

TEXT_ISH3_PART1_A1iN_Session2_2104202

1

Wed, 4/21 1:43PM • 1:30:51

00:07

Hello, the hearing is now resumed.

00:15

May I confirm Please wait.

00:20

Miss pattern if we have restarted live stream now.

00:28

lifesavers cometh.

00:31

Thank you very much Miss pattern

00:34

having reflected over the break

00:40

on the previous to previous issues into competition that we had previously regarding to water environment, I would actually like to come back to Mr. basford. And can I just confirm that Mr. bassford is

00:59

online? I understand that he dropped out momentarily from the call.

01:05

I am here, sir. Thank you. Thank you. Thank you. Thank you very much. Mr. bassford. Would you like to comment on one of the points that was raised previously by Ms. Mel and also by Mr. Lavery,

01:22

in terms of the understand that

01:26

the applicant is only providing best practice in actually what is required is mitigation and compensation

01:34

for the culverts.

01:38

Would you like to actually comment on that in terms of the point in terms of mitigation and compensation, please.

01:47

So the

01:50

I think that is perhaps reversed from the position, which is to say that the applicant has carried out Wi Fi assessment and environmental impact assessment.

02:01

It then identifies whether there are likely to be effects it considers whether mitigation or compensation is required. And then it's applies the mitigation compensation, which is then secured in the

02:19

in the decio, in the camp, and we we

02:26

then include it now that that is then done in accordance with best practice. And that's where best practice comes in. So highways England has carried out assessments.

02:39

And done that properly. The best practice gets attached at the end of the process, not at the beginning. So best practices, not some sort of alternative to mitigation and compensation.

02:54

I understand depth, Mr. basford. But

02:59

my understanding of situation as well, and from what was said previously from the Environment Agency,

03:08

is that

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you may provide mitigation and compensation. And obviously, we one would expect that that would respect best practice. Nevertheless, best practice is not precisely equivalent on mitigation or compensation. And I think it's this issue that is still not 100% clear from the previous discussion. But the

important thing to recognise there is that we have to assess the impacts of the project, and then report them.

03:45

And we have to provide litigation and where that is not possible compensation. And that's as far as it goes.

03:57

Okay, can I go back to the Environment Agency, perhaps mismo or Mr. Laverty to actually comment on that? And could you actually provide some further information why you believe that the applicant is only providing best practice which is not equivalent to or does not equate to mitigation and compensation that is adequate for the proposal and the application in the works being carried out at this point.

04:35

Thank you, sir. It's Alistair. Laverty here. Can you hear me okay. Yeah. Yes, please. Mr. Laverty?

04:42

Yeah, in terms of

04:46

the mitigation that's presented in the highway, regardless review.

04:51

So the applicant talks about

04:55

installing baffles within the culverts or replacing existing box

05:00

falls within the culverts. To ease fish passage. The applicant as the owner, operator of those structures has got a legal obligation to ensure fish passage through those structures. So we wouldn't really regard that as a mitigation actually, there's probably a legal obligation, if not,

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as I said, best practice to provide those structures to improve or ease fish passage in terms of the installation of natural gravel beds within the culverts itself.

05:33

Best Practice nai, as outlined in the serier design guide for culverts and screens and outfalls recommends between 300 to 600 mil of a natural bed within a structure Colver. As far as I can remember,

05:52

the structures within the

05:55

Colbert's in the crossings themselves vary between about 100 150 millimetres up to 250 millimetres. And certainly for the the water courses that are most significant. So the river line, the shepparton burn and the long date burn. The actually natural bed within these structures is actually way below it's only about 150 mil. I may be corrected in that, but it certainly falls well below what is nice, he knows best practice.

06:26

The applicant has

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identified that the Cydia design guide has changed over the period of the development of the scheme.

06:39

And, you know, I accept that. But having said that, we feel that actually, the scheme should reflect the current standards, not historic standards themselves.

06:52

And then I think,

06:55

yeah, sorry, sorry. These are the main elements that we feel are being put forward in terms of mitigation. And I think that's our reasoning, why we don't think they are enough to compensate for the loss of his work, of course has been put into culverts

07:14

is that it does help in any fashion. It does help. Thank you celebrity. Can Can Can I just clarify, then, just so that we can perhaps address this issue a little bit more clearly.

07:30

You mentioned the need to reflect current standards. So it is your view with these environmental agencies view that

07:42

the applicant is not providing appropriate levels of mitigation and compensation, as it is required to reflect current standards. Is that the case is that the environment agency's position? Our position is certainly in terms of financial burden, the culverts it falls below what nine is the Accept standards as outlined in the seria design guide.

08:09

I think in terms of compensation, that's a lot harder question to quantify.

08:16

But we do feel actually what has been presented as compensation falls short of what we feel highways England's obligation should be.

08:27

Mr. bassford would do like to comment on that, particularly in terms of the need to reflect current standards in terms of mitigation and compensation. This is really simple. They Mr. Lavery has just said that the Environment Agency feels that things fall below but he has not taken you through all of the areas on water caused by water cost basis to show what is not acceptable. And that is simply that it is not acceptable for them to just legally say to you that and leave you and the public with the impression that the National Highway organisation is some way coming short of its obligations.

09:17

And so, it is so what you need to understand is not not Mr. Lavery his general feeling but the individual measures that he says are not acceptable on a measure by measure water cost by water cost basis. And he's not doing that. Our position is that you have before you a fully assessed scheme by expert assessors where we have set out what is proposed and there is not a document where the Environment Agency has gone through and said this is not acceptable. This doesn't do the job. You need to provide this extra service for Mr.

10:00

FET has actually mentioned in his intervention just now, the river line, the long data burn in shepparton burned. So he has actually identified with his intervention now, three water courses that they have expressed concerns about in relation to mitigation and compensation. And therefore, in terms of what is being provided on these three watercourses.

10:31

Would you like to comment on the fact that the Environment Agency does not believe that it reflects best practice in terms of mitigation compensation?

10:44

So this property has not what Mr. Lavery is telling you is that the Environment Agency would like us to do things outside the limits of deviation that are not related to the project.

10:58

And what and what what we have done and our position is that the measures that are provided are ample for the impacts associated with this scheme. And what what you are facing, sir, is a position where Miss Mr. Lavery is telling you to reject this nationally significant infrastructure project, because the Environment Agency wants things doing, which it's not doing itself.

