



Hearing Transcript

Project:	EN010130 - Outer Dowsing Offshore Wind Project
Hearing:	Issue Specific Hearing 3 — Part 2
Date:	5 December 2024

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TRANSCRIPT_OUTERDOWNSING_ISH3_SESSION2_05122024

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00:05

It's now 12 or six, and this issue specific hearing is now resumed. I would like to if I can hand over to Mr. Joshi, who will deal with Agenda Item 3.6 traffic and transport. I

00:23

Right. Thank you. Mrs. Mcinson,

00:26

to start with, I would like to draw your attention to the examining authorities. Written questions, q1 TT, 1.2

00:35

PT, test, one, three, about the conflict between non motorized users and construction traffic, which was picked up from the local impact report of the Lincolnshire county councils, where it highlights the potential conflict between pedestrian cyclists and construction traffic on the rural roads. The applicant has responded to that questions, and the response mentions the outline construction traffic management plan sections, 4.1, point two and four, point 1.4

01:06

of a, PP, 289,

01:09

add to this the Lincolnshire county council response. Wrap two test o6, nine, mentions that the measures needs to be in place to minimize the use of non A and B class roads by construction traffic, among other issues mentions in the response. So in relation to that, can I invite the applicant to explain the use of A and B class roads by construction traffic, their usage in the summer period and particularly in the vicinity of the coastal areas and potential conflict with the other non motorized users.

01:47

Thank you, sir. Harry wood, Philpott Casey, on behalf of the applicant, I'm going to ask Mr. Daniel Moran to respond to this, and he'll generally be dealing with the questions you have on traffic and transport. He's the traffic lead. He's an associate consultant at SLR consulting, so I'll pass over to Mr. Moran, sir.

02:12

Thank you, Daniel Moran, on behalf of the applicant. So, yeah, just just to sort of go back and sort of talk through how we derive the construction access routes for the project.

02:23

So firstly, we took an undertook a desktop review of potential construction vehicle access routes, which is then followed by several site visits the study area. This just to review the identified routes, confirm or identify other sensitive receptors or other constraints and opportunities. And we then developed an access strategy to minimize the impact on local roads as far as practicable.

02:44

This strategy also avoids a number of key settlements in the study area. And the identified routes are described in the chapter 27 appendix one, transport assessment as one, zero, 86

02:59

and that's for routes for all construction vehicles. So that's cars, local like goods vehicles and heavy goods vehicles, some which were just for workforce vehicles, for cars and local like goods vehicles and some enabling works only, such as close to landfall, the

03:17

sensitive receptors on local access routes suddenly minimized wherever possible. And this has taken obstacles along the cable corridor and constraints for providing continuous haul road into account and the need for each local access route

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from then, a series of checks on the types of vehicles that would be expected on the access route was undertaken that's such as like a large tipper, maximum legal articulated vehicle and then the large low loader, which would transport the cable drums.

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Locations where highway improvements would be required were identified and schemes of passing places developed, which have been accepted in principle by Lincolnshire county council. Highways, all

03:56

of the highway improvements, including construction accesses and haul roads crossings would be subject to a stage one road safety audit as part of the detailed design process, the implementation of a construction traffic management plan for each stage of the onshore works, which would be based on the principles in the outline construction traffic management plan, a PP 289,

04:17

and that would set out The measures to ensure safety for road users.

04:28

Thank you.

04:30

Can I also ask the Lincolnshire county council to explain their statement, which is mentioned in the same question about the scale and frequency of construction vehicle movements have not been fully addressed. Can you please expand on that one?

04:50

Good afternoon, sir Stephanie Hall, Lincolnshire county council, I'm joined by Mr. Ian field from our highways team, who should be able to answer questions about traffic and transport. And so far, we.

05:00

It turns into a sort of public rights of way interaction with traffic and transport. We don't have an expert with us, but I can assist where possible. But if I could ask Mr. Field to address the traffic side of that, please,

05:17

Hello, yes. Good afternoon. Ian Phil speaking Stephanie, if I could, well, if I could actually refer this one to Neil McBride, I think because I didn't respond on this question, I did deal with the other highways, but I I don't know what I wasn't responding on this one, so I'm afraid I can't answer that question. The perils is not sitting in the same room. Thank you, Mr. Fields, we'll throw throw it down, further down the team to Mr. McBride,

05:47

thank you. Neil McBride, Lincoln County Council. I think this reflects the issues that have been raised on other projects that have taken place in this area, around concerns that locals have had around construction traffic not always following designated routes,

06:06

and the issues that that causes. So I think what we basically want to ensure, and this also picks up, I think, on the third bullet point of your list around cumulative impacts, knowing that there are a number of other projects that are also emerging in this area, and we want to make sure that we have sufficient measures

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available to us to basically,

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if there are problems with vehicles going where They shouldn't be, to understand what sort of

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I suppose, measures are the applicant is doing to want to prevent that, and then if it does happen, to how they're going to address it, and that's been an issue that's been raised to us in relation to other major projects in the area. So to we want to ensure that that doesn't happen again for this project, and to make sure those measures that the applicant puts forward are robust and that we will have an ability to

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if there are breaches of the

07:18

the routes that are proposed, then that what sanctions are available to deal with that so it doesn't it, it's dealt with now then, rather than trying to deal with it if it occurs during the construction period.

07:34

Thank you, Mister McBride, so just to be clear, the statement which you mentioned in the local impact report was about the in combination construction vehicle movements, rather than the project itself.

07:48

Can I invite the applicant to respond on that one?

07:52

Sir, Harry wood, Philpott Casey, on behalf of the applicant, before I invite

07:59

my witness to deal with the question of cumulative effects. I just want to recap on where I think we are. In response to your particular question, the concern that you picked up on that was expressed by the county council, it appears that is not a concern that has derived from the County Council's highway experts. That's pretty clear from what we were told. Secondly, it doesn't appear from the oral elaboration of that from Mr. McBride that there are any specific concerns about shortcomings in the assessment that the applicant has undertaken.

