00:21:12:24

Hey, Robin Hutchinson for the applicant. Um, we can absolutely include that, uh, line of specification in the next draft of the DCO, if that assists with clarity.

00:21:13:02 - 00:21:45:01

Thank you. Um, the next one we have got is maximum pile penetration depth. Um, What? That doesn't appear to be secured. And given the proximity to a working gas field, and I'm sure Spirit Energy would be interested in this, uh, over the property, whether that needs to be specified. Olive garden of the applicant. Um, so we have done geophysical and intrusive surveys, and we haven't identified, um, any evidence of shallow gas through either of those. The the intrusive surveys were to a depth of 60m.

00:21:45:03 - 00:22:12:00

So our position is that we don't see them as being a risk because we haven't identified any, um, deposits that are close to the surface. Okay. Thank you. Um, paragraph 105 of chapter five of the project description suggests pre drilling would be required in 50% of polling locations. Um, it's not constrained to the DCO. And obviously that would affect noise impacts. Is that control level necessary?

00:22:14:13 - 00:22:17:01

Robin Hutchison for the applicant. Um,

00:22:18:18 - 00:22:55:27

it absolutely right that it's not, um, uh, manifestly controlled. It's controlled, however, through drilling writings. So the, uh, final subparagraph of part one or schedule one. The description of the authorized development. If we go. Yeah. There we go. Okay. Keep going, keep going. There we go. Just popped onto the screen there. So the disposal of driller Rising's in connection with any foundation drilling up to a total of 55,865m³.

00:22:55:29 - 00:23:03:22

And that is the calculated maximum drill arising of a 50%, um, drilling campaign.

00:23:04:15 - 00:23:17:01

Okay. Um, when we did, following all the discussions came in last week with the maximum height of cable protection doesn't appear to have been secured in in here.

00:23:19:17 - 00:23:24:12

Not that we've noticed. It doesn't mean it doesn't say we've missed it.

00:23:29:03 - 00:23:40:28

We've got the volume, but we haven't got the height. And whilst. And then because of the angles that might miss certain might you could be created in many ways.

00:23:48:09 - 00:23:53:28

Robin Hutchison for the applicant. And if we could come back to that one with the detailed answer.

00:23:54:00 - 00:23:54:24

Yes that's fine.

00:23:55:07 - 00:24:26:06

To give some comfort, I mean, height is a function of the volume of material. So if you've only got so much material and assumptions as to how much burial is required, it can only be so high. And of course, this project is generation only. So it's by definition in deep water. So any term, you know, any navigational effects of having high cable protection impeding navigation, which might be a concern as a transmission cable gets closer to shore. Is, of course not relevant here because we're so deep. But but we can. Absolutely. Thank you.

00:24:26:08 - 00:24:27:00

Expand on that.

00:24:28:08 - 00:25:02:07

Um, all right. Moving on to requirements three, which is the aviation safety. And please, if you have any queries, do stand up at any point. Um, in some paragraph one, it's indicated that specifically the Ministry of Defense aviation requirements and operational the life of the authorized project. Um, can I come can we explain why it's only lighting to meet Mod and not CAA requirements?

00:25:03:07 - 00:25:36:26

Kathryn Nolan on behalf of the applicant. So first of all, it is um, I think that subparagraph one is just the requirement for operational for the life. So we obviously do have aviation lighting for both the CIA and the Mod. And this wording is a specific request from the Mod to be included within this requirement, and it is a standard requirement that they use in other similar projects. Now, the applicant's position and having spoken to its aviation experts, is that the CaaS lighting requirements for turbines over 150m are statutory requirements.

00:25:36:28 - 00:26:00:09

So that's stipulated in the air navigation order. So it's a legislative compliance requirement. And so ongoing compliance is a matter of law. And as such it doesn't require to be duplicated within the DCO because it already is required. Now the Ministry of Defence is lighting requirements are somewhat separate from the air navigation order. So hence the reason for that additional control by all.

00:26:00:11 - 00:26:08:01

Although one very minor drafting point, I understand that you're not supposed to put an recalls into into statutory instruments, so you might need to have a look at that. I shall.

00:26:08:03 - 00:26:08:28

Delete that.

00:26:10:09 - 00:26:38:23

Um, there is a slight. wait that one and subtract one to set up with a bit of a mix of Dio and mod. And it's. I think that's partly where we were having discussed this morning, um, hasn't helped us in trying to understand where the line should be drawn, whether it should just be mod, whether it should just be Dio or what is it. If you wanted to have a comment, stroke wants to take that away and have a look at it.

00:26:39:08 - 00:27:15:08

Um, Catherine, on on behalf of the applicant, I will absolutely let any colleagues from BA jump in. Um, if they have come in on this and the applicant's understanding is so defence Infrastructure Organisation safeguarding is the administrative arm of the Ministry of Defence. So it's the administrative body that will handle windfarm planning applications or any post consent ministry and administrative matters on behalf of the Ministry of Defence. So the references in subparagraph one to Mod relate to setting the actual safety requirements or agreeing a deviation from those, because those are matters of principle.

00:27:15:10 - 00:27:36:18

That should be with the mod to determine. Whereas subparagraph two deals with the administrative process of kind of issuing the notice to the I o safeguarding, who would be the ones to then take that away. So again, this is a standard condition that the Mod has requested be in this form. Um, and so that's the reasoning we understand for the the distinction between it.

00:27:37:00 - 00:27:37:28

Okay. Thank you.

00:27:41:17 - 00:27:44:23

Yeah. Um the other the one on.

00:27:48:04 - 00:28:13:20

This. Could you explain why the restriction where the the 1.5 nautical miles for there being no wind turbines or ISDs is excluded putting the protective provisions rather than in this where it would seem to be more. It's a it is an aviation safety issue. You you'd never expect it to be in the aviation sector requirement rather than hidden in protective provisions.

00:28:14:21 - 00:28:52:23

Kathryn Nolan on behalf of the applicant. So this is set out a bit in both chapter 16 and 17 of the environmental statement. So that's references app 053 and 054 which are the civil and military aviation and radar and infrastructure and other users chapters. So effectively there is no legislative requirement in aviation safety or compliance terms for a buffer zone of a specified distance around oil and gas assets. So the reasoning for this restriction is to ensure access for identified third party platforms and apparatus.