11:26

I understand your position on this specific issue, Mr. bassford, but environmental agency is the government adviser on this specific issue as well, therefore,

11:36

therefore, their concerns, and their intervention is particularly relevant on this point as well.

11:46

I Mr. bassford? Can I and Can I say something here is Mr.

11:52

Mr. bassford? I didn't hear at all Mr. Lavery actually saying that this scheme should be rejected. Did he say that? Well, you have a position, sir, where they are saying that the point is that the scheme is at a position where we're saying

12:11

let me rephrase that. I don't think Mr. Lavery is saying that the scheme should be rejected. But he is telling you that the scheme is not acceptable in its current shape. I think the correct point and forgive me for over egging the pudding there. I think it's very fair viewpoint that the correct point is that this scheme, which is one where the Environment Agency feels that the height that housing, that has not gone far enough, and we need to find a way between us and the Environment Agency to satisfy them as to the mitigations we put in place. Our position is that the mitigation is already sufficient. And the it flows, that if we can't get to that position, then you have to look at the acceptability of the scheme in opposition to the scheme is entirely acceptable.

13:05

I can students both had her her handout. Yes. Thank you, Mr. bassford. I was going to actually I was before I do that, I was actually going to ask Mr. Gleason, if you would like to come back or if Mr. Gleason to finish my submission, sir. Oh, okay.

13:23

Please. So what so the position the position is that the that this is I'm instructed the first time that the watercourse is of particular concern to the Environment Agency have been identified to housing. And we're grateful to Mr. Lavery, for that

13:43

we understand there for where we need to focus the work in our discussions with Mr. Lavery outside this examination.

13:53

And we are there for going to speak to him about that and what is required.

14:04

It is not opposition that simply achieving best practice is mitigation.

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And what we need to do therefore, is to understand how the individual works that are proposed do not meet the standard that the Environment Agency is seeking to ask us to apply.

14:25

I giveaway to them as well. And actually, Mr. Bassford, in terms of that, I do know following your intervention that the Environment Agency on their latest representation, which I believe was rep 5044 has actually mentioned within that the I believe all of the watercourses that

14:56

that Mr. Levery has just mentioned. Now, particularly I can

15:00

See reference to do we've aligned the long Dec burn into cheaper tempo as well. So I, I would like to actually bring that to detention as well.

15:12

Very grateful to you and to them. So thank you. Thank you, Mr. Bass, Fred's.

15:21

I'm just have a couple of hands up a moment. Miss Bolt, I believe that you would first want to raise your hand. Would you like to actually intervene on this point, please?

15:35

Yes, thank you, sir. It was just in relation to the issue of whether the Environment Agency is objecting to this proposal. And of course, we've never said that we've never said that we have a fundamental objection. What we are trying to do is work with highways England, to identify appropriate compensation appropriate ecological improvements, I know that there are discussions ongoing outside these hearings, with with my clients and with Mr. Bass, that's clients. I, my my clients are here today in their capacity as Expert Advisors to us so to the panel, they are giving their genuine view, and I'm becoming a little concerned as to how they're being spoken to. Mr. Lavery is giving you his expert opinion. I don't think we're going to get a lot further with this today, if I'm honest, and I'm very happy to go away with my clients. And we will talk to two I will talk to my clients, we will produce detailed notes in writing for you setting out all these points. And if Mr. Bassford wants further comments on any specific issues, then he can have them. I am concerned because there have been some points made, where it said that the employment agency has raised the issues previously. And we have but but I think rather than trying to get into that kind of detail, that that's something that that we can put in writing for you. And we're also hopeful that the discussions that are going on outside the hearings will will advance matters considerably. And then we can come back. Probably I think the way things going to future hearing and and update you at the appropriate point. So that that would be that those would be my comments. So I hope that help for they are very helpful. Thank you very much, Mr. Bass. Miss Bolt, I would like to also state in reiterate that we appreciate the time in the effort and the division from the Environment Agency, as well as all other interested parties that participate. And the examining authority is very much aware of that situation at Ms. Bolt if you wouldn't, if you if if you wouldn't like to intervene any further, may I please ask you to lower your hand, just so that we can keep Thank you very much.

18:00

Before Mr. basford, I note that you have your hand up, but I did notice before that means Moe had raised her hand. Can I just go back beforehand to miss Mel just to clarify if she would like to intervene or not to disappoint.

18:28

Hi, and I'm having some IoT issues and the raise the hand function was collected by accident. And now Okay, it's fine. That's not a problem. Thank you very much, Miss now. In that case, Mr. bassford, please, I believe that you have raised your hand.

18:43

Thank you, sir. And in in relation to miss Mo's comment just now, I'm glad that it's not just me that that happens to

18:52

the

18:54

result, lips bolts intervention is helpful and timely. And for the UN, I have worked previously with Ms bolt in situations similar to this in order to

19:07

to resolve matters that are very similar in nature. I think you have already requested a position statement for the next deadline between the parties. I think to the extent that we are able, it would be really good if the parties were able to agree that so that it can be brought into the statement of common ground. And if we're able to find a position so that the two parties overall position on these points is is captured that would be extremely useful to you and to us.

19:43

And I'm very grateful. So for those bolts confirmation that is not an in principle objection to the scheme. And I think that's, that's very helpful.

19:53

Thank you very much, Mr. bassford.

19:57

Take my hand down

20:00

Thank you.

20:03

I would agree with that position. As reiterated previously before.

20:09

I believe that that perhaps we can, we'll probably have to,

20:16

we have probably pushed this issue as far as I possibly can within the proceedings of this hearing. But as is we have all agreed now between all the different parties that position statement on this issue, clarifying exactly where we are in what the key issues are, would be extremely helpful.

20:38

Let me just please check my notes.

20:44

I would also like to now steel

20:49

in relation to the covered mitigation strategy, and what a framework

20:57

can Can I please just check the latest version of the react as part of the camp, which I believe is web four or 14

21:12

included a series of changes in relation to roads, drainage and water environments. Can I please ask Mr. bassford, to talk through the changes, including here, particularly in relation how it addresses the concerns by the Environment Agency, particularly around road drainage?