08:43

Thirdly, there was reference to ensuring that this is properly controlled and managed at the implementation stage. But of course, one has to consider those issues by reference to requirement 21

09:03

which prevents any stage of the onshore transmission works from commencing until for that stage, the relevant Highway Authority has approved a construction traffic management plan for that stage, and that has to be in accordance with the outline construction traffic management plan. So the Highway Authority has control over the management of construction traffic through that mechanism, and of course, through this process, it has the opportunity to suggest any specific changes it thinks are appropriate to the outline plan, and then those can be examined and we can respond to them if they're not agreed as appropriate. So that is all, if I may say, so rather helpful, I'm going to now pass on to Mr. Moran, who.

10:00

Can deal with the question of cumulative effects.

10:05

Thank you. Daniel Moran, on behalf of the applicant,

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so firstly, just to draw attention to the guidance,

10:15

sorry, I'll just find that.

10:18

So yeah, the Institute environmental management and assessment guidance.

10:24

Sorry,

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the guidance, environmental assessment of transport and movements, states of paragraph 2.29,

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discrete projects within the agreed study area that are existing, approved or likely to come forward where sufficient certainty and relevant information about the project exists should not be added to the baseline scenario and should be considered in a cumulative scenario, which is the approach we have taken

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for traffic and transport for For this project. So

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is there anything else need to

11:02

certain. I think the question then, is there anything in the cumulative assessment that the applicants have undertaken

11:13

which LCC considered to be wrong, inadequate in any way? And if so, what is it? And then the second question that arises, is there anything specific in terms of the mitigation and control measures that are identified, which LCC thinks needs to be changed in the light of the assessment of cumulative effects? Unless one has something specific on one or both of those matters, then ultimately, the point doesn't go any further.

11:47

Thank you, Mr. Philpott, that was the pretty next question to Lincolnshire county council regarding the submission at d2 about the inter relationship report with other in fact, your project. And this was raised by the county council itself in during the preliminary meeting. So do you have any comments on the

submission of the applicant's report on the interrelationship specifically regarding the cumulative construction traffic assessment and their impacts?

12:16

Thank you. Sarah um, Stephanie Hall, ligature, county council, I think this is something that I can ask Mr. Field um to address, I hope, because he has been responsible for inputting into comments in relation to the cumulative effect.

12:29

Yes. Thank you. Stephanie, yes, Mr. Field from Lincolnshire county council highways

12:35

that I don't have any concerns with, with what the applicant has submitted to date, what the My concern is a wider concern with regard to the number of ends that are occurring in this corridor. This is the sort of first ends up that's come along, and it has, during the peak construction periods, very high

12:55

construction vehicles on the A roads that I think the table 27 in the in the environmental statement, showed ranges of

13:06

impact of between five and 12% increases on the A roads at peak construction periods, which is a significant amount, but on its own, is a is an acceptable amount. And the cumulative that they have, the cumulative assessment that they have undertaken includes permissions that are already granted, but it doesn't include the ones that are coming, that we know are coming, which are the national grid

13:32

ncips for the Grimsby to Walpole, the EG three And four. There's the meridian solar farm, and the potentially further down the line, there's the oxygen that's that's four or five, very large n sips in this corridor, which will be putting traffic, construction traffic, on the same roads, on the same a roads, not I'm not too concerned about the minor roads. It's more about the sort of cumulative impact that could occur on the major roads if the construction periods overlap and and there was a document I'm not

14:12

in the submission that shows that the various ends up, and there is a likelihood that some of these construction periods could overlap. So what we'd be seeking is for some form of collaboration between the between the developers to ensure that that we can control and not and have them happening consecutively, and that the the sort of peak construction periods are not overlapping, if that's possible.

14:45

Thank you. Mr. Phil. Can I invite applicant to respond to that point? Yes, indeed. Harry with Phil Park Casey on behalf of the applicant,

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I just want to deal with this in two parts, if I can. There are certain points that I.

15:00

I would address. And then I'm going to turn to Mr. Chris Jenner, the development manager for the applicant, to deal with coordination with other emerging ncips. The first point, I'm very grateful to Mr. Field for confirming there's no concerns with what the applicant has put in to date. And that, of course, of course, is a reflection of what is required pursuant, not only to the environmental impact regulations, and it also, of course, seeks to conform to the national policy statements. And in addition, as it's been explained, by reference to professional guidance, but also reflecting the planning inspectorates guidance, cumulative impact assessment with other projects, including those

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where there is enough information to allow for

16:00

that assessment to be meaningful and also to take those projects into account in terms of their likelihood of happening. So there doesn't appear to be a dispute that what the applicant has submitted to date is consistent with all of those matters. But of course, the system as reflected in statute, as reflected in guidance, as reflected in policy,

16:26

has to draw a line somewhere, and it doesn't appear to be disputed that where we've drawn the line reflects what's said in in the guidance and in in the policy. One then comes to the question of what happens to projects which are potentially coming in the future, but which are on the other side of that line, which are not yet a stage where they are to be taken into account reasonably in a cumulative impact assessment. And the short answer to that is that those projects will themselves have to undertake the cumulative assessment as and when they reach the stage of sufficient maturity to go for either it's a relevant stage of consultation and or when they come for application, and those projects will need to take account of what has come before, which would include this project. And so at that stage, there is the opportunity for the decision maker to consider the effect that those projects might have, bearing in mind what has been approved before,

17:38

and that is consistent with practice generally. There's nothing unique about this project in that respect. And so although one can understand LCCs concerns that, yes, there are a lot of N sits necessarily coming through this part of the country, the way that the legal and policy and guidance is set up allows for a sensible stage consideration of cumulative effects, so that at no stage is a project authorized without taking account of the cumulative effects of those projects which it is appropriate to consider at that point. So then moving beyond what the law and the guidance and the policy require into more general attempts to coordinate with other projects. I'm now going to turn to Mr. Jenner, who can talk about the Lincolnshire energy Forum and the applicant's role in that

18:40

Good afternoon. Chris Jenner, for the applicant, it's worth at this juncture, just sort of introducing the presence and establishment of what has been referred to as the Lincolnshire energy Forum, which has been established through the very constructive and positive collaboration between the existing and emerging NCIP projects in Lincolnshire. We've obviously been engaging with Lincolnshire County Council and the local planning authorities since the inception of this project, and it's through that collaboration and conversation that this forum has been established. We had an inaugural gathering, and we're setting up the terms of reference of such a group with future quarterly meetings being held between the ncips. And it is at deadline to where we submitted a initial report on the interrelationships with other infrastructure projects that has been submitted, which Mr. Field has been referring to in terms of the Indicative timelines that we currently have in terms of the information at hand, noting that obviously GTR four limited out of housing offshore wind project is of the group the most progressed of those projects, if you like, at the front of.