00:28:52:25 - 00:29:28:07

And so as the matter is not um, or as the matter is a purely a commercial one directly between two commercial parties, the applicant considers it's best to dress in protected provisions because compliance with and enforcement of those provisions. No rest, most naturally with the affected operator, which is spirit and harbor, rather than, say, the Secretary of State or the CAA, who aren't the ones, um, overseeing how access should be taken to those platforms. Um, I should also say it's the case that the buffer is only required until the platforms are decommissioned.

00:29:28:09 - 00:29:47:18

So, you know, if in future the platforms are decommissioned, there will be no helicopters traveling to them. Um, and that's expected to occur early in the operational life of the generation assets, which is another reason for the buffer zone to remain in protective provisions, because then they will, um, it'll fall away when they're no longer needed.

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

Okay. Thank you.

00:29:51:14 - 00:29:56:17

Yeah. We have we have a, um. Mr. Gibson, you wish to come in at this point?

00:30:02:23 - 00:30:59:26

Uh, thank you, sir. Uh, James Gibson, spirit of energy and just just one point on that in terms of this being, uh, the buffer distances being a purely commercial matter, I would just flag that there is, um, uh, as I understand matters and discussions on going with the CCA around potential changes to, uh, guidance, um, relating to distances between, uh, offshore wind farms and oil and gas installations. Um, so I would just, I guess, caution against saying this is purely a commercial point between spirit and and the applicant, um, uh, in terms of the need for a requirement, I suppose, given the, um, the potential for imminent regulatory changes, uh, you might say that there is a planning purpose behind the need for a buffer zone.

00:30:59:28 - 00:31:38:02

Um, and for that to be secured, um, legitimately by a requirement. Um, I think separately, there is a need for more bespoke protective provisions specifically for the benefit of, um, spirit. So there will be an ongoing requirement for a buffer zone related protective provision. I suspect that will be necessary from from spirits perspective. Um, but just as I see I think it's important to clarify that there is a broader, um, uh, regulatory issue here. Um, and potential, uh, underlying planning purpose for a DCO requirement in addition to protect the provisions.

00:31:40:01 - 00:31:42:21

Thank you. Staff Commissioner. Respond to that.

00:31:44:05 - 00:32:14:09

Yeah. Robin Hutchison for the applicant that that's noted. And the application assessment, um, recognises the potential for future regulatory guidance. I mean, I guess what we would say is that if that comes in, then it will obviously bind to the parties in the way it binds the parties. And so there wouldn't seem to us to be an immediate need to recreate that or anticipate that in the DCU drafting itself. But, um, you know, as Mr.

00:32:14:11 - 00:32:34:10

Gibson set out, we are continuing engagement as to just how best to secure the necessary protections for harbour and spirit. So, you know, we're not we're not my minds aren't closed to any particular, um, route of doing that, whether it's PPE side agreement or whatever is considered to be best.

00:32:34:23 - 00:32:38:16

Thank you. Is there anything else you want to add, miss? Mr. Gibson?

00:32:39:12 - 00:32:43:11

Hey, James Gibson, speed energy. No, nothing further at this stage. Thank you sir.

00:32:44:27 - 00:32:55:12

Um, moving on to requirements five, six and seven, which are the the various ones for the instrument flight procedures. Um,

00:32:57:09 - 00:33:10:24

the, uh, is there anything particular at this point in stage, stage that the um, gentleman from BAE systems wish to raise as to what we've got in front of you at the moment.

00:33:31:24 - 00:33:47:25

For Bennett and Bryan from Business and Marine, just with reference to um matter ten and um, should all relevant mitigations be in place and operational prior to any WTC being erected? From our point of view, it would need to be in place prior to erection.

00:33:50:20 - 00:34:25:20

Kathryn Nolan, on behalf of the applicant. Yes. Um, to confirm that is that is also our understanding. So, um, the intention with these requirements is that they all the relevant mitigations need to be in place prior to the construction of the wind turbine generators. Um, as the effect results from the presence of the turbine specifically and not any of the undersea infrastructure. Um, so the intention is that we will, um, submit amended requirements to make it clear at deadline two in the DCO. Um, but we will discuss those changes with BA systems and the other airport operators.

00:34:25:22 - 00:34:34:25

So to ensure we can kind of sweep up any other changes, noting that the change in name for the asset or I should say the correct name for the asset as part of those amendments.

00:34:35:12 - 00:34:43:03

But it doesn't is the intent that they will be in place. And and the drafting would be amended to uncover that, which is the final question. Thank you.

00:34:44:19 - 00:35:18:13

Um, in relation to decommissioning, which is um requirement eight, uh, paragraph 15 of the safety zone statements indicates it is not anticipated that an application for safety zones under the electricity offshore Generating Station Safety Zones, Application, Procedures and Control of access records. Nine 2007 would require specific provisions for the decommissioning of the proposed development. Um have a table 3.1 doesn't include reference to the 500 meter safety zones. It's not clear whether the application for, say, for a safety zone will not be required for decommissioning.

00:35:19:04 - 00:35:30:08

Um, if it could you clarify whether that would be the case, and if so, would you ensure it's secured, please? It you think it's going to be needed?

00:35:33:15 - 00:35:35:23

Robin Hutchison for the applicant. Um.

00:35:38:21 - 00:35:52:22

The assumption is that our construction or I guess in this case, decommissioning safety zone would be required during the decommissioning, but on the same rolling basis as a as it would be required for construction.

00:35:53:24 - 00:36:05:01

It's just it's just how they, um. It's how it's included within within the the the safety zones that may be applied for is included within the decommissioning plan.

00:36:09:28 - 00:36:36:21

Is it's not because the 50 if the state safety zone statement says that it's not anticipated to be required for decommissioning, there's not in AP 023, paragraph 15, because the one with the table just said it's needed. It's likely to be needed. The safety zone statement indicated indicate it's not anticipated to be required. So it's one rather than there's an inconsistency at the point.

00:36:43:20 - 00:36:52:16

Yeah I think sorry. Robin Hutchison for the applicant. We've identified the inconsistency that. Thank you Sergio I think it's a it's a straight not that we can remove.

00:36:52:18 - 00:36:58:10

What we need is the mental, um, and.