21:37

So the this is a point where I'm going to hand over to Mr. Andrew Smith, again, as he will, he will cover those particular items, and how we're seeking to address those particular issues. Mr. Smith, thank you very much, Mr. Smith. Sorry, can I ask you to repeat your question my wife, I dropped out at the most inconvenient point. Certainly, I'm now looking particularly at the latest version of react, which I believe was protected as part of the camp read four, or 14. And

22:17

some changes, I believe were actually made in this latest revision of react in order to address some of the concerns that were previously mentioned by the Environment Agency, particularly around road drainage. Could you please talk through those changes?

22:35

And I am looking particularly at

22:39

New actions that might have been included within the register to address those concerns, and how are they envisaged by the applicant to address concerns that were raised?

22:54

Okay.

22:57

So there is the Environment Agency issue, I believe,

23:02

topics covering the road drainage in terms of the temporary drainage aspects. I'm just trying to find a copy of it in front of me at the moment.

23:17

Unfortunately, I

23:20

don't

23:22

if it is any help, if it is any help. I believe it's web four, zero 14 within the library.

23:33

Perfect. Thank you very much for that

23:45

right now.

23:57

So I'm just double checking what was changed in this.

24:08

So this may well be something that you would prefer us to

24:13

address in writing that it is a detail point.

24:22

Certainly, but it is a detail point. But in that case, I would ask more general question which would be in light of the issues raised by the Environment Agency around road drainage.

24:37

I note that react has actually been updated with some actions that seek to address some of those concerns. My question in that case would be

24:49

have has is the applicant satisfied that the update of the riak raise it addresses all of the concerns that were raised before by the environment?

25:00

agency? Or are there any other documents or any other changes within the documents submitted that the applicant

25:13

expects needs to be updated in order to address the concerns in relation to road drainage? So thank you, that's really helpful. And thank you the,

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with the volume of information before us, and with the understandable detail that you can go into in the agenda, shorter of just asking a written question, I understand fully that you're not able to brief us about every item that's going to come up, I am not able to respond in the level of detail that you would like to go into at this stage, what we will do is, we will, as you will understand, we're speaking to many people about many things, what I would invite you perhaps to do, because they may have it more at their fingertips than ours is to ask the Environment Agency if they are satisfied, because obviously, when we do make a change, we aim to meet the concerns of the other parties that we are dealing with. And so so if the Environment Agency has at their fingertips, their view on the topic, and I appreciate you starting with me, then we're better able to respond to their comments.

26:24

So, so, Dennis, fine. Yeah. Good. Thank you very much. I

26:31

guess that's not a problem.

26:33

That was going to be my next question. Actually, two government agencies you mentioned, I wanted to actually just to make sure that we were all aware of the information before I move on to that, but newsmail Would you please,

26:48

would you please intervene at this point now. And please, if you could state, if the changes that have been made

26:57

are enough to address concerns that you have pointed out and explained within your latest representation, particularly in regard to road drainage?

27:10

Thank you, sir. And we're still in the process of reviewing the update itself. But we do note that some other comments that we've raised in our previous response have been taken on board

27:24

by Fortune Cookie, give you a dividend on the road, printed up whether or not the carbons have been tastefully taken on board.

27:34

Okay, I think the two are breaking up a little mismo. But I think I understood the general point that you're trying to make, which is you're still reviewing, but so far, you have picked up some changes within the reactor to address those concerns. So obviously, we will wait for the for review until the next deadline. Thank you very much for that.

28:07

And I believe that that actually concludes

28:14

what I wanted to cover and the first item offered water and environment. Therefore, I would actually propose that we move to the second item, which as I've mentioned it beginning.

28:28

Sorry, the second point within this item, which is I have mentioned at the beginning of this item is to consider whether the proposed development would have an effect on odd on otters within the order limits or wider study area.

28:42

So within that, actually

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Can I

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please

28:52

ask if

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the Environment Agency perhaps again, if the changes that have been made particularly around riak go some way to address concerns that have been expressed on your previous submission?

29:20

spacing row here

29:22

it might come up because my signals playing up but can you hear me all right.

29:29

I can hear a little bit better. Yes. Thank you.

29:37

Ms. Mel. I'm not sure if you're getting into leg now but we we cannot hear you again I'm afraid

29:54

while we wait for mismo connection to be restored. Hopefully

30:00

Mr. dabrowski, I believe that you have raised your hand.

30:05

The thing is that,

30:07

yeah, I can provide some more details on this topic, and it would be greatly appreciated problem. Lucy is going to try just redial in see if that improves her connection,

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just for information.

30:22

So the issue around autism, as we see it is that this is mostly specific to part B,

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where the applicant has concluded that they do not believe what is to be present. And

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from sort of local knowledge and from using historical records. We don't agree with that conclusion.

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It's sort of well known

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within the agency and in other instances that otters are widespread across Northumberland.

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If you look at the historical records, there are

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14 records of otters within two kilometres of the park be. Now, the applicant has mentioned that

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they generally look at records within the last 10 years as early records may not be relevant to the current ecological baseline.

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For us, we would, you know, we would look maybe longer potentially, because we sort of understand they are sort of having a favourable increase in their distribution and population. So I think if we think if we look at the data as a whole,

31:44

you know, we can see that there are six records between 2001 and 2009.

31:51

So only a little bit past that 10 years, some of the records. And five of the records, in fact, between 2001 2008 are records of road traffic collisions on the air one.

32:07

So that has shown historically that otters have been very close and actually within the DCR. And the current scheme actually itself has, at least in some time provided a barrier to movement. And something has you know, resulting those otters moving on to the road instead of moving through the existing culverts.

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If you look at otters at a wider area as well, five kilometres again, those more records, and I think some more recent ones as well.

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We think sort of acceptable to use,

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you know, understand that otters

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they are very highly mobile species. They have very large home ranges, maybe at least 20 kilometres of watercourse. So, although their survey methodology is to standard guidelines and looks at otters within 250 metres of the scheme,

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that is a useful method for identifying where otters may be resting maybe have, you know, rearing their young, where they are,

33:22

where they may be disturbed, and that is part of their protection. They're disturbed against protection. But we feel that the sort of the data does and the assessment doesn't take into account the potential for commuting otters

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and

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which we think the record show that there is a likely likelihood.

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So we would, I think we would encourage

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that

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measures that might look at how, you know otters can be directed towards culverts, directed away from crossing the roads. So we're not asking for a complete redesign of every single call that within that stretch,

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just that, you know, what we can do to help them as we believe that is that there there could be present.

