

## ISH2 Pt3

0:01

Good afternoon and welcome back. We're now moving on to item seven of the Agenda, Terrestrial Ecology and Terrestrial Habitats Regulations Assessment Matters.

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Just to inform you that late yesterday Natural England made a submission in lieu of attendance, which we have not had a chance to digest, and as such we will not be taking that into account for the purposes of this terrestrial or tomorrow's marine ecology sessions. However, it will be published shortly and we will of course consider it in due course.

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So my first question relates to the update on BAT emergent surveys and other surveys that have yet to be completed. I'll be referring in the first instance to the environmental statement Annex 8C, the BAT survey report which is APP AP182.

1:02

It states in paragraph 5.1 point one of that document that further surveys are ongoing of woodland trees that with moderate or high potential for back roosting. And to establish whether there are any additional roosting sites and what the status of those sites will be. Please could you give me an update on whether those ongoing service of potential back roosting sites have been completed?

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Certainly, Madam, it's Alan Lewis again for the for the applicant. Yeah, I can confirm that we did undertake those surveys. There were bat emergence and reentry surveys which you undertake in the proximity of of the trees which have been identified as possible routes like roost sites. We undertook that survey between July and September.

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Those trees had previously been identified as having moderate to high suitability for roosting bats. I've got quite a detailed note here, but I can put that potentially in a written response or or the OR the speaking notes. But just in summary,

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the findings confirm that the absence of bat roosts from the long strip other than the previously occupied roost, which was T32

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in app 182. We didn't find any evidence of roosting bats this time, but it is the case with roosting bats that if there was a previous roost, you can't dismiss that from your mitigation proposals.

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So, in conclusion, the conclusions of the environmental Statement in relation to BATS are entirely unchanged, other than the clarification that no project specific bat licence is required.

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Does that help, Madam?

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Thank you, yes. And did you say that you'd be able to provide the documentation by deadline one? Sorry, I did mean to add to that, yes. And we will provide the updated or the the new baseline data at a deadline one. And effectively I guess it it represents appendix AD the terrestrial ecology chapter. But must emphasise, it doesn't change the baseline and it doesn't change as the conclusions that we reached in the chapter.

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Thank you for that. Also in paragraph 5.1.2 it notes that results of a further survey were being carried out in autumn 2023. Is that the same survey? Because I I think there I read it that there was two separate surveys being undertaken. Alan Lewis, the applicant. Again, apologies for any confusion. There was only one survey, it was a suite of visits, but it was one survey apology. So there's some confusion in the text on that,

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right? That's fine. Thank you for the clarification.

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Turning to an NEC and do you have any comments on BAT surveys or have you been engaged in that process?

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Thank you, Richard Lemon NE Links Council. We've been engaged within sort of the wider ecology process and in terms of bats, our ecologist hasn't raised any any further issues from that. Thank you.

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Thank you. And I assume that once the 2nd secondary report is available, they'll be able to comment on that in due course if needs be. Yes, thank you. Richard Lemon, NE Lincs Council. Yes, we'd welcome that to to come through and review. Thank you,

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thank you. Is there any comments from anybody else in the room or does the applicant have any follow up

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comments on that point?

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Thank you.

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My second question is regarding the partial loss of the long strip woodland. The examining authority have some concerns regarding the choice and suitability of location for the compensatory woodland and these kinds of concerns were echoed in the North East Lincolnshire. Relevant Rep I know that

yesterday you mentioned this topic in relation to your ongoing statements of common ground discussions with North Lincolnshire. So I wondered if you could expand on that

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and let us know what what has been discussed and then obviously I'll come to Northeast Lincolnshire as well to to get your views on how that's all going. Thank you.

5:24

So Alan Lewis again for the applicant. So just a bit of background before I get on to the to the to the update. Obviously in the application we did include an outline woodland compensation strategy which I'm sure you've read which is app 2:00 to 4:00 and it's that that went into the application. And since that time we have met with NE Lincolnshire Council, we met with them on the 16th of January to take that forward. There is a draught requirement to the DCO

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which requires us to develop a woodland compensation plan which is for essentially develops the woodland compensation strategy into into a real, a real, you know, living piece of compensatory habitat. So I think I'm going to ask a colleague to share the plan of the Mamba Rd

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site which does appear as as Figure One in App 224

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and this has been the subject of some discussion. It it is as we've I think already outlined to the examination it is in within the applicants control that potentially some concern that it it wouldn't be able to deliver the full quantum of the full expectation that Nelk are are seeking to achieve. And for that reason, Nelk have directed us to, in addition to look at a new site,

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which is shown in the yellow highlighter off the Battery St area. It's an area that's designated in the Local Plan for Biodiversity announcement and so the Woodland Compensation plan will draw both on the Mamba Rd site and on the Battery Rd site.