20:00

Of the potential in emerging schemes coming forward. And I

20:06

think it's also important to note that there's a refer to this within the project team on many occasions, that the greatest influence on project design is at the early stage of a project, and it's those decisions made at early stages, that, if you like, cast the longest shadows. And it is exactly that principle that we are capturing and enshrining in the energy forum by collaborating with other developers who are at a less mature, if you like, a couple of those projects have undertaken early stage and non statutory consultations. But it's important to enshrine there that the decisions in design and maturation and refinement of the project design can have a great benefit in ensuring that the cumulative impacts can be reduced, minimized and mitigated appropriately, particularly in respect of traffic and transport, where, at this stage, it is only our project that has sufficient detail, as Mr. Moran has set out in his representation to undertake the cumulative assessment. But there are, as at this stage, very little, if no, information forthcoming for future Ensign projects, but the forum will act as a very good mechanism for data sharing, for enabling project design, if you like, to be influenced by each other, to work together with the membership of Lincolnshire County Council and the local planning authorities as well In this forum. Thank you.

21:40

Thank you, Mr. Jana,

21:43

I think you the applicant, will be submitting the update on the intern relationship report at the land four and six, and

21:51

we are hoping that the discussions and held on the Lincolnshire energy forum will be part of the interrelationship report update as well, so the examining authority will be aware of where the consultation is taking place and how the projects are ongoing other and the interrelationship with other projects in the area,

22:15

before I move on to the Another

22:18

question. Does the Lincolnshire county council. Have any comments on this one?

22:25

Thank you, sir. Stephanie Hall, Lincolnshire county council, I think we're not, we're not very far apart on this, as Mr. Philpott explains, it's not a point about the sufficiency of the environmental statement. That's not the case we're making. We are making a case of that. You know that that gives you sufficiency for the regulations, but the reality of the thing is something that we have to deal with. And the reality of what might occur on the highways in Lincolnshire is very helpfully given, a nice diagram on page 24 of the interrelationship report, which I think is rep two, oh, 55 and although we acknowledge that a lot of those projects on that list don't meet the criteria for being included on a formal cumulative assessment for the purposes of the EIA regulations, that doesn't mean that there isn't going to be significant overlap between a number of major projects which result in significant increases in traffic flow on the linkage of highways all occurring at the same time, and so that there is just a reality of the situation point that needs to be managed going forwards. And this is the first time. This is the first project in that list, but it's a very long list, and the projects are all significant ones. And so we're making our case today, but it will be repeated to future exercise on those projects. But the point is, is this, that if we need to kind of embed that good working between those projects and almost formalize the Lincolnshire energy forum now, because otherwise, by the time it gets to projects four, five and six, it's too late, if they're not, then required to collaborate with project number one in the queue, which is out of dowsing. So we welcome discussions, I think, with the applicant, about how that could be,

24:10

how the linkage energy forum is going to work going forward, whether that can be referred to as a sort of steering group, somehow that's going to be, that is going to be kind of formalized going forward. So I think we've got,

24:22

we can foresee some considerable issues on the highways, and we welcome further discussions with the applicant about how that's going to be managed in practice. Thank you.

24:41

Sorry.

24:43

Thank you, Miss Hall,

24:45

I think this discussion can be taken offline by the applicant and between the other parties, as well as the Lincolnshire county council. I'll move on to the next question

24:56

about the abnormal indivisible load. So.

25:00

Can the applicant explain the figure on page 11 of the A P, P 218,

25:06

the chapter 27 appendix one, transport assessment, annex, a special order, ail, swept path analysis,

25:16

it would be good if the applicant share on screen the figure 11 of the A P, P 218,

25:23

thank you, sir.

25:25

Just while that's being

25:28

done, I think

25:30

this is a another matter that Mr. Moran will speak to. I'll just wait, though, until we've got the figure up on screen before I ask them to

25:41

so be grateful. Could you just repeat the referencing for Mr. Brown's benefit so you can bring that up on his own screen as well. It's a PP, 218,

25:52

the PDF page number 11.

26:00

Thank you. So I think I can see it's on both, both on the shared screen. And also, I think yes, Moran is has it on his screen. Daniel, right, on behalf of the

26:14

applicant. Can you repeat the question about the Can you please describe the figure to me? So this is what's called an abnormal load or sweat path analysis, assessment of the anticipated vehicle type to transport the transformer

26:33

from from the nearest port to the substation location. This is an indicative vehicle

26:41

until the sort of confirmed vehicle type is known and it looks at whether there be any any sort of significant amendment to the highway that would be required to deliver the load so

27:10

you just bear with us a moment. So we're just clarifying with Mr. Moran which particular image we should be looking at. I think, I think we've i If,

27:27

yeah, I think that's that. That's just a there's an image missing from that the sweat path. I'm just having to look.

27:37

I have to clarify that. I might have to clarify that would later.

27:42

And so I think that what appears to be the case is that there's a something missing from that diagram. I suggest, if we can that we take that outside the hearing, and we will provide you with something in writing at deadline three, hopefully something that correctly reflects what ought to be on that diagram. But we're grateful to you for drawing that to our attention.

28:09

Thank you. So I'll take that as an action point to update the document further to further to that if you go to the page number two of the same document

28:21

where the special order ail will pass through the Fauci bridge on the a 17, which is situated between the point which you have mentioned, H O 1o and H O 11,

28:37

which might be the paper Man round about and Sutter ton roundabout. Can the applicant explain whether the Fauci Bridge on the River balance load, carrying capacity has been assessed considering the abnormal indivisible load?