00:37:01:01 - 00:37:03:12

Right. Um, and

00:37:05:06 - 00:37:30:09

the drafting of requirement eight at the moment doesn't have the plan. It has. The decommissioning plan has to be submitted to a for approval. It doesn't have to be have had it approved and then in due course, implemented in accordance with that. Could you please redraft it so it does have that in it because you shouldn't be working and you've got unless you're working on it, it's been approved.

00:37:33:20 - 00:37:49:04

Probably not just for the applicant. If you'll just, uh, permit me to turn to that requirement because that there is reasoning for the drafting. I'm just trying to understand whether the question

00:37:50:26 - 00:37:59:20

Cuts across that. So the the reasoning for the drafting is that a, um,

00:38:01:20 - 00:38:11:27

it's for the Secretary of State to serve a notice requiring a decommissioning plan to be submitted. Um, and

00:38:13:15 - 00:38:52:04

it's not considered appropriate for the DCO to sort of duplicate the timing of that. So if the Secretary of State considers that it's not necessary to have a decommissioning plan this early in the lifespan of the project, then that's a matter for the Secretary of State under the Energy Act. And there's there's guidance, which again, we can include in the notes for from today based guidance, as it was then on decommissioning of offshore renewable energy installations under the Energy Act 2004, which sets out the guidance as to when our decommissioning plan would be required prior to prior to commencement.

00:38:52:06 - 00:39:36:11

And those are circumstances, for example, pre-commercial projects or test and demonstration or projects with novel technology which are fixed bottom offshore wind farm, being a relatively mature technology now, wouldn't fall into. So it may well be that the Secretary of State's discretion and notice requiring a decommissioning plan isn't served prior to commencement or at any point early in the the

lifespan of the development. The reason for this condition is saying that should such a notice be served, then this just additionally ties a sort of belt and braces to stop the, um, uh, commencement until that has been submitted for approval.

00:39:36:28 - 00:40:15:22

And the reason it's submitted, rather than approved, is simply because there's a separate process for approval with sanctions under the Energy Act. And, um, The timing of that can be quite uncertain. And so the process for appeals of a decommissioning programme, for example, would be regulated by the DCO. So that process will have a lifespan of its own, separate from the DCO and the mechanisms and protections in there. So you it would not be appropriate for the the applicant and the project to be sort of beholden to a third party decommissioning plan process.

00:40:15:24 - 00:40:25:12

If the actual commissioning of the windfarm was subject to something, and a process that's outside our control and is properly regulated by the Energy Act 2004.

00:40:25:27 - 00:40:43:00

Thank you. Thank you for that. What you've given us provision, you've given us precedent provisions in the Dogger Bank, Teesside A and B and talk about C and Sophia. Um, we can go away and have a look at those um, in light of your explanation. So thank you.

00:40:45:06 - 00:40:54:14

Um, Moving to number 12, which is to do with the, um, bought access and transport plan. Um.

00:40:58:13 - 00:40:59:06

We would.

00:41:00:21 - 00:41:30:23

You touched on this this morning, paragraph six nine of the planning development need consent and need statement states that we're a port is used to transport over land a major component of a a major components. A PAP will be submitted. The drafting of wreck nine is is over wind turbine generators and or foundations in connection. And we were wondering if you explain why different drafting had been used and whether it should be consistent to what major components were.

00:41:30:25 - 00:41:44:21

For example, what about other materials such as cable stroke, scale production and equally well, the OSP themselves, which obviously could be large and why it's essentially just down to limited Matters.

00:41:45:20 - 00:42:31:23

Katherine Nolan, on behalf the applicant. Yes. So as we touched on briefly this morning, um, at this stage, it's not yet known how the components will be delivered to site. So there might be no need at all to transfer anything over land where they come in directly to the harbour, and then they directly go out from the harbour. Um, the applicant does take the point about the kind of lack of clarification over major components. Um, so we are proposing to amend this requirement to clarify that the port access and transport plan will be needed where it's major components transported over land, with major components comprising the wind turbine generators, the SPS and any of the foundations associated

with either of those, and cable and scour protection are not considered major components that actually constitute abnormal loads.

00:42:31:26 - 00:43:05:10

Um, so we will pick up that change in the version of the draft DCO submitted at deadline two. And the other linked point to your question here is what is stated in the planning, development, consent and need statement, which um notes that a PAP will be submitted and it doesn't give that clarification that actually there is that initial consultation with the relevant highway authority to almost screen whether or not it's needed. So what we can do is we can, um, issue a revised version of the planning, development, consent and need statement to incorporate that.

00:43:05:12 - 00:43:17:02

I think we can probably do that action at deadline one um, albeit the the change to the definition will come in the DCO deadline too, but we can pick that up early doors.

00:43:17:06 - 00:43:19:24

Thank you very much. Uh.

00:43:22:22 - 00:43:40:09

The next one, which is again is on the similar in the same requirement and follows on from the discussion we had this morning over schedule four of the EIA regs. Um, in relation to um.

00:43:42:06 - 00:44:11:06

obviously if bringing in what? That's a a large component, I'll leave it then that uh, what was other such um, obviously it should set out a physical character to the whole development and that could be have environmental is possible that those could have environmental effects. Um, a whether it's covered off within the air essentially obviously it could then have

00:44:12:22 - 00:44:32:22

that would need might delay the implementation of the project if it did have because you'd have to do a essentially an EIA to to deal with the stage consent, which you'll be able to to be aware the legislation raised into that. Um, and, and and obviously at this stage, those are probably the first two technical points. Then we'll come to the third point in a minute.

00:44:53:17 - 00:45:34:15

And Robin Hutchison for the applicant. Um, I think this might benefit for from some further thought from the team. Uh, I think as was suggested, it does relate to the response we gave earlier in relation to UXO. I believe that the EIA schedule for requirements apply principally to the development applied for. And any project, you know, be it our offshore wind farm or be it a house that requires bricks to be delivered to it from the yard where they are being held, is going to have elements that extend outside the red line boundary.

00:45:35:11 - 00:46:08:03

This is what's supplied for the consents for um related but um a separate elements that are connected with the project such as in this case the port. Those consents will be sought by the Port Authority and

any assessment required for the infrastructure required at the port, and the transit of goods to and from the port will be part of sort of that port project, rather than our generating station project.

00:46:08:05 - 00:46:14:24

There comes a line where you need to say, it's no longer part of this project, it's something else. Well, the.