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One other thing to point out and it's recently become apparent with the application being made in respect of Viking, the northern part of the Mamba Rd site may well be impacted by work #3 in the Vikings CCS proposals and I can provide a reference to that. So that does mean that our focus in the woodland compensation plan will be on the southern element supplementary planting where where we're able to do that and the battery, the Battery St site as well.

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Thank you.

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One of my questions was going to be whether or not you'd considered off site locations. So obviously

this new site is off your site, does that raise any implications in terms of compulsory acquisition? I think we're quite clear that we wouldn't be relying on compulsory acquisition. We'd work with Nelk, who I understand are the land owners of of Battery St and the the Battery St site and work with them to develop it.

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Question from my colleague there.

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And how can we be assured that this site will be secured through the application if it's not going to be compulsory required? Thank you Madam, if I can assist with that, Howard Philpott on behalf of the applicant.

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This is a a site and the this is an option which is at the moment the subject of active discussion between ourselves and Nelk. And at the moment it doesn't have any particular

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location within the suite of documents that you've identified. So at the moment it is not secured in that sense. Clearly if that option ultimately forms part of the agreed package of compensation, then we would need to identify some means so that you can take it into account with various ways in which one can do that. But given that it's owned by the council and if the council wants to undertake the works, it wouldn't have to be brought within the order. There are of course other ways, ways in which you can

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achieve that offside if you've got a willing landowner, but we we would have to address you on that at the point in time where that has become fixed, if it becomes fixed as part of the package of measures.

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Thank you. And do you have a time scale?

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Alan Lewis with the applicant? Whilst I'd like to say yes, I don't think we'll be able to achieve deadline one. It will be at a later deadline but we'll endeavour to make that deadline too.

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It will be certainly be as soon as possible and we can update you on progress on that.

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Thank you very much. And sorry, just going back to an earlier point, you mentioned the Manley Rd site which may become, am I right in saying it may become unavailable during the progression of the Viking works? Did I understand that correctly?

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Alan Lewis with the applicant? And just to clarify it, it's only part of that site and I don't know if we can reshare the figure because I can describe which part is affected by

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by the Viking proposals.

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If you see a sort of, I'm not quite sure what it is, a footpath or a track that sort of bisects the area sort of 40% to the north and 60% of the South East.

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The Viking proposals occupy that northern Polygon north of that sort of track by section.

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If it's helpful, I mean we could very rapidly prepare a plan of this of of these areas. I mean obviously what you're seeing on the screen is a is a mock up over lunch, but we're we're more than happy to share that with you

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and we could certainly do that by deadline one if not much sooner.

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Thank you very much. That would be great. Yeah, this afternoon would be fine. Thank you. Thank you.

11:37

Apologies, Northeast Lincolnshire. Could you comment on what you've heard and what we've discussed and any thoughts please?

11:45

Yes, thank you, Richard Lemon NE links Council. Yes, it's fair to say we've been engaged quite strongly with the applicant on this point. We obviously raised that issue in terms of long strip quite early on and in terms of those discussions of compensatory planting, they've progressed from that Manby Rd site and to sort of broaden to the bottom of Battery St as well. And that ties into a bigger picture that the council are looking at in terms of tree planting across

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Gillingham as well. So we'll also be looking at a a third location potentially for planting which is the road that runs round washed out lane, Church Lane, Bluestone Lane which runs in a loop in Immingham for some on street tree planting as well as parts of this. So that's sort of being looked at as well. So it's from our side. It's it's a good progression of discussion since the issue was raised and we hope that we'll be able to get that resolved in the near future.

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Thank you.

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Thank you. And those other areas that you mentioned, would they be part of compensation for

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for, for this scheme, for the eye get scheme,

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Richard Lyman, NE Links Council. That's part of the discussions that we're looking at at the moment. Yeah. Thank you.

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Thank you. And just back to the applicant, do you have any further comments on that

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on this with the applicant? And obviously what we'd like to do is submit a woodland compensation plan that's been agreed with Nelk to the examination that VR ambition to do that, you know at deadline two or deadline three I'd suggest.

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Thank you. Yes, that would be very helpful. Thank you.