28:56

Yeah. Daniel Moran, on behalf of the applicant, so the actual route is still in discussion with the Highway Authority, and sort of more detailed investigations would need to be undertaken for things like structural structural assessments at a later stage,

29:17

then I will have A next follow up question on that one in outline, construction traffic management plan, you can stop sharing the screen.

29:30

A, PP, 289,

29:32

paragraph, 95

29:34

which implies that the abnormal load assessment report, which is called a, l, a, r, will be prepared post consent. However, as you said, the structural parameter has not been established of the path yet. If the bridge cannot carry the necessary load which you are going to

29:55

pass from that bridge, how does the applicant plan to mitigate the alternative route?

30:00

Routes and the likely significant environment effect arising from that.

30:10

Daniel Moran, on behalf of the applicant, yeah, so as I said, that the route is indicative, there are other options to explore, and that will all the assessments will be done to define the best route available, route later date,

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but

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I am concerned with

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the likely significant environment impact if you are going through another route there is also also mentioned in the paragraph 95 that the ones the port has been confirmed post TCO consent. So may I please know whether the port has been confirmed or not?

30:51

Daniel Moran, on behalf of the applicant, no, no, the detailed abnormal load assessment report hasn't been done to date, and respond to that on in writing or at a later deadline.

31:03

Sir. Harry wood Philpott, on behalf of the app, as I understand the concern, and if I articulate it in this way, just to make sure that we, when we take it away, that we produce something in writing that addresses your point. The concern appears to be that, if there is still uncertainty over the precise route that the ails will take, is there scope for likely significant effects to occur, and potentially a need for additional mitigation, if the route is not the route that is shown in on an indicative basis, on the plans we've just been looking at, Have I properly encapsulated the issue we've got to grapple with?

31:44

Yes, that's right,

31:47

that that's helpful. Thank you. I We understand the point. I'm not in the position to take instructions and to bottom that out now, but having identified it, can I suggest that we take that away and respond to Deadline four, so that we can give you a proper answer to that,

32:06

the deadline three would be acceptable if it is possible. And I would like to add one more questions to that, when you are updating the document, can also the applicant outline, what are the possible ports from which the AI will be coming from, and what are the possible options and routes will be covered in the swept path analysis.

32:30

So thank you. We've got a note of that as well. We'll pick that up in the note. Can you just bear with me a moment while I check on the question of deadlines, just to make sure that before we say yes to Deadline three, there isn't a problem in doing that. I

33:04

um, so we will provide an answer by deadline three, if there's any aspect of the answer which is provisional or needs to be elaborated upon a deadline four, we will make that clear at deadline three, but we ought to be able to provide you with at least an in principle answer to the question with such detail as we're able to at deadline three, but I reserve the possibility that we might need to expand or elaborate on that or add to it at deadline four, so I hope that's an acceptable way through.

33:39

Yeah, that would be acceptable before I move on, my colleague, Mr. MacArthur, have some comments to make on this one.

33:48

Thank you. Mr. Joshi, just if I can return to the sweat path analysis diagram documents, it given that the applicant is going to take that away and update PDF page 11. Can I also just confirm the version that I'm looking at on my screen? At the moment, PDF pages eight and nine don't have a photographic underlay, and it seems like they should on first glance, given that all of the others do. Can I just ask the applicant to confirm whether those pages should also be updated, and perhaps do a thorough double check of this document and update anything else that needs to be updated, please.

34:33

So thank you. We'll take that away and we'll respond to that, and if need be updated, I think the updates may be deadline for if we need to produce new images, but we'll pick that up, certainly as part of our response.

34:50

Thank you. Mr. Philpott, back to you. Mr. Joshu,

34:55

thank you. Can I

34:59

ask the Lincoln.

35:00

County council about the outline construction traffic management plan. 7.1, about the ail section in a, PP, two, h9

35:12

whether the council is content with the analysis which

35:16

the applicant has done or not. So

35:24

So again, what? Sorry, Stephanie or Lincoln has a one for Mr. Field, I hope,

35:33

yes, we are content in principle at this stage, as Daniel Moran has said for the applicant, there's still in discussion with our structural engineers about the loading on some of the bridges, but in principle that the information that's submitted for the abnormal individual loads is acceptable at this stage.

35:56

Thank you, Mr. Phil

36:00

the Lincolnshire county council has provided several comments and possible solution to resolve a few issues in their response to examining authorities. Question one, tt, 1.7

36:13

rep, two, dash, o6, nine, about the public right of way, can I ask the applicant to respond to those writing at deadline three.

36:26

So Harry wood Philpott, on behalf of the applicant, we're content to respond to those at deadline three. Yes, sir.

36:33

Thanks for the confirmation. Please note down this as an action point

36:40

further to that

36:42

question, just to pick up one of the point from the same LCC response in this hearing,

36:50

with respect to outline public access management plan submitted at d2 rap two, dash o4, two, tracked version paragraph Eight mentions that the coastal path King Charles three, England, coast path may be affected by landfall works and are considered in the outline PAMP. Can the applicant sign post where it has been considered within the outline document.

37:24

So Harry would feel. But on behalf of the applicant, I think Mr. Man is just tracking that down.

37:31

Do you want us to come back to that or

37:35

perhaps respond in writing? And if it's obviously, if there's something which isn't there, we can point that out and explain how we're going to deal with it, rather than trying to spend time now tracking it down. If that's acceptable,

37:47

that's acceptable. But the meaning was asking this question in the hearing was because considering the response which the LCC has given in that this may require the Natural England consent, separate to the DCO, so can the applicant confirm whether that is something which is required, necessary.

38:08

So thank you. As I understand it, this is, this is something that we are considering as part of the response that you we've had, and you've had a deadline two and so we'll be dealing with in our response to LCCs,

38:27

answers to the written questions. I'm not in a position to give an answer. Now, I don't have any briefing on that point.

38:35

Okay, thank you.

38:39

So hypothetically speaking, if the consent is required and the process will begin, Can I also ask applicant to update about the consent process and at the subsequent deadline if it is not resolved?

38:53

Indeed, so Harry wood, Phil but on behalf of the applicant, will pick up any consequences, depending on what emerges from our review of that answer, and in so far as there is a further consenting process, we'll deal with that in our response.