00:46:14:26 - 00:46:17:29

French case does some of that recently blurred that of somewhat.

00:46:25:15 - 00:46:35:27

Robin Hutchinson for the applicant, yes, in the sense that that's about the impacts of the project and the reach of the impacts. Whereas we would see a distinction here because the I.

00:46:35:29 - 00:46:39:26

Think it's more to do with with the harbor rather than you in this context.

00:46:40:00 - 00:46:57:10

Exactly. The implications for the harbor. Our harbor issue, unlike Finch, where the implications of the CO2 emitted from the product of the project was considered to be a, you know, a direct causal connection to the project itself. Yeah.

00:46:58:14 - 00:47:31:07

Okay. Um, the one obviously we are concerned about. And this also relates to the net requirement ten, which is the skills and employment plan, is how do we clean those parties who might be interested either highway authorities and or planning authorities. We know that they they're getting their views on the outline relevant plans at this point in time. If you haven't identified it, is because obviously they do have a consultation implications.

00:47:32:25 - 00:48:10:14

Uh, And Robin Hutchison for the applicant and the applicant. View on the. The principle, benefit and reason for the Skills and Employment plan is about um is more focused on local onshore construction opportunities. So where the transmission infrastructure rather than the, um, the construction of the offshore wind farm, obviously there are economic benefits flowing from that, but not such that, um, sort of facilitated by a local skills and employment plan that's more connected to and related to the actual transmission works.

00:48:10:16 - 00:48:37:14

So it's more for the transmission works to secure that. Um, but it was considered that it would be appropriate to, um, uh, provide a linkage for the generating station to that plan by providing this notification process falling short of sort of full approval. But it was considered that that was that was a sort of appropriate and proportionate linkage to the local skills and employment.

00:48:37:28 - 00:49:07:00

I understand that, but it does move on to my next point, which is the lack of approval of the the skills and employment plan, because that is it is as its draft at the moment. It isn't approved by anybody and

it could well, there's nothing to prevent it being changed. And there's and there's nothing to say. It must be implemented in accordance with the plan. So in one sort of sense at the moment that that requirement doesn't meet the test for requirements because it's not enforceable.

00:49:13:18 - 00:49:48:10

Yeah. Robin Hutchison for the applicant and the the applicant's view is that the tests for a valid requirement are satisfied by the, um, need that the plan is in accordance with the outline skills and employment plan. So that's the control that it can't deviate from that it needs to flow from the outline skills and employment plan. So there is a benchmark already set which the examining authority can satisfy itself is full inadequate. Um and then the final plan um must be substantial in accordance with that.

00:49:48:12 - 00:50:17:09

So that's the control. That means that it can't be, you know, materially deviated and hollowed out. Um, and then the notification procedure is, as I said, it's considered proportionate in the circumstances because of the more modest connectivity between the skills and employment plan and the generating station than, than the transmission works. I mean, we thought it was borderline as to whether or not it was required to include this condition.

00:50:17:24 - 00:50:20:18

It's the necessity. That's why I'm having the problem with.

00:50:21:06 - 00:50:36:13

We felt it was, um, it was on the borderline. Obviously, there is an element of discretion and the necessity test, and we are on the side of inclusion in what we consider to be a proportionate framing and securing mechanism. Um.

00:50:38:27 - 00:50:40:12

You have my submission on that.

00:50:40:15 - 00:50:41:10

That's fine. Thank you.

00:50:49:00 - 00:51:34:06

Okay, fine. Uh, okay. Um, amendments to approve details. Number 12. Um, we've got all amendments. May have to go to the secretary of State rather than necessarily in my reading of it. Anyway, uh, rather than going back to the approval body, if it doesn't need to be the secretary of state. So essentially you've you've had you've had something approved, you want to change it as it drafted in the South, the moment to go to the Secretary of state, when reality could just go back to the same term that the local planning authority say, um, and they'd be happy to change it because circumstances changed or something else was in place, rather than having to bother for want of their expression, the Secretary of State with it.

00:51:35:01 - 00:51:36:17

There's a reason why it's been dropped as it is.

00:51:37:09 - 00:51:47:10

Uh, Robin Hutchison for the applicant. In short, no. No reason. Good point. We agree. And we'll refine and improve the drafting in the next in the next version of the short deadline.

00:51:47:15 - 00:51:53:24

Different issue about appeals, but we'll come to those in a minute. Thank you. Um.

00:51:55:24 - 00:51:58:18

I've got to go to schedule. Uh.

00:52:00:23 - 00:52:03:00

After it's scheduled for.

00:52:05:24 - 00:52:11:25

Paragraph one. I've got a fun where we are in this. A few minutes aren't too late.

00:52:14:20 - 00:52:16:09

That's going to be scheduled here.

00:52:17:24 - 00:52:18:09

Okay.

00:52:27:23 - 00:52:28:11

That's

00:52:30:09 - 00:52:31:07

all we got, right?

00:52:34:09 - 00:52:34:26

Um.

00:52:37:10 - 00:53:12:21

Could you. The paragraph four. Could you explain the situation as to how that would work? Um, in the scenario, um, that the discharging authority, because it's more requires more additional information given the timescales set out in paragraph three. It's essentially because you've only got 28 days from the receipt, but if they needed more information, it would be 28 days, not from when from the the action, because you could say within ten days we need more information and then takes you more than 18 days to provide the information.

00:53:12:23 - 00:53:15:22

You're at the end of the 28 days. That's the problem.

00:53:17:06 - 00:53:47:10

Yes. Catherine Nolan, on behalf of the applicant. So paragraph three, I think, um, Specifically paragraph. Um, so subparagraph three within that sets out the timescales for requesting that further

information. So for example, um, a scenario in which a requirement is being discharged by the Secretary of State or approved by the Secretary of State following consultation with the MMO. And paragraph four then sets out the timescales for a final response from that consultee once any further information has been provided.

00:53:47:12 - 00:54:24:18

So that's what paragraph four is intending to do. It's, it's it's giving a timescale in that hypothetical situation for the MMO to respond to the Secretary of State, um, without the inclusion of paragraph four, then there would be timescales for the request for further information, whether that's identified directly by the discharging authority or by the Consultee. But there would be no period by which the Consultee had to respond on that further information once it's provided. And so without any kind of cap or deadline on that, then it would be challenging for the application to be determined within the timescales mentioned in paragraph two.