34:19

Thank you very much for that Mr. dobrowski in our Woods x. I would now perhaps go to the applicant, first of all,

34:31

to comment on the suitability of this time scale provided. So we heard about the 10 year time scale, but also the radius of action. And I also know that meezan de France's I believe that you will have raised your hand as well. I will go to you after I have given

34:55

applicant a child a chance to reply to this email

35:00

You, Mr. basford, would you like to come in on this point, please?

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Thank you, sir.

35:09

And thank you, Mr. dabrowski, for his comments. So, it is very useful, but Mr. dabrowski has

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has confirmed that the survey appropriate survey approach and the approach that I was England has undertaken is appropriate

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based upon the relevant guidance, what is being sought here is that housing that goes beyond the relevant guidance.

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And

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so,

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he is asking for us to look outside the generally accepted approach to surveys here. And it's important to remember that the project is

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in Part B relates to a road that is already Institute.

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And so it is about it is about

36:08

an existing situation, which we would say we are not materially worse. And so, we would say that not only is the survey approach appropriate, that the interventions by the applicant are also appropriate. In that context, unfairness was Kurowski, that that is a position which the environment Environment Agency has taken consistently, the there will continue to be passage available through the improved highway, it is not likely to result in a worsening of the situation. And so therefore, we would say that we do not need to go any further than that. And you don't need to look further than that either.

36:56

Thank you, Mr. bassford, for that answer. And

37:01

apologies, Miss dereferences. But I'm actually going to go back now if I may, back to Mr. dobrowski. And I would just like to bring you in discussion. Now, in terms of if you would agree with what is your view of Mr. Buffett's intervention, particularly in terms of the approach taken? And why it is your view that determining your scale and radius

37:30

could be expanded? And how does that actually match the requirements that the applicant is is

37:43

required to do and, and and as as part of the process in your expert opinion?

37:51

Yeah, thank you, sir. I can replace that. And

37:56

I would say that a lot of assessments undertaken by ecologists is to use their experience and sort of their judgement. And based on, you know, the facts that are presented to them.

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The given the size of the scheme,

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I don't think it's too unreasonable to look further than two kilometres, say for a highly mobile species. Nonetheless, within two kilometres,

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you know, there are records of otters.

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And I think actually, three of those if I remembered rightly, were within

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the last 10 years, I just have to go check my desk to make sure

38:48

as far as not worsening the situation for otters.

38:56

qubits, especially ones that are quite small,

39:00

that are already 70 metres long. You know, I think the fact that we have records of their daughters on the road could indicate that they are already,

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you know, less likely to want to use them. If you extend them without doing anything to encourage them to use it. I don't see that any kind of mitigation or anything that's done to acquit for the longer crossing points. I think the other worthwhile point to solve raise is that

39:33

if otters do find themselves crossing the road, they're now crossing crossings instead of two. So you've got a much wider carriageway for them to cross which again could be more dangerous for them.

39:52

Okay, that's very helpful. Thank you very much Mr. Zebrowski.

39:58

Miss de France's

40:00

Can I actually bring you in as well, this point of discussion, I believe that you had your hand raised. Roski cannot. Apologies. Mr. dabrowski. Can I please ask you to lower your hand if you are finished for the time being? Thank you.

40:17

Mr. Francis. Good afternoon, sir. I'm Andheri Francis and I'm one of the ecologists at Northumberland county council. I had actually escaped my attention that otters were considered to be not present in Part B. And in support of Kristof's comments.

40:37

It is widely It is generally accepted by us as a local planning authority when assessing normal planning applications that otters are present on most watercourses in Northumberland, and an absence of a huge amount of records, it doesn't necessarily mean that they're not there, because a lot of the records that we have in Northumberland are reliant on volunteers or naturalist or ecologists actually providing that data to the appropriate record centre. We do accept that they are present on most water courses. A lot of the time, when we are considering planning applications, we would say that it is sensible to apply precaution, the precautionary principle and in some cases to do away with detail auto survey on the assumption that they're likely to be present. So, I,

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initially in looking at the whole scheme, when it came to the concept of no net loss, which I appreciate isn't this question, specifically. But is another question that's going to come up later.

41:47

One of the things that allowed us to balance that net loss was the the improvements to road crossings and the likely reduction in road casualties of badger and otter and all of those species that we do regularly see casualties on the a one. So I thought on Part A, the solution to that of providing road crossings was very welcome. And to be honest, I've missed that that isn't in place on poppies. Well, we would welcome that. And I think it is sensible to apply the precautionary principle. It's no, there is no criticism of the methodology that's been used by the ecologists. They are a secretive species as well. And quite often on water courses where they are recorded, you wouldn't necessarily find a great deal of evidence of them.

42:40

But I think in less there is excessive cost or it's unreasonable, the level of cost that's involved, then, simple mitigation measures such as barriers and improvements to culverts that allow that connectivity and that

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the ongoing ecological functionality of the place that they need to work in, that they need for commuting and for foraging and for getting around the place. I would say that that's entirely reasonable

43:09

to request that, in less the costs are excessive.

43:14

Okay, thank you very much for your intervention. Mr. Francis. Mr. bassford, would you like to comment on this intervention, particularly, in terms of the application of precautionary principle within part two of the scheme? And also how to mitigating

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how the mitigation measures have actually considered the experience that Mr. dabrowski and Miss Gary Francis have just highlighted to us.

43:56

Mr. bassford?

43:58

There I go talking into the muted microphone. Again, the

44:03

the position of the applicant is that escaped this scheme some time ago.

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It has carried out a number of

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of surveys

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in accordance with the guidance, and we're being told we should carry things out in accordance with the guidance.

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Similarly, in accordance with the guidance, historic ref records were,

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were consulted. And we believe that the last known auto record was in 2015. And it was a kilometre away from part B of the scheme. So it was some distance away and some time ago.

44:56

And so having carried out the survey and with there not being

45:00

Any designation which means that one should assume that officers are present, you have to ask what extra does one have to do just one simply assume for all receptors that they are present and it that there is a there is a a problem with that approach and, and so, having carried out surveys in accordance with the scopes, as we would say we took an appropriate approach. The next thing to say is that

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the

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we do not accept that we are causing a material deterioration in connectivity as a result of the scheme.

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Nevertheless, the applicant has offered a compromise and the latest written responses to written questions saying that it will monitor so that it knows if action does need to be taken at some point in the future, but that that is about building the evidence which we say is absent rather than the evidence of absence, because there is there has been no

46:08

no presence detected as a result of the surveys undertaken.