39:08

Thank you.

39:12

Before I close this section, that's all I had a question till now in this agenda item, can I ask any other party who would like to raise any questions on traffic and transport.

39:27

I don't see any hand raised, so I'll now hand over to Mr. James for the next item.

39:36

Thank you. So Agenda Item 3.7 onshore ecology and ornithology first to build progress on outstanding issues identified by Natural England, including in its risk and issues log,

39:53

we note the applicant's response to our first written questions, rep 2051, as well as its response to natural England.

40:00

Duncan's deadline. One, submission. Rep 2053,

40:05

natural England's deadline two, documents, including its updated risk and issues log. And that's rep 204,

40:12

indicates that there remains a number of issues that Natural England consider to be unresolved. Clearly, Natural England are not in attendance today, and I'm conscious we don't know what their responses are to the applicant's latest comments.

40:28

Also appreciate that the risk and issues log is quite lengthy,

40:34

and so there are a large number of issues that are to be resolved, so don't tend to go through them all today. However, I would welcome this opportunity to ask the applicant about the extent to which there is an ongoing dialog with Natural England to try and seek to resolve these issues offline in the interests of time. So over the applicant, please. Thank you, sir. Harry wood Philpott, on behalf of the applicant, I'm

going to ask now Miss Stephanie Bucha, who is our ecologist from SLR consulting, to provide you with an overview of where we've got to and where we think we're going with those discussions with Natural England, which will hopefully provide you with the indication you're seeking.

41:18

Thank you. Hello, Steph Bucha, on behalf of the applicant. So throughout the process, we have tried to engage Natural England in dialog. Most recently, with regard to the sort of licensing strategies, we had a meeting with the Newell's team in August to set out how we were going to approach licensing for the various protective species off the back of that, we've been successful in obtaining a letter of no impediment for both water bowl and great crested Newt, which satisfies that. We also have taken into account comments from Natural England relating to

41:58

the inclusion of specific measures for bats. So I can go into the detail if you want, otherwise, we have included all of those

42:07

considerations in an update to the olens document. So that's version three.

42:12

Further, we're required that the applicant will be required to undertake pre commencement surveys for protected species, and that will lead to an update to the ecological management plan, which will be submitted to the local authority and to Natural England, will have copies of any licenses at license applications required at that time, so that I feel that we're making good progress on on the comments in relation to sort of protected species licensing. Thank

42:44

you. So just to be clear, that there is a dialog outside of the examination with natural and seeking to to address any outstanding issues. Is that correct? From what I understand,

42:56

Steph Bucha, on behalf of the applicant,

43:00

at present, I think that the dialog is closed out because we've had the discussion with the Neil's team regarding the strategies, the approach to licensing,

43:09

but I'm sure that we would welcome a conversation with them if they wanted to talk through anything further.

43:17

The point really is not just about the licensing, but also the outstanding issues in the issues and risk log in relation to onshore ecology and ornithology, of which there are a number of

43:29

issues raised as amber or red, and they don't appear to be being closed down through the various deadlines, looking at the tracker as it goes across. So I'm just keen to ensure that there is some dialog, given that maximum notice and tenants today that the applicant can have with them to try and seek to resolve any outstanding points of concern or disputes.

43:52

Sir Harry Wood Philpot, on behalf of the applicant, I think I can provide some greater information on that if I ask Mr. Gregory, who can just provide an overview of where we are as you've anticipated. It's not just in relation to protected species licenses. There is dialog, as I understand it, and effective dialog on the other items as well. And Ms Gregory can update on that. Thank you very much. Andrew, very for the applicant. Yeah, I'll try not to repeat what my colleague has said with relating with in relation to species, application licensing. But yeah, we are working. I can reassure the examining authority that we are working through that list as we as we go through. And there are a number of points that are still listed as Amber, or read that we are confident should be, should have been updated by now to green. So

44:48

they include, they include those points that have been raised in terms of otter and badger.

44:55

We also, there's also a requirement to undertake alt surveys. We.

45:01

We We are not in agreement with that, but we think that

45:06

that point should have, should be able to be closed out through through discussion and agreement. We are very happy with the approach that we have taken on in that regard, and we can pick that up later on this afternoon, if necessary.

45:21

Actually have also raised a point around this is a yellow point, which means that they are not in agreement, but they are that they are satisfied. This is in relation to the need for soil specialists to undertake supervision of soil handling. This is a point that is actually already embedded within the soil management plan, and was included at submission. So I think that's a point of just a misunderstanding. So that, again, I think we can, we can close out so of the 56 points that are on the risk log,

45:56

there are four that are green and agreed another that the yellow one that we believe should be green, and three of the, I think four red points that are also we don't the position that we believe should

be changed to green. That leaves 47 that still remain Amber. I'm not in a position to be able to come on on every single one of them. But to rest assured that there are a number of points that

46:27

that have been raised that are still are in Salem, but that we believe that agreeing to a point three, for example, landfall, the requirement to undertake a ground investigations of the landfall, this has actually, in fact, been undertaken. So again, we don't see any reason why that shouldn't be changed to a green status. Again, point seven of the risk log

46:52

states that the

46:55

C bank clay bit, Triple S i needs to be considered in the noise assessment that actually it has already been done. It was just a again, I believe that's a misunderstanding in the terminology that has been used between the noise chapter of the EIA and natural England's understanding of the naming of those specific sites. The specifics being that within the noise impact assessment, the I believe the chapter referred to the site as the anderby Marsh is a sort of local club, cool name, rather than it giving it his official title, which has led to some confusion. But we can, we can rest assured that it has been considered it was just a typo, so to speak.