00:54:24:20 - 00:54:29:07

So it's designed to capture that that response to the further information.

00:54:29:19 - 00:54:59:29

Thank you for that explanation. Um, in paragraph five, um, you've in the fields, you put a 20 day, 20 working days. Um, I'm concerned this might lead to a loss of natural justice. Justice, for example, if an external event happened during this period, which would require the decision maker to revert to the parties, or there were some other material changes in circumstances. The advice note 15 does.

00:55:00:01 - 00:55:04:15

It doesn't. You just says she'll make the decision as soon as reasonably practicable.

00:55:06:01 - 00:55:36:14

Yes. Kathryn Nolan on behalf of the applicant. So the applicant does consider that setting a period in which a decision must be made is important to provide certainty to all parties, um, including consultees on the application as well as the applicant, particularly given that approvals of matters specified and requirements can be really quite time sensitive and important for consent implementation. So talking back to that point, we discussed earlier this morning about seven years. So some cap is clearly needed.

00:55:36:16 - 00:56:01:21

But I think given the concern from the examining authority regarding this, this drafting, we would propose to leave a target date for decisions and but make some sort of provision for departures from this when agreed by the party. So to cover a situation that the examining authorities highlighted, where there would be kind of, um, some sort of force majeure or something that would, would make it difficult. So we can update that in the version at deadline two. Thank you.

00:56:02:16 - 00:56:17:27

Um, and the next one is in paragraph 12, is essentially allowing the appeal decision maker to award costs of their own initiative, which I know it happens rarely, but it does happen.

00:56:18:19 - 00:56:51:06

Yes. Kathryn Nolan, on behalf of the applicant. So the applicant does not consider that there needs to be a power in the draft on this. This is noted in government guidance on planning appeals. And we can provide that reference. And when we give our written submissions of this hearing. So the Secretary of State may already on their own initiative, make an award of costs in full or in part in regard to appeals and other proceedings under the Planning Act, if they consider that the test of unreasonableness have been made. So in our view, there is already that provision, so it doesn't need to be explicitly added into the the draft DCO.

00:56:51:24 - 00:56:53:28

Thank note in due course.

00:56:57:04 - 00:57:04:02

Um, um, we're now moving into the one next one. I'm working my way down in schedule six.

00:57:08:07 - 00:57:29:19

Uh, paragraph eight is the next one I've got on my list. Well, it's not in your list, but it's one of those this scarcity of the. It's it came out of uh the. Mhm. Uh, it's part one. Uh paragraph eight. Find it now. There we go. The numbers have changed. To add even more confusion. Um,

00:57:31:18 - 00:57:42:10

the MMO had asked for a codicil which was this is about to ensure no new or materially different environmental effects. Um.

00:57:45:22 - 00:57:48:09

Rather than I'd like you to give rise to, I think is what they're saying.

00:57:51:14 - 00:57:56:26

Catherine. And I'm happy. Can I just ask for clarity that where this is? Is this. You said paragraph eight, but I think.

00:57:56:28 - 00:58:03:05

Yeah, I'm trying to. I think it's probably because the numbers have gone down one bit. You must be nine now.

00:58:03:24 - 00:58:04:09

Yes.

00:58:10:18 - 00:58:11:06

I'd be down.

00:58:18:18 - 00:58:34:12

I think, I think, I think it's what? Yes. Now it's it's what is now eight. It's it's it's a it's it doesn't end including any members that may subsequently be approved in writing by the MMO and they are seeking subject to it not resulting in any new or

00:58:36:07 - 00:58:39:10

materially different environmental effects. I think that's what they're carrying on.

00:58:39:12 - 00:58:47:21

I'm happy. I think that text is already in that paragraph. So at least the version I'm looking at. Yeah, yeah I think.

00:58:47:29 - 00:58:55:06

Right. Well can we take that before I take it away. It's in the Mo's response. So if you can have a look at that.

00:58:55:12 - 00:59:00:05

Yeah I'm happy. The applicant I think we already did put that response in our response to their relevant rep.

00:59:01:02 - 00:59:01:17

Um.

00:59:22:08 - 00:59:38:18

It may well be paragraph seven in the in which was that. And there's that hasn't got a tailpiece in it to make up with that. It's, it's we're doing when I'm writing the numbers, the references on the list is the prep and then the numbers changing. Yes.

00:59:43:17 - 00:59:47:18

If the next one I want to have a is to do with, uh.

00:59:50:02 - 01:00:01:03

The the last one in in part one we'll call it that was it wasn't and it's not nine. Um, so it's, it's the information should. Where is the.

01:00:03:11 - 01:00:12:29

Should the undertaker become aware that this information is granting this license? Been with maturity, false or misleading. You must notify the MMO of that fact as soon as practicable.

01:00:14:29 - 01:00:16:01

You've got to provide us with the.

01:00:18:06 - 01:00:51:07

Say what? What it was wrong, why it's wrong, and provide the correct information. But then there's a there isn't a so what so what happens. You know should you should be should you be should you be stopping work until that whatever whatever has been whatever's been wrong, been sorted out and been approved, whatever the the revised because the moment you just you've you've we've found we found something's gone wrong. We're sticking our hands up and then nothing happens. There needs to be a what I've written on my notes is the so what.

01:00:52:23 - 01:01:26:02

Catherine Nolan, on behalf of the applicant, um, I think part of the reason for that, um, and I should explain that this is, again, kind of wording that the MMO prefers itself. So we, we can have discussions with them to, to discuss further. But the point is that the so what effectively would depend on the nature of it. So it's difficult to provide the appropriate somewhat mechanism, because it will vary in. That kind of extremely unlikely situation will depend on what is materially false, how it is misleading or similar. So, um, but we can take that away for discussions with the MMO.

01:01:26:09 - 01:01:32:17

Um, I suspect it's just not one that's been thought about as part of this drafting as it appears elsewhere. Yeah.

01:01:33:11 - 01:01:34:08

These things do happen.

01:01:37:00 - 01:01:53:23

Um, right. The next one was 17, which we've dealt with, which is to deal with the issue about amending legislation. Thank you. Work your way down. Uh, and that one's been deleted. The.