46:15

Thank you, Mr. basford. For that, that actually, is something that I wanted to ask further, I have picked up on your representations in the information that you have actually submitted

46:29

the point that you have just made in terms of offering

46:37

to survey the species. Nevertheless, if these are found to actually be present, what is the scope within the scheme and within the design of the scheme for those to be addressed, if they are found to be present as a result of

46:55

the surveys and future in future monitoring of the presence of waters in waterfalls?

47:03

Was that, that, thank you, that is a matter which would need to be responded to adaptively which is to say that the intervention would need to be identified at that point, rather than predicting what it is now.

47:23

That every This is the opposite of the conversation I was having with Mr. Gleason, where we have a prediction of a of an outcome based upon very good information here, there is an absence of data. And we are trying to predict what we would do if there was some data. And all of the information suggests there wouldn't be any

47:47

in the intervening periods. So we are so one would really have to respond adaptively I would say to that, sir, and look at whether there was appropriate or even possible

47:58

measures to to deploy at that stage.

48:04

I understand that point, Mr. basford. But as we have heard from both Miss jury fancies who have actually confirmed that within the local authority, they assume that actually otters in waterfalls are present in all water courses. And as we have heard from the division of Mr. dabrowski, as well, which has mentioned

48:28

that road collisions and traffic collisions have actually been known to happen. I would question perhaps

48:43

D assumptions in terms of no data present to confirm this. Well, could you perhaps explain that a little bit more why you believe that there is no data present? Because a with so let's be clear about the environment agency's position here, they have confirmed to you this morning, and previously that the surveys undertaken are suitable and acceptable. But what they're asking you to do is to set aside the surveys, and simply to proceed on the basis that something may be present.

49:18

And that is on the basis of information, which is over a decade old.

49:24

And so it isn't the case that there is an IT IS AN app's not an absence of data, we have data and the data is as the absence of the species as a result of the service. And it's the reason why this theory Francis says we will do away with surveys is because they assume otter to be present. It's not because they assume them to be absent it's because they assumed to be present. However, we've carried a survey and that survey has shown that they are not present there.

50:00

Is data which is over 10 years old. So that suggests that there are there are not otters present, and the nearest individuals that have been identified were a kilometre away. Now, on that basis, it would not seem appropriate to ask us to mitigate a thing, which is not present, which we've taken an appropriate approach to demonstrating the absence of that everybody says we've done an appropriate survey. nobody's saying we've done anything inappropriate.

50:32

Thank you. Mr. bassford. You mentioned Mr. Francis intervention earlier. And

50:41

I notice that Mr. Francis, has her hand raised. Would you like to respond on these specific points?

50:51

And, yes, please.

50:54

The The reason I raised my hand was because you mentioned waterfall and otter together, we have an slightly odd situation in Northumberland, in that we have

51:06

it's it's becoming clear on what the situation is with waterfall, but they are generally quite rare in the county. So we don't tend to put those two together where results are common and widespread. and improving.

51:21

I would go back to my point about applying the precautionary principle. And

51:27

it's it's a generally accepted

51:31

principle when carrying out ecological survey that because you don't have evidence of presence, it doesn't, it doesn't necessarily necessarily mean that there is an absence of that species, it might just be that you've gone along at the wrong time, or that they're behaving cryptically. So

51:51

for example, female otters, from what I understand that I'm not an otter expert,

51:57

they tend to not leave a great deal of signs around big if they're if they have if they're breeding because they don't want to draw attention to themselves because male otters are quite aggressive.

52:10

So there are lots of reasons why presence may not be evidenced. But it may not be crystal clear that that is a proof of absence. Right. Thank you very much for that clarification. This is Dr. Francis. It also thank you for mentioning to tuition regarding two waterfalls. I believe that I mentioned those two, in tandem, linked to the representation that environmental agency has made, which I believe actually mentioned both species. But that is noted. Thank you very much. On this point, Mr. dabrowski, would you like to intervene as well, I noticed that you have raised your hand some time ago.

52:56

Yes, thank you.

52:58

I just

53:00

like to thank you for that comment. And I would agree

53:04

with those comments that saying that an absence of data is not necessary, an absence or a confirmation of absence?

53:12

As you know, a lot of ecology is about interpreting

53:16

the data and would have looked back I think I mentioned earlier that said I would check my records. And so using our record service

53:28

of those 14 Records, I do have three within the last 10 years. So one from 2015 2016 and 2017. So to me that does show that we have relevant records,

53:45

we use a two kilometre data search. So comments that the record was

53:52

one kilometre away doesn't seem relevant. And seen as a, as I stated before, we do have autos are highly mobile. So having a record one kilometre away from the scheme is is definitely relevant.

54:11

Thank you for that. Mr. dabrowski.

54:15

Mr. basford. Would you like to come back on that point?

54:21

I, I think this is probably going to be

54:25

a matter for

54:29

for written representations.

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I think the the important thing to say is that in line with the approach is describing a situation where ecologists like the experts who are retained by highways England would carry out a survey, but they also need to interpret the data that surrounds the

54:56

surrounds the survey area and gives it context

55:00

And the is a situation here where that is exactly what highways England has done in relation to this project.

55:12

And its expert ecologists have undertaken repeated visits to the site a number of years of survey, there is no evidence there's not a single sprint, or footprint or anything over the years of survey that have been undertaken. So it's not just a single survey, it's back repeated survey. And not only that, but there was a two kilometre data search undertaken by highways England. And so the

55:40

so the 2016 2017 records to which Mr. dabrowski has referred, are interesting that the records were absent from the data search that was undertaken.

55:54

So how are we thinking that is doing what it's supposed to do here? It's carried out the surveys. And it has interpreted that in light of the

56:03

the wider context that applies here.

56:08

And it has been precautionary in what it has done. What's being asked for is a gold plating of the precautionary approach. I think really, they This is now a metaphor for written submissions to use. Yes, thank you. Mr. basford. would agree with that, I think

56:30

similar to the previous point, regarding the covered mitigation strategy, I think, by the interventions today that there is still some ground to be covered between both parties.

56:45

I understand what you have just mentioned Mr. basford, in terms of the need for interpretation and

56:56

interpret context and evidence in light of expertise.

57:02

Nevertheless, it still remains that Mr. dobrowski intervention, and also Mr. Francis intervention.