47:47

There are a few other points, but

47:50

we could go in at length. I don't know how much you you want me to continue. I think that the point being really that we are working our way through that risk log, and we are engaging where we can, and working to work through those. And we'll, we'll update the risk log at each deadline where appropriate, and aim to close them out. That's sufficient. Thank you. Think you touched on a point I noticed really in that. I think you may well have addressed some of natural England's points, and they may not have picked on that just yet. So that's the part reason for me really wanting to ensure there was a an ongoing dialog with natural interest to make sure there's no misunderstandings, and any you know points like that could be clarified, so that the the log could begin to show a bit more sign of progress than that it does at the moment. So it was just that general point. So thank you for that clarification. It's encouraging that that is continuing, and I guess that will also be reflected in the ongoing work on the on the statement of common ground with with Natural England,

48:50

as that moves forward. Okay,

48:53

that concludes that particular point. Then I shall move on to biodiversity net gain. I note

49:01

the applicant's response to our first written questions. That's H, O, E, 1.16

49:07

where it intends to remove the provision for the curation enhancement of arable field margins from the outline landscape and ecological management strategy. Just a point of clarification to begin with. Would that have any implications for the applicants biodiversity net gain assessment reports? And that's as dash oh one four.

49:31

Sir. Harry wood Philpott, on behalf of the applicant on biodiversity net gain matters, I'm going to direct that question to Mr. Bob Edmonds, who's the bng lead from SLR consulting. So over to Mr. Edmonds.

49:56

Thank you so Bob Edmonds on behalf of the applicant. So you.

50:00

Question relates directly to the how we've considered arable field margins within the biodiversity net gain approach. Is that correct?

50:10

Yes. Well, the response to our first written question, hoe 1.16

50:15

confirmed that you intend to remove the provision for creation and enhancement of arable field margins. So it

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was just a point of clarification as to whether or not that would have any implications for your current assessment of net gain. You

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Bob Edmonds on behalf of the applicant, so I'm just

50:57

so we have, we have included arable field margins within the bng assessment, so they're covered in full in the bng baseline.

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I'm just just referring to table 4.4

51:15

point 4.1

51:18

in the

51:20

document reference 14, three, our biodiversity net gain assessment report, and that says that we've got arable field margins included in the post development

51:32

assessment, so they are included and they remain in the bng assessment.

51:39

Thank you. Your response to our first written questions, though states that provision for the enhancement of variable field margins will be removed from the olms has been

51:49

removed or will be removed from the olms at deadline three. Sorry, so is there a consequential implication for the bng report?

51:59

Sir? Harry wood forward, on behalf of the afternoon, I think there, as I understand it, that there appears to be some sort of

52:08

mismatch between the question you're answering, you're asking, and the answer that's being given it. I think there may be a certain amount of cross wires, as I understand the written answer, the written answer is concerned with the possibility of creating or enhancing field margins, and the answer explains why that the view was taken that that would not be appropriate, and that that is then reflected in an updated olms. I think, though I'll be corrected if I've got this wrong. What Mr. Emmons seems to be dealing with is whether or not existing field margins are included within the existing analysis of biodiversity. I may so. It may be that you're talking at cross purposes, but I, I don't want to speak on Mr. Roman's behalf, but that, I just want to check whether that might be what's going on here. Just to clarify, I appreciate that arable field margins are considered within the baseline of the bng report. The question is more whether the removal of the creation or enhancement of those field margins from the olms may necessitate and update the BMG report if they are contributing towards any net gain.

53:32

So I think, I think the answer to that question now, hopefully we've clarified. I think we'll need to take that away to provide you with a written answer, because it appears that that's going to require a little bit more thought and investigation, rather than just be able to provide you with a ready answer. Now, I hope that's acceptable.

53:52

It says, we'll note that as an action point, when will that response be available by I

54:04

so we can provide that by deadline. Three, thank you.

54:12

Moving on, then staying with biodiversity. Net gain. Lincolnshire County Council's response to our first written questions. That's rep 2069,

54:21

maintained its position that the project should deliver a minimum of 10% biodiversity net gain across the area, hedgerow and watercourse habitat types, as is best practice for ncips in advance of managed requirements being introduced next year,

54:38

and also with the proviso that offsite enhancement should only be provided where on site cannot be achieved.

54:45

The applicant refers to exploring opportunities for off site net gain and off site and net gain generally, and is engaging with local landowners and stakeholders in order to progress these This includes.

55:00

The Royal Society for the Protection of Birds, and is working with the greater Thompson vision projects. Could the applicant just provide a brief update on the opportunities that are being explored, how they may contribute towards net gain, and any relevant timescales that you may have on those opportunities at this point in time.

55:28

So thank you. Harry wood, Philpott, on behalf of the applicant, I'm going to ask Mr. Jenner to deal with those matters. I think he's closest to those discussions.

55:40

Chris Jenner for the applicant, the discussions have been ongoing with RSPB. In respective as you have referred to opportunities for

55:52

obtaining biodiversity net gain in collaboration with the Frampton Marsh landscape recovery project, there have been delays to the

56:03

development and submission of that particular scheme, but we continue to engage with them in respect of looking at how we can formalize those, if you like, options to work together on that particular Project. We are actively engaging in respect of a if you like, a proximity agreement, in respect of potential future areas of that where it runs close to our onshore cable route. And the intention is to use the form of that agreement to add on opportunities for recreation of bng. Should that be timely fit within the program timescales of our two respective projects?

56:50

Thank you. In terms of the stakeholders, is there anyone else that you are currently working with other than the RSPB, in terms of identifying those opportunities?

57:02

Christian for the applicant, we are in early discussions with other landowners, but none of those have sort of reached a formal stage yet, and we'll provide any updates on that in due course.

57:16

Okay, thank you.

57:18

Gonna bring in Lincolnshire county council at this point, please,

57:25

just to ask whether the county council is engaged in this particular debate and whether it's aware of any opportunities that may be available for off site provision, if that is deemed necessary.

57:39

So Neil McBride links to county council. As you may have realized, Stephanie Hall has had to leave the the inquiry, so I'm just picking up in terms of coordinating our responses. So I'll ask Mr. Clark, who's an infrastructure infrastructure ecologist in our team, to provide a response on that point. Thank you. Good

58:04

afternoon. Darren Clark, ecologist for Lincolnshire county council, in response to the question of, are we involved in discussions around potential opportunities to deliver biodiversity net gain? No, we're not, at the moment, would be happy to be involved in that. Our position is that we are we believe that there are opportunities, both within the the cable route and potentially adjacent to it, by working with with landowners. Pleased to hear that the applicant is in discussion with with landowners, but we'd welcome some some clarity around where those discussions have got to in a in a timely manner, so that if the applicant is relying on or proposing to deliver a net gain in biodiversity, which it states several in several places, throughout the application documents, there is clarity around What will be delivered, where and and, and how much,

59:02

I think our concern at the moment is that in terms of the the quantification

59:07

methodologies around quantifying biodiversity net gain require habitat surveys to be carried out at an appropriate time of year, which is generally during the spring and summer months. We were obviously outside of that timescale at the moment, so it's slightly difficult to see how we're going to get a quantification of any levels of biodiversity net gain that might be delivered within the timescale of the examination. Thank you.