01:01:56:19 - 01:02:29:10

Um, you've now had to deal with the maximum hammer hammer energies into, um. But we obviously will see what any has the national interest has to say about that. Um, the one thing, though, that the MMO suggested a restriction preventing piling during the cod spawning season from 1st January to the 30th of April in any year to prevent disturbance of adult sport spawning cod. Um, you've just gone for sound management.

01:02:29:19 - 01:02:38:22

Um, and we're wondering why you weren't going for restriction on parts of the year, which obviously may have an effect, it might have a better effect or.

01:02:47:08 - 01:03:24:18

Sarah Reed for the applicant. Um, so I think the sound, um, management plan could encompass different, different measures. Um, it's not a, the significant effect that, um, the MMO, um, are in disagreement with and that's in the, the, um, environmental statement isn't something that we something we're still discussing with the MMO, right? Um, we have provided, um, a mechanism, um, now via the sound management plan to allow for, um, any further mitigation that could be required, um, if that was deemed deemed necessary, that could include either.

01:03:24:20 - 01:03:29:17

No, nothing in the first four months of the year of a calendar year, for example. Yeah. Yeah.

01:03:33:11 - 01:03:35:06

Yeah. Okay.

01:03:41:05 - 01:03:52:18

Um, the next one is a very minor point relating to the height of the yellow bit at the at the bottom of the, of the

01:03:54:11 - 01:04:14:03

turbine. Um, you've got it as the design side says, 15m above, uh, highest astronomical tide. the condition in the dean. Dean license or only says hi distracted by Trinity House. Given it's fixed, is there a reason why you haven't got

01:04:15:25 - 01:04:17:14

them? Why they aren't the same?

01:04:18:06 - 01:04:46:00

Catherine Nolan, on behalf of the applicant again. No, I think this is just a simple discrepancy between the design statement and the, uh, condition in the HTML, given that it still would be kind of at the discretion of Trinity House. I think the proposal is in the next version of the draft DCO at deadline two will amend the provision just to refer to the 15m and leave in the the tail piece of unless otherwise directed. So the effect remains the same. But we'll still insist.

01:04:53:05 - 01:05:02:09

That ones that we list. That's a question for the MMO. MMO mau Mau.

01:05:04:07 - 01:05:15:05

Ah, yes. Um, in the micro, citing point, Natural England made suggestion that,

01:05:16:20 - 01:05:31:05

um, instead of just being archaeological considerations, micro setting could be possibly be affected by ecological situations as well. Um, because, uh, knowing what a v I think.

01:05:33:05 - 01:05:46:07

Yeah, it's in condition 91AV, it refers to archaeological exclusion zones. It doesn't refer to any ecological constraints. And I'm just wondering

01:05:48:00 - 01:05:54:05

what the DCI should do at that point. Also refer to archaeological constraints as well as archaeological concerns.

01:05:55:13 - 01:06:29:22

Kathryn Nolan, on behalf of the applicant, and we have a response to this point in the relevant reps. So I'll just give you the specific line item reference to it, which is RR 061 43 in the response to relevant reps table. But effectively, as we know in our Benthic Ecology chapter, there are no species. You know, we haven't we didn't find anything within the benthic characterization for the site. And so the applicant's position is it doesn't actually require to be there, as there's nothing been found in the surveys that would require micro siting.

01:06:30:19 - 01:06:31:04

Okay.

01:06:39:05 - 01:06:39:28

Uh, that's a

01:06:41:15 - 01:06:42:23
condition on.

01:06:47:19 - 01:06:50:25
Uh, bear with me for second.

01:07:07:29 - 01:07:09:19
Yeah. Um,

01:07:11:06 - 01:07:45:06
in 91 C uh, this is more a point for Natural England rather than your good selves. Um, but they have said any have said that they want they think four months is sufficient. And you've said and suggested six months. You've left the four months. I've got that point. I'm just wondering if you have you know, this is really a point for natural for natural England is why they say six months rather than four. But is there anything you wish to say sort of get retaliation in first, for want of a better way of describing it?

01:07:48:14 - 01:08:30:06
Catherine Nolan, on behalf of the applicant, I think, um, again, we set out a response to this in various places in the relevant rep responses, but effectively, um, our position is that for months, um, it was generally it's been accepted by the Secretary of State for the most recent, um, examinations. But we are discussing kind of timescales for approval of the various documentation with both, um, Natural England and the MMO with the view to, you know, if there are some where there is a justification why it needs to be six instead of four, we could do that, but I think it will be the final position will be that there will be some that are six months, there are some that are four months, but that will be because of technical discussions between Natural England, the MMO and the applicant.

01:08:30:08 - 01:08:41:06
Fine. That's fine. It was just uh, I said they they'd put it in. Had they been here today, they would have been questioned about why they need four months and just. Oh, they're not here. Uh.

01:08:44:04 - 01:08:45:28
That's six months. That one. That's.

01:09:07:02 - 01:09:07:18
Uh.

01:09:09:26 - 01:09:10:17
The.

01:09:21:24 - 01:09:41:02
My note here on, um, condition nine is doesn't sit here, not have an implementation clause for all of the elements within it. And I was wondering where it should be. Now, clearly there will be. It might be like the discussion you we had earlier over the, um,

01:09:42:27 - 01:09:43:12

uh.

01:09:46:23 - 01:10:03:19

Extraction plan, but I just need to make sure I'm doing this for my notes rather than having plowed through this again at this very moment. Um, just we need to make sure that there is an implementation clause. So essentially that all that is approved is implemented, if that makes sense.

01:10:03:25 - 01:10:27:05

Yes, Catherine. And on behalf of the applicant, um, I had thought that was in, um, condition ten. Yeah. And which does go through kind of, um, the timescales for submission of approval. And then in 1003 there's a requirement for the licence activities to be carried out. Um, must be carried out in accordance with the as approved, unless otherwise agreed. Um.

01:10:27:16 - 01:10:35:27

Other than it shouldn't have, otherwise you shouldn't have it that's otherwise agreed in writing by the MMO that the codicil that you're not supposed to have.

01:10:37:19 - 01:10:38:06

We can.

01:10:38:08 - 01:10:48:13

Take says he, desperately trying to remember the the planning you know case which they actually shouldn't have codicil. They're supposed to be on their own terms and I can't remember which is off the top of my head.

01:10:49:06 - 01:11:00:20

So We can take that. Take that away. I do think there is some we have that general provision elsewhere in the deemed marine license that does give that, um, explicit. Yes.