57:12

highlight that there is still some divergence of opinion in terms of these experts as well, therefore, I would perhaps suggest as an action as well, that's

57:25

a statement is actually produced, following this hearing, highlighting

57:32

the positions in the latest positions into devolvement of the situation, particularly in relation to, particularly in relation to the effects on otters here.

57:50

Well being well, that will find its way to the actions list following this hearing. So thank you, please, thank you.

58:10

I also had prepared

58:13

some questions in terms of defects on otters regarding specific actions that are included in the riak. Mr. bassford, are mindful of the time that we have actually spent on this specific topic, but also mindful of your previous intervention regarding the level of detail of some of these, perhaps, because some of the questions are actually regarding specific actions included within riak, particularly those that mentioned waters and are included in order to address some of the issues and some of the representations to do with autos.

58:54

Perhaps these can actually be addressed. I propose that we address these in written form as well. If the environment agencies also content with that position. So Mr. password, could you please confirm that you would be happy with that as well? In terms of Yes, yes, we will aim to do this in written form, I think where I think perhaps I look to Mrs. roschin. Mo in relation to this as human and suppose it's back with us. I think the position between the parties is that there isn't an issue with the mitigation that is

proposed in the reaction camp, it is that the Environment Agency feels that there should be more in there. And so so it's not a criticism of what is included, it is simply that the Environment Agency would like additional measures and perhaps Mr. dabrowski and, and almost no would confirm that but that helps us focus our discussions. Yes, in terms of focusing the discussions. I would agree with that.

59:55

mismo Would you like to actually comment on this point as well. Particular

1:00:00

In terms of if addressing the concerns that have been highlighted before, would it be appropriate to actually do this in winter form as we are proposing at the moment? And

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also, my understanding is that the actions that have now been including included and looking particularly at section A, B 17, A, B two and a B, eight

1:00:27

have gone some way to addressed concerns, but could you please confirm that you believe that there is still some ground to be covered between the two organisations?

1:00:37

Thank you. That is correct. We will work with the applicant to refine the reactive measures in respect to auditors. We welcome the addition of this new measures but they're not quite there yet. Okay. That is very helpful, thank you smell are would actually like to in that case, move us to item two bullet point three item of off to the water environment

1:01:05

which links with outstanding matters.

1:01:12

More generally, perhaps, I will turn to mezzmo. Again, in addition to the matters that we have covered earlier, particularly regarding the COVID mitigation strategy in water framework, and now also the effects on otters. Are there any other specific items outstanding of concern that you would like to raise Now, in addition to the broad topics that we have just covered?

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I have nothing further to add to that, as we'll be discussing the

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assessment later on.

1:01:55

Thank you very much.

1:02:03

Thank you.

1:02:19

I would also like to ask one final question.

1:02:25

In relation to the proposed woodland in marginal plant planting plan.

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It's a more strategic question, which I actually think it's quite relevant important for us to rise in to have a discussion in this hearing about

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in terms of

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addressing

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the issue in how the proposed type of planting

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within deaths, the marginal planting plant rep for all 31

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address addresses the impacts on water courses and is adequate to offset the impact of the proposed one water courses. So, perhaps Mr. basford, I would like you to please address this point on behalf of the applicant in terms of explaining the reasoning and strategy developed for that.

1:03:24

Thank you, sir. It is important to realise that we are talking here about marginal planting as in this context.

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And this has to do with the the impacts which are acknowledged in relation to loss of watercourse habitat.

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And

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the position of the applicant is that it has achieved the maximum mitigation that is necessary and appropriate for the scheme, but it does not consider that compensation is required. And so, so, the marginal planting is not to be considered in the manner of compensation,

1:04:21

where compensation is envisaged, it is to

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it is in relation to

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riparian planting. So, in terms of compensation, that is not the right term planting it with with that looks at things such as improved channels.

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The replacement of wooden baffles

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things such as that nature baffles being placed in existing culverts

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and bank improvements to long dike burn and we say that is enough mitigation and compensation all together to address the

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And

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that there are however, as part of the project proposals for wet or riparian Woodlands to be provided. And the objective is to show where that this is intended. So that it is apparent to Environment Agency, this doesn't relate to isolated specimen trees, it's, it is a proper

1:05:25

a proper amount of that. And that will be picked up in the landscape design. And the

1:05:34

and that is a benefit of the scheme to be weighed in the planning balance by you when you consider this project. And it's important to realise that this includes all sorts of riparian environments such as in relation to

1:05:55

attenuation, features, and so forth, where this sort of habitat can be provided will provide an additional benefits as a result of the scheme. Thank you. Thank you, Mr. Boss, for a couple of points that I think

that perhaps my question might not have been as clear with or would have written but a couple of points in terms of compensation and mitigation.

1:06:18

In light of two previous discussions, I believe that there is still some ground to be covered. And I think that we have all agreed to actually deal with that between through written representations. So my question, my question is more to do with the nature of the planting that is proposed in how in how that nature of the planting is proposed as an adequate if adequate planting to offset to impact. So in I believe that I'm actually using the words that are within the document of the applicant. But there is planting there is proposed to offset the impact of development, I believe that we can possibly agree with that.

1:07:06

I'm not talking about compensation on mitigation, I will wanting to understand the nature of the planting and how that planting is adequate, as opposed to other kinds of planting that perhaps could be covered within the proposed woodland and marginal planting plan. If that clarifies my question. Thank you, I'm going to look to

1:07:32

Messrs Ernie Smith and Andy Williams, who are respectively the water environment and landscape experts advising highways England to speak to this. First, Mr. Smith, if you would explain to Mr. Pinto, the approach to the provision of riparian planting that we're taking.

1:07:58

In previous discussions with the Environment Agency, it was raised, that they didn't want to see isolated trees along the

1:08:09

banks of the channels, and that blocks of trees would be more beneficial, which is why we draw prepared this plan showing how that the trees formed part of a wider area and therefore can be better managed over the longer term. The

1:08:31

planting alongside the water course will help aids brain stability, provide a bit of shading to the channel to help maintain oxygen conditions. The actual choice of the plant in itself

1:08:45

is something that will progress, more detailed design. Perhaps Andy Williams might want to say a bit more on that.