59:34

Thank you. Mr. Clark,

59:36

first point there will the applicant on the county council commit to having a dialog offline, around the discussion, around looking for opportunities and to explore that particular point. And then

59:49

secondly, can the applicant please respond to the wider points that Mr. Clark just made? Please in terms of the survey work? Thank you, sir. I'll.

1:00:00

In a moment, I'll pass to Mr. Jenner to deal with the issue of whether we're going to engage with the county council on off site opportunities. But

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before I

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turn to Mr. Redmond to deal with the question of surveys and so on, it's important to place this in context. This is a nationally significant infrastructure project for which there is, of course, no requirement, legal or policy requirement, to deliver any particular percentage of biodiversity net gain.

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Important starting point, because the premise on which the County Council's case is based, is simply false. There is no foundation. There is no legal foundation. There is no policy foundation for requiring an applicant for an NCIP to provide a particular percentage of biodiversity net gain.

1:01:00

So far as policy deals with biodiversity net gain outside the statutory system, which is not yet enforced for ncips, it does so through the NPS, and our written material has explained how we respond positively to and comply with what the NPS has to say about looking generally for opportunities where they arise within the project

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for delivering net gain. And so concerns raised about whether or not there is opportunity to undertake the surveys that would be necessary to provide a numerical calculation simply proceed from a false premise. There's no need for that because there is no need for a numerical analysis. It also follows that in so far as we're looking at opportunities off site to provide further biodiversity net gain, those go beyond what is necessary to satisfy the policy.

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Those are matters which, if they are delivered, may be a good thing in terms of the public interest, but would not be things that could properly be required by means of requirement, or taken into account by means of section 106 obligation unless they were felt to satisfy the tests that had clearly set out for those two matters. And in so far as the county council is seeking a percentage, a particular percentage, that would fail to satisfy those tests, so it simply couldn't be required in that way. So I'll just turn

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briefly to Mr. Edmonds in terms of anything further he might want to say about the survey effort, timing of surveys, and how this relates to this matter. And then I'll go back to Mr. Jenner for anything about liaison with the county council on opportunities.

1:03:04

Okay? Thank you so Mr. Edmonds, on behalf of the applicant, so in respect of the survey, so all of the on site baseline surveys that are required for the bng assessment have already been completed, and those have been embedded into the or addressed within our bng assessment that is has been, already been provided

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in respect of the third party land, which my Mr. Jenner referred to,

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these parties that we, that the applicant is currently in discussion with, are in a position to provide what detail of what specific habitats and the particular type and condition of those habitats can be delivered on their land. That's part of what they will be providing to the applicant. So they will already have done those surveys where they need to

1:04:04

Chris Jenner for the applicant in terms of the part of the question in respect of working collaboratively with Lincolnshire county council. Indeed, that is something we already are committing to on a we have held regular monthly meetings with Lincolnshire county council to update on a number of matters,

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including biodiversity net gain, as well as having been very pleased to have the opportunity to explain on those opportunities to the Lancashire county council planning and regulatory committee on the seventh of October

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on these subjects, as well as other points of project. Updates. So happy to to work more closely when such opportunities are further developed in discussions with potential partners. Thank you.

1:04:58

Thank you. Mr. Jed.

1:05:00

Do links county council have any comments in response to what they've just heard?

1:05:09

Neil McBride links to county council, I think, in the in the hearing yesterday, when we're talking about the draft development consent order and the County Council's request for a requirement to pick up biodiversity net gain. Miss Hall explained the reasoning behind why we felt that was justified. So I won't repeat that, but I'll invite Mr. Clark to see if he was wants to respond to any of the points that have been raised.

1:05:42

But Darren Clark, for Lincolnshire gas Council, pleased to hear that that where

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discussions are going on in relation to delivering potentially biodiversity net gain off site, that the information is available on the current the baseline status of habitats, that that potentially answers some of my concern from from the stated previously. And I think just in terms of our position, really Lynch county council is looking for a commitment to deliver a net gain in biodiversity. I think all the other end tips that I'm that we're working with in the county at the moment are planning to deliver a net gain. The applicant in this case is committing to is stated that they are going to deliver a net gain. It's really how that is. The commitment is, is detailed in terms of how, when and where it will be delivered, and also how it's adequately secured in the DCO. I think that that really sets out what, where our position is at the moment. Thank you.

1:06:42

Thank you, Mr. Clark, that does take me on some of my next questions. Actually, in that I was going to ask you whether you're aware of any other n sips in the county that we're looking to secure a net gain by requirement. I think you've just said that all the ones you're you're involved in, are seeking to do that. Is that correct? My

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understanding at the moment is that there are

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other

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developments within the county, other ends within the county have committed to a percentage of biodiversity net gain.

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Thank you, Mr. Clark, going back

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to the applicant, then, I think, and discussions earlier in the week, you lose the fact that they lineage the projects did mean that achieving net gain was particularly challenging. But could you just clarify why a requirement to net gain isn't possible in this instance, in relation to the projects appreciate the there's no managed requirement for net gain at the moment, so I take that point on board. But other end tips are are seeking to achieve net gain and are taking forward requirements on that basis. If you could clarify why this particular project isn't able to do that, please. So Harry wood pilfer on behalf of the applicant, I want to start by clarifying an important distinction. There is a distinction between achieving net gain and seeking to achieve a particular percentage of net gain. And this comes back to the point that I made at the start. When one looks at the National Policy Statement, which is ultimately under the statute,

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the policy which sets the test against which this application must be determined it does not require a particular percentage. What it does require is an approach which seeks to take opportunities where they arise within the scheme.