01:11:01:04 - 01:11:02:28

Uh, there's a, there's,

01:11:04:15 - 01:11:11:08

uh, I can go and look, I could go and look it up, but I'm not going to. But there's a Tameside Borough Council rings a bell, but I may well be wrong.

01:11:22:08 - 01:11:52:09

All right. Um, there's potential omission omissions from, uh, one is national recommended that monitoring should secured pre and post construction a standard and informed by uh pre consent at the IPA IPM p um done through Jones surveys and colouring Inc. Future benthic and physical process monitoring is also encouraged. What's your view of post consent monitoring?

01:11:57:04 - 01:12:01:17

And that's where it should be secured within the somewhere within the development consent order.

01:12:09:05 - 01:13:04:29

Kathryn Nolan on behalf of the applicant. So in the applicant's view, the the in principle monitoring plan, which is then secured through various mechanisms for various stages, does set out provisions for post consent, post-construction monitoring and where appropriate. I think the question originally in the appendix was getting around the point as to why certain points are specifically mentioned and then other points are not. And again, um, that's that tends to be because those that point A and B specifically about the benthic surveys and otherwise is requested to be explicitly included, but the applicant's view is that then the in principle monitoring plan effectively serves as a sort of, um, collection document that then collates where monitoring measures have been discussed and then secured elsewhere within the application documents.

01:13:05:01 - 01:13:34:12

So there are, for example, a suite of um post-construction post consent monitoring obligations in the outline offshore operation and maintenance plan having to do with kind of ongoing operation or the the outline vessel traffic management plan, um, that sets out what would need to be carried out, um, where it would be necessary and sets out those. Um, so we do consider that those are secured then by the various monitoring conditions within the DML.

01:13:36:09 - 01:14:15:02

I think one point, though, that the applicant has noticed that perhaps the in-principle monitoring plan could be a bit clearer in directly cross-referencing Referencing where those are. I think, um, we discussed the commitments. Commitments register. Yeah. Yesterday. We obviously have the schedule of mitigation, but I think there is um, the intention is to submit an updated version of that in principle monitoring plan. Now, I should say, um, we would propose to do that at deadline three. And the reason for such a late deadline on that is because Natural England had indicated in their relevant representation that they were going to be providing further comments on the in-principle monitoring plan at deadline one.

01:14:15:04 - 01:14:29:06

So in the in the applicant's mind, it made sense, given that Natural England is likely to be raising more substantive points about the in-principle monitoring plan, which might then change some of the commitments or some of the monitoring proposed. It was best to sweep that up altogether.

01:14:29:16 - 01:14:41:06

I can understand I convinced that that that logic of that. So yes, that's fine. But with the I we put down that an IP there will be a revised IPM. P is just like it's going to be D3, not

01:14:42:23 - 01:14:50:29

in the next month or month or so. It can be sometimes. Sometimes. Sometime in February, I suspect. Yes.

01:15:00:17 - 01:15:27:04

Ah, yes. The next, next one is due with the, um, post decommissioning monitoring and whether in the event that, um, some infrastructure is left in, in place, uh, whether that should be monitored in beyond the decommissioning, as it were, to ensure that it doesn't cause a long term risk.

01:15:27:29 - 01:15:59:04

Yes. Catherine, on behalf of the applicant. So the the applicant would expect any post decommissioning, monitoring or obligations to be included and identified as part of the decommissioning programme, that that is required under the DCO requirement. Eight and like we've discussed again before about how we shouldn't be duplicating controls, and we consider that the decommissioning program is most appropriate method for securing these, especially because we can't say with certainty, for instance, whether structures would be retained in situ at the moment.

01:15:59:06 - 01:16:06:18

Decommissioning. Um, we don't know what position will be in in kind of 40, 40 years from now, 45 years from now.

01:16:17:12 - 01:16:28:21

There isn't, as I was just looking to see whether there was a definition of a decommissioning plan, of what the decommissioning plan should contain, and thus whether or not.

01:16:32:18 - 01:16:43:26

It needs to then needs to be more included within the relevant condition. Over what it should be in the decommissioning plan.

01:16:45:20 - 01:17:23:09

Kathryn Nolan on behalf of the applicant. So the decommissioning programs under the 2004 act, um, there are provisions within the 2004 act that say a high level terms, what needs to be in a decommissioning program so matters such as kind of costs for decommissioning and what it should cover. And then there's rather detailed guidance about what the Secretary of State expects to be in the draft decommissioning program. Um, so what we could perhaps do is we can add in a definition with reference to the requirement and also just the, the, um, 2004 act specifically.

01:17:23:11 - 01:17:33:23

So that way it's captured and that way it will encompass as if new guidance comes out or similar. As decommissioning becomes more standard, it will be picked up. So we can add in a definition for that.

01:17:33:29 - 01:17:48:26

And that would also include by definition who would then be financially responsible for doing the long term monitoring of the the abandoned. What about expression and infrastructure?

01:17:50:00 - 01:18:06:05

Katherine Roland, on behalf of the applicant. Yes. So the decommissioning program itself would set out who the relevant undertaker would be at that stage. Um, and agents that would be doing that monitoring. So that level of detail would come about in, in the decommissioning program itself. Yeah.

01:18:07:26 - 01:18:22:21

Uh, you know, we're going continuing on the I hope we noted that the Northwest Wildlife Trust relevant rep is disappointed there's not a future monitoring plan embedded within the project for many of the ecological receptors. Um.

01:18:25:12 - 01:18:47:11

Although the final plan should be in accordance with the IPM p uh, we're wondering whether condition 16 should be added to, you know, to say whether it, Uh. Uh, what? Clear what the final plan will cover. And what about, for example, those you've made a comment about things in within. But what about those without the IP MP?

01:18:54:23 - 01:19:33:16

Catherine Nolan, on behalf of the applicant. Um, uh, for the first limb of that question, I think the applicant's view is that obviously the IP MP will then become a finalized document through consultation. So at that point, it will include matters as matters progressed between discussions with Natural England and other stakeholders. And so it may evolve to include points as necessary in terms of matters that have been raised in the IP, MP, where we say outwith the the principal monitoring plan, these are identified as being outwith in the sense that, um, I think only one of them.