1:08:56

Mr. Williams,

1:08:59

thank you. So yes, sorry. Yes, the the moment the landscape mitigation design identifies areas of woodland

1:09:07

and at the detailed design stage, that would be the point at which the sort of species selected to go into the relevant mixes for sort of what would it was sort of wet woodland or ripe here in Woodland would be sort of identified there sort of, you know, recognise species such as older that are quite happy to have their feet in water and will fit in in areas that either float or just stay permanently permanently wet. So that's something that would be developed through the detailed design stage.

1:09:43

That's, that's helpful. Thank you Mr. Williams. And therefore, I am assuming that it is due to the nature of the planting that you are considering at the moment that

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as opposed to other types of planting. It is Dells characteristics.

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Let's make it suitable to offset the impact of the proposal on water courses. Is that case?

1:10:06

Correct. Okay, thank you very much. Thinking Mr. Williams.

1:10:15

I don't believe that I have any further questions on this specific topic of water environment.

1:10:26

Can I please ask before we move on to item four, biodiversity culture, digital environment? If there are any further points or questions?

1:10:40

Mr. heatshrink?

1:10:43

Through Tink, it is. Thank you. Thank you, sir. You said Gen six single family county council representing the nice local flood authority, just a couple of very our guest quick points that are so sort of generic to everything that's thrown up in discussion within the session. The first one is just in relation to the culverts and any sort of any mitigation strategy which has been reduced. And that is to say that if, as a result of any further discussions, the COVID sizing wants to change as a result of those discussions, then we as the leader of the party would very much love to be a party to those discussions, because there could be a invitation to the flood risk upstream and downstream as a result of any changes. So just to say that we would very much like to be in discussions if there were any such changes to that. And my second point is in relation to the road and drainage,

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latest proposals which have been submitted

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with regard to them, we would vary, we still need to review those documents. And certainly, there could be information in there which relates to

1:12:05

drainage for areas of roads, which not only kind of counsellor may adopt and maintain, as well as looking at the whole surface water drainage as part of those features. So just to say that we haven't had a chance to review those as yet. And certainly that will be reflected within our sort of next deadline.

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Thank you, Mr. heatshrink. For that intervention.

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Mr. posford would you like to reply from the applicants perspective, please, particularly in terms of enforcement's of NCC regarding the latest information regarding the covered strategy, and also the road drainage issue, please.

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So, in relation to those items, that we know that Miss hatching is of course, representing the local flood authority, and the

1:13:09

current Council is of course, a console t in the preparation of the final camp and react. And so that is the point at which they will be engaged. And that is the point at which Mr. Mr. hitchings concerns in relation to the road drainage and the culvert sizing and so forth, should be picked up and I would say that the the protection afforded by the consultation of Northumberland county council will be sufficient to achieve that aim. Okay. Thank you, Mr. basford. And are there any further questions on this topic that anyone would like to make?

1:14:03

If there are no further questions, I don't see any one's hand raised.

1:14:09

Our will in that case and hand over to Mr. Gleason who will lead on item four biodiversity, ecology and natural environment. Mr. Gleason

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Thank you, Mr. Pinto.

1:14:28

So under this heading, biodiversity, culture and natural environment, the agenda sets out the first bullet point as being the biodiversity no net loss assessment, outstanding matters between the applicants and the Environment Agency.

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And the starting point for this is these types of common grounds. We have five of 1720 applicants and environments agency which identifies that this is an issue under discussion.

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The

1:15:00

environmental agencies concerns about the issue also identified. Deadline five submission. Rep five of 44. So let's begin with can both parties please briefly summarise the outstanding matters and identify the prospects of resolution before we move on to more detailed questions. Can we begin with the applicant? Please?

1:15:24

Sir, in relation to the biodiversity, no net loss

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assessment, I'm going to ask Mr. fantic, to

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advise you on the position of the applicant, Mr. fenech. Thank you.

1:15:42

Thank you, Miss bufford. So for the biodiversity, no net loss assessment as presented when within the applicants representations. As a nationally significant infrastructure project, and CIP, there is no legal requirement for the scheme to achieve a no net loss or a net gain. And to undertake this assessment, the biodiversity nonetheless, assessment came about as a result of acknowledging the applicant's own internal procedures and also in acknowledgement of such national guidance, such as the National National Planning policy statement for national networks. And

1:16:19

I believe that in the representation,

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the reason reputation representation at deadline five, that's no knowledge by the EAA, and I think we I believe we agree on the position that we acknowledge that the scheme has an obligation to meet not that loss. I guess the only other point to raise is that the applicant looks at their net loss across its national network rather than on a scheme by scheme basis. So the report that has been devised for this scheme will be kind of used by the national level.

1:16:50

So what are the differences then between the parties? Given that it's identified as under discussion within the sense common ground?

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That's one item that I would be to review the second contract and see exactly what's been stated. I don't have it in front of me. And is Miss more able to comment on on exactly

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where there's a disagreement or if there is a disagreement from the Environment Agency.

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mismo.

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Thank you, sir. I think the main disagreement relates to the provision of compensation for the loss of water courses and the biodiversity impacts on species that's

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manage.

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Okay, so taking that forward, then what dialogue is there between the parties? And how can this be resolved? Is it is our efforts being made to resolve it at the moment?

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I think I think it's fair to say so that the farmers way, Shall I get well, would you like to proceed?

1:18:08

You go ahead, Howard. It was just want to flag that we're, we've got meetings plan to discuss outstanding matters. And that that that was very similar to what I was going to say, where I think where I think we are the parties accept that there is not a legal or policy requirement on this project, to demonstrate no net loss. But the practical items, which are of concern to the Environment Agency, are that they're concerned about the

1:18:41

biodiversity effects on species. And I understand that to be in relation to otters. My voice goes up at the end there to assist was made to perhaps comment on that point. And

1:18:54

in relation to water cost compensation. So those are both the matters that we've just been discussing with Mr. Pinto. So they're tied up with with those questions. No, I think that's where we are, isn't it? That's correct.

1:19:08

So discussions will be ongoing on those matters you've outlined. So really, it's it's not an issue, fundamentally to do with biodiversity, no net loss assessment, because as you said, Mr. password, the parties have agreed the position is clear. As an N sip, that doesn't apply in this case. So it's the matters arising from that which are still in discussion.

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That's correct. Thank you, sir. Thank you. So

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I think then, my other question this probably fall away.

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So the issue of woodlands and module planting which Mr. Pinto raised, that's tilt with

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no

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With a matters in disputes,

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just check.