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And I'll ask in a moment for some commentary on the relate on the particular nature of the scheme. So when one is looking to

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biodiversity net gain, but shorn of a particular percentage tied, in other words, to the policy rather than a forthcoming but not enforce numerical assessment,

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then the question of what is secured depends on what is proposed and relied upon. So if, for example, biodiversity net gain is based on planting associated with a substation, then one needs to look to see whether that is adequately secured, but not to deliver a particular percentage, but in terms of whether what is relied upon can be and would be delivered pursuant to the relevant parts of the development consent order. So that's the that's the first point. The second point is that one needs to be very careful when reference is made to other ncips Delivering net gain or securing the delivery of net gain. And there was a

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lack of clarity, if I may, put it in that way, in the way that the matter was addressed recently on behalf of the County Council. And it certainly wasn't made clear whether any.

1:10:00

Five the development consent orders as made include a requirement for the delivery of a particular percentage biodiversity net gain.

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That's critical, because, as we've explained, there is a distinction to be drawn between voluntarily seeking to provide a particular percentage, or something off site, which is not required by the terms of

the policy, and being obliged by means of a requirement on the face of the order to deliver a particular percentage, because one then comes back to the test for the imposition of a requirement and one and perhaps the first and most critical part of the test for imposition of requirement is necessity.

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Now necessity would generally be tested by reference to whether or not the development would be acceptable absent the requirement, and if a requirement is necessary in order, say, to ensure compliance with policy, then you would pass the test of necessity. But if it is simply something which can be done but doesn't need to be done to make the development acceptable, that fails the test of necessity. And so if one is to point to any examples of other development consent orders that achieve a particular percentage by means of a requirement, one would have to look pretty closely to see how that was justified in terms of the reasoning, to see whether or not that was a proper precedent to follow. And so far, so far as we're aware, we haven't had our attention drawn to any examples that seek to do that, happy to look at them if they are and then against that

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context, I then want to turn back, if I may, to Mr. Edmonds, just to explain,

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first of all, the constraints that exist in relation to a project of this type, in terms of delivering bng, but also where we have sought to take those opportunities and how we've sought to take them. So I'll pass over to Mr. Edmonds to deal with those matters, if I may.

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Thank Thank you. So Mr. Edmonds on behalf of the applicant,

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so

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as we've as as has just been set out, we are committing to delivering a biodiversity net gain, but we are not committing to a particular percentage, and a lot of the reason for that is the nature of the project that we are dealing with. This is a, this is a cable, a cable route for an offshore wind farm where we have a where we're dealing with a red line boundary that covers a maximum design scenario,

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and therefore the level of detail that we have in terms of the impacts that are likely to occur

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are not yet fully, fully fixed at the design stage that we're currently at. That's quite different from other schemes that you may have been aware might have been involved in, such as solar farms, whether it be a recognized footprint.

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So in order to address that, what we've done is we've provided the calculation

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for the baseline that we have at the current time using the red line boundary.

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And we have said that we will refine that approach as we go through the detailed design stage, and as we refine the design, we will then be able to deliver and confirm exactly the quantum of biodiversity net gain that will be delivered by the project, both on site and as Mr. Jenner has put out the off site provision that we've been in in consultation with other parties on

1:13:48

Thank you. Mr. Edmonds, pretty

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much. Mr. Philpotts, query, can the county council confirm if they are aware of any other development consents orders that do specify a percentage for by division at a game as a requirement within the order.

1:14:06

Now McBride Lichter county council just looking at some previous decisions that have been made in the county this this year, and I've just identified cotton solar and at requirement nine that has a biodiversity net gain requirement, and it sets out a percentage which the

1:14:28

developer is required to meet. I'm pretty sure that also gate Burton and other projects that have been

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consented over the summer have similar

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requirements, but I've not had an opportunity to review those yet. But certainly cotton has, and we can provide the necessary details at deadline free.

1:14:55

Thank you, Mr. Bride, could the applicant please review those?

1:15:00

Yes, and I'm certainly aware of at least one other incentive, the malapa seller farm as well, which did include a requirement for percentage of net gain within the development consent order. I understand the showing and Dudgeon extension projects as well also included a percentage of net gain.

1:15:19

Apologies. Correction, that was just a commitment in a requirement to provide for net gain, but without a specified percentage.

1:15:30

If I can review those DCOs, please and come back with with comments as to whether or not that'd be possible in this instance, and if not, why, we'd appreciate that. So

1:15:42

Harry wood Filton on behalf of the Atkins. So yes, we'll certainly do that, as I indicated, if only you're drawn to our attention, we're happy to look at them. We've got those examples. We'll see if there are any others we're aware of. And what we'll seek to do, as I indicated, is to look carefully at the explanation as to why that has been imposed in that way, in order to understand the case for the necessity for such a requirement, and then we'll address the implications of that once we've undertaken that survey of the available material.

1:16:18

Thank you.

1:16:22

Before we move on, do Lincoln County Council have any further comments to make in respect of biodiversity net gain?

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Yes, sir. Thank you.

1:16:40

Thank you. Moving on then to the County Council's request for a ecological Steering Group, an environmental compliance officer and an ecology enhancement fund.

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We know that there's a discussion going on between the applicant and the county council in respect of possible section 106 agreement that may well cover some of this, and that's still a live discussion, as I understand it,

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unless either party has anything specific further to add on this point. At this point in time, I will defer this point to a later date, if that's acceptable to everybody, given the ongoing nature of the discussions on this point. Thank you, sir. Harry was talking on behalf of the applicant. We don't have anything to add to what was said in the development consent order issue specific hearing, so we're content to defer it

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now at Brienz county council, likewise. So we're happy to defer it for now.

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Thank you.

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That draws my questions on onshore and ecology and ornithology to a close.

1:17:49

Time's now 23 minutes past one. I think it's probably time for lunch break before we move into land use, judging ground conditions later on this afternoon,

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if everybody's agreeable, I propose a lunch break through till about 10 past two?

1:18:05

If that's acceptable, we'll defer until 10 past two and then continue with the remainder of the hearing

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so we can resume at 10 past two. Thank you, sir. Applause.