01:19:33:24 - 01:20:08:12

It may be considered necessary. Um, and that's in relation to commercial fisheries specifically. And that relates to a possible collation of fisheries landing and activity data before, during and after construction. But it's not yet determined through discussions with stakeholders if this is required and if it were to be required, it's already included within the Outline Fisheries Liaison and Coexistence Plan, which is EP 147. So it's secured by means of um deemed marine licence condition nine one.

01:20:08:14 - 01:20:27:18

Okay, then further matters that have been identified as outwith the in principle monitoring plan at this stage that there are they're not considered necessary to mitigate any of the proposed effects from the authorised projects. And so they they don't require to be secured at this stage because they're not they're not considered necessary.

01:20:37:10 - 01:20:54:26

And in paragraph 13.209 of chapter 13 of the year, the applicant states. Quote, the developer is committed to regular and routine monitoring and inspection of cable burial integrity and condition of tape protection. Could you indicate where that has been secured, please?

01:20:55:23 - 01:21:29:19

Catherine Nolan, on behalf of the applicant. So this is within the outline Offshore Operation and Maintenance plan, which is app 150. And that commits to a general inspection provision. It's then secured by condition 91G of the deemed marine license. Now this um monitoring is also secured by virtue of condition nine 1d. And I'm going to get my sub paragraphs correct, which is subparagraph b b and c c of nine 1D.

01:21:30:06 - 01:21:56:06

Um, which require the offshore construction method statement to include details around cable specification and installation and future cable monitoring until decommissioning and then conditions. 16 five requires this statement so that the construction method statement, specifically the details of cable monitoring, to then be updated with the results of any post installation surveys.

01:22:00:21 - 01:22:09:09

And there's a similar query about whether the emergency response cooperation plan would be which where that was secured.

01:22:10:09 - 01:22:28:27

Kathryn Nolan on behalf of the applicant. So this is secured by condition 12 because this is a requirement within MGM 654. So that's that's where it is. And thank you. And we can make that clear in the commitments register.

01:22:28:29 - 01:22:29:14

Yeah.

01:22:30:24 - 01:22:31:09

Uh.

01:22:36:10 - 01:22:37:16

Yeah. That's the, um.

01:22:41:21 - 01:22:44:12

Find it, find it. Now, this is going to be fun.

01:23:02:09 - 01:23:09:28

This was, um, there's a point about in the event that. No.

01:23:12:15 - 01:23:16:05

I'm fine, and I'm fine. It's fine.

01:23:25:02 - 01:23:36:14

It's just. There was. There was a point Natural England raised about and referencing back listener referencing back to um.

01:23:40:09 - 01:23:56:23

Reporting back to Natural England on mitigation works where uh, um, six weeks post uh, after the event, I'm not going to try and see if I can find it by searching through through the.

01:24:03:27 - 01:24:09:19

The found word I found where it is. It's in it's in this one.

01:24:11:08 - 01:24:13:20

Oh yeah. It's going to be that it's going to be this bit fine.

01:24:22:05 - 01:24:34:06

It's uh, in 1504. But which has been amended. The condition 15 four um provided to the MMO within six weeks at the end of the piling. Um.

01:24:37:08 - 01:24:46:09

We're wondering what happens in the event that there are significantly different impacts and, um.

01:24:48:21 - 01:24:59:16

That now I'm looking at the revised version. It's been covered off. You've got to cease until new works have been covered. Yeah. Thank you. So I'm just rereading. What a thank you. Yeah.

01:25:03:12 - 01:25:12:25

Um, yeah. Uh, then the last one I've got of of this is straight to schedule seven, which is obviously compensation. Um.

01:25:18:08 - 01:25:31:03

There's two, two points on this. Firstly, naturally just suggested some alternative Drafting in relation to treaty compensation. In the event that the comp that that compensation is required. Can we have your view on that?

01:25:32:27 - 01:26:08:15

Kathryn Nolan on behalf of the applicants. So Natural England has provided, um, helpful drafting, although it is not purely analogous because it's in the benthic situation. So I think we do set out in our response to the relevant reps that we are considering this and taking away how we best. Um. I do not know what the word would be. I don't want to say wing it, but kind of adapt it to be related to ornithology as opposed to benthic. So we are envisioning at deadline two that we will be submitting a revised to take on board the alternative wording and the alternative structure that Natural England have suggested.

01:26:09:15 - 01:26:40:09

And the last point is NPS and one suggest that compensation generally be maintained for a minimum period of 30 years or the lifetime of the project, if longer. So. So we're looking for 35 years in this context. Um. Can you. Can you confirm how that would be secured in the DCO? Um, to make sure that that we know that if it were required, that it's going to be required for at least 30 years or 35. In this context, the particular development.

01:26:58:04 - 01:27:28:12

Combination for the applicant. I think that, uh, matter is dealt with in paragraphs eight and nine of schedule seven, which explained that, um, the compensation of the measure will be operational. what must be maintained by the undertaker for the operational lifetime of the of the wind turbine generators of the development.

01:27:30:25 - 01:27:48:27

Then the only question being is if something something happened and it wasn't 30 years. I'm not saying it's likely, but I'm just saying that given the end, one says it should be should be 31 years or the operational life and development, and we've got the operational life. What happened if the operational life was less than 30 years?

01:27:51:07 - 01:28:25:20

Robin Hutchison for the applicant. Could we take that away? Yeah. I mean, my initial reaction that that is linked to, um, BNG rather than habitat regulations, compensation, that that's where I think the

genesis of that 30 year time period is. And so we probably have some more flexibility in relation to habitats compensation. And of course, if the, um, source of the impact on the or I should say alleged impact because of course this is without prejudice.

01:28:25:22 - 01:28:35:18

But, um, yeah, if the source of the alleged impact goes, then so does the need for compensatory measures. Yeah. Okay.

01:28:35:27 - 01:29:08:05

Fine. Okay. Um, that comes the end of all our questions. What we thought we would have do is have we be going an hour and a half for this session to have sort of a quick ten minute break, collect our thoughts. We can then run through the, our our list of the action points that we've, we've raised. You similarly can have a look at those. You think you've committed to doing that during the day. Um and then we may we'll make it to half past as a quarter part, uh, where we are now, and then we can come back and go through that, and then we'll be able to finish for the day.

01:29:08:07 - 01:29:12:11

So thank you. Thank you everybody so far. And we will adjourn now until half past.