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So, all my question is related to that other item of

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fee the planting,

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because we said will be addressed through written representations.

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That that is, so the planting was the third or final item to which Mr. Pinto referred. And that is, of course, also tied up in those points that we were discussing with,

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with the agency and

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all being well that that should dispose of this particular bullet in your agenda. Yes, I think it does. Thank you. So let's move on to the second bullet point then, which is the approach to air quality assessments.

And in particular, the air quality's impacts on the river coconuts and coconut Valley woodlands, triple Si, the outstanding matters between the applicants and natural England.

1:21:13

Natural England Don's here today, in dire absence, can we applicants outline the current position in respect of the approach to the quality assessments and the likely timescale for any resolution at a national level? And then moving on from that if agreement can't be reached? Or not within timescale of examination? What steps will parties take to resolve the issue locally? And when? Let's just see if there's any further ones to raise?

1:21:49

Yes, just say that, although natural England not here, we will be asking them to provide an update or confirm their position that deadline six. And we have seen their position statements, which is set out rep five oh 47, which is clear as far as it goes anyway. But Mr. blisworth, if you could come in, please.

1:22:12

So that that's very helpful for the the position about the matter. I'll start with the easy bit as it were, which is the question about resolving matters, our understanding with natural England is that they are content that the practical measures necessary to render the scheme acceptable are capable of being agreed at a local level, that that is our understanding. And so, that we will aim to capture in statements of common ground before you so that you can see that we have we have achieved that.

1:22:57

And that is that is where we think that lies in terms of in terms of national level discussions, we understand those to be being undertaken between highways England and natural England, the

1:23:18

project has been assessed in accordance with methodologies, which housing then produced and consulted upon, that is aligned with the relevant legislation and industry practice. And that we are aiming in relation to items in the work that has been carried out by highways England to address those in discussions with natural England at a national level.

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I have colleagues here from highways England, it may well be that in natural England's absence, you don't wish us to make more detailed submissions than that.

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But our understanding is that those discussions continue. But officers are seeking to address things in relation on a scheme specific basis. So that you do not need to apply your mind to the methodologies that reached the acceptable position which the parties believe they can achieve.

1:24:19

Thank you. So

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that's a national level, then, even if this were to be agreed, within the timescale of this examination, wouldn't still be need to agree matters locally. The point that I'm saying sir, is that matters will be agreed locally, meaning that the national discussions can proceed at their own pace that the parties the representation that natural England has made, which is England understands and supports is that the this scheme and the local matters are capable of being resolved so that there's an acceptable scheme before you

1:25:00

In relation to matters such as the air quality impacts of nitrogen deposition on

1:25:07

on receptors, so that is addressed, we will agree what is what is the impact. And we agree, what is suitable mitigation and all compensation for that, that Sigrid local level meaning that we don't need to resolve the position in relation to the methodologies, which are being discussed at the national level. Okay, that's useful to know. So if the matters can be resolved locally, and are being resolved locally? What's the timescale for that? And why haven't they been resolved? So far during the examination, are those matters are ongoing in a series of discussions as between the applicant and natural England, I'm going to refer to Mr. Fennec again as he is, at the forefront of those discussions, there are certain particular receptors where we are putting forward I think there are three a number where there are matters outstanding and this, you may very well say, Well, why is this happened during the course of the examination? The answer is because of course, la 105 and La 108, were updated. More recently, updated assessments been provided as a result of that, so that you weren't ever put in a position of saying now housing the water? What is the effect of your change your own change guidance? The answer is, well, we've already looked at that. But because of that, there are some changes in our assessment that have come to us and therefore to you belatedly, and that's why it's being addressed. Now. Let's spell it perhaps you would speak to the work that you're doing with natural England, physically some so that he can understand the extent of difference between us and them and what we're doing to address that. Mr. phonic Thank you very much. So currently, one of the points that have been raised is regarding the river kocot and Crockett Valley Woodlands triple Si, and the assessment undertaken in accordance with la 105 and le 108, as presented within the biodiversity air quality dmrB sensitivity document, which is rep 3010. And identifies there, there would not be a significant effect to the triple si. And we obviously acknowledge that natural England don't necessarily agree with the approach to that assessment that's detailed in under 105.

1:27:29

And therefore, have been seeking kind of discussions at the national level it to try and resolve that matter. That has been agreed by both parties as the the best way forward to ensure that this scheme doesn't undermine kind of any other schemes that may be put forward in the future. And aside from that, and we continue to engage with natural England. Our next meeting, which is set by natural guns availability, is currently proposed for the week commencing the Third of May, I'm currently trying to arrange that with natural England so that we can discuss particular this matter further is surrounding the local level of fitness family

1:28:06

studies so that we can discuss this specifically. And then with regards to the air quality and biodiversity assessment and the dmr sensitivity, there are, as Mr. Buffett mentioned, there are

1:28:19

three out of four receptors I should say, where significant effects have been identified. And so they are Borah, woods local nature reserve in ancient woodland. Well with ancient woodland and then two veteran trees. We're currently exploring that we've been in discussions with both natural England and Northumberland county council and to try and discuss those locations in more detail, particularly with regards to the local nature reserve and ancient woodland sites, which are located around about 10 kilometres. I think once it is a couple of kilometres south of the scheme at Wellwood is at around about 10 kilometres to the south in the scheme. And the reason why impacts have been identified is that's because the impacts of the scheme on the wider affected road network and so we're currently trying to engage with particularly Northumberland county council to understand those sites in a bit more specific detail and see if there is any measures that we can do to try and offset the potential impact of of the size of the scheme on from air quality and nitrogen deposition.

1:29:20

Thank you.

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So I think that completes the questions I had in relation to biodiversity ecology and the natural environment. Is there anything anyone else wishes to say on this item?

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No, just checking my instructions. I think that is

1:30:00

But my understanding is that, that we're continuing to discuss this at both local and national levels. And I think we were happy to leave it there, sir. A few. Yes, I think we can return to it's in the future if we need to. But that's probably as far as you can take it today. Thank you. So on that basis, it's 130 on the dots, it's time to break. So this afternoon. On the next session, we'll move on to landscape and visual impacts. So we'll turn now at 130 and resume at 230. As before, we can remain locked in Please switch cameras off and microphones off

1:30:43

and say we'll resume I want to 30 Thank you very much.