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My third question is regarding proposed biodiversity enhancements.

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We're obviously aware that there's no mandatory requirement for biodiversity net gain in regards to an ESEP. However, your preliminary ecology appraisal, which is at 181, you state that a qualitative approach to biodiversity enhancements will be taken to address local and national planning policies. I wonder if you could explain that a bit in a bit more detail and how these enhancements will be achieved. Thank you

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Alan Lewis for the applicant. So the the, the, the key document is App 225, the the O Lamp. Important to say that the O Lamp delivers the very best habitats we've been able to incorporate within the terrestrial site areas. Works number 35 and seven

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given the very substantial operational and security constraints on the site.

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The constraints are

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numerous but but two of the most important ones are the size of the operational plant and structures. If you're familiar with the the layout, there's very, very limited spare land for any additional planting around the margins, but also the need to provide offsets for security at site boundaries. With many sites you can use site boundaries to develop things like hedgerow features, but that isn't something that's available to a hydrogen production facility which needs to have

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appropriate security fencing in place around its margins with with with two metre offsets. So that's not an opportunity that that presents itself to us in relation to the O limp and the consideration of a baseline situation. Just to point out that there is a baseline map of habitats provided as figure three, I think it is in App 181 which is the preliminary ecological appraisal which you've already referred to. So that is the baseline

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as it stands. You've touched on on biodiversity net gain and that that's an important point that that that is not mandatory and worth worth reiterating in terms of the principles we've taken forward. We've looked very hard at the operational layout and in the Olymp you will see that progression of trying to identify areas that we can target for habitat delivery and we've taken forward a number of opportunities. I think in the the front of the Olymp you will see a matrix with green, amber and red type

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loading which enables us to take forward different options spatially on on the available areas on the site and those have included. The areas that we have been able to identify include creation of species, diverse wildfire, grasslands in some marginal areas,

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the creation of a native species rich hedgerow around some of the peripheral areas of the project notwithstanding the the point I made earlier and also some new tree and shrub planting. So we have taken forward opportunities wherever we can and we looked very, very hard at the at the layout to try and deliver that.

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I think that's important to to note that's probably an and also to just to say in in terms of how that's secured, that's the length is secured by

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draught requirement 10 to the DC O. So the OMT is secured.

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Was there a follow-up question? I'm I'm I'm hoping in in. In that answer I've managed to provide at least some of the context, but if there's a more detailed follow up then I'm happy to address that. Madam,

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thank you know you've actually answered my follow up as well, so congratulations though. Thank you.

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Can I just ask a quick question just on those sort of mitigation measures.

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Did they link in with existing landscaping and planting from an ecological point of view? Are there in

locations where you've been able to sort of maintain corridors, improve corridors and hence corridors that that already exist or perhaps are in need of of of improvements perhaps

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Alan Lewis for the applicant. I think it's it's true to say that given the layout of the of the operation

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building and developing on existing habitat corridors like long strip has been the opportunities there are relatively modest. We we've done the very best we can with the layer we've got and and the plan in the OEM probably speaks to itself and we'll maybe look at that in more detail. But I don't think there's any opportunity for doing more than we've already presented given the operational layout.

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Thank you. Would you like to add anything or have you have your ecology colleagues

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got anything to add to that?

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Richard Lemon NE Links Council No, they they've not got anything to add to that. They were quite happy with the approach to that that had been taken. Thank you.

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Thank you. Is there any further comments that you'd like to make on on this point about quality enhancements? Not from us Madam.

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Questions 4:00 and 5:00 that I have are both to do with decommissioning effects. I'll go through them separately as they do deal with slightly different issues. So question 4 is regarding the potential effects of decommissioning on terrestrial Ornithology.

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The environmental statement Chapter 10 on all anthology, which is up 025, states that potential effects from decommissioning on all of on all

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receptors have been scoped out for both marine and terrestrial birds.

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Could you explain why this is the case when the explanation identifies only the elements of the marine infrastructure that will be retained and doesn't discuss the decommissioning of the hydrogen plants?

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Madam, if I can introduce our answer to this, Harry, Would Philpott and Casey on behalf of the applicant it it's important to understand the DC Co does not seek a time limited consent for either the end zip or the associated development.



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This is not a situation such as, for example, you might see in some solar farms where the application is put forward on the basis that this would be a temporary development. So the associated development is not put forward on the basis that it will be temporary

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or that therefore the DCA will limit its life

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and

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you'll have seen reference to a 25 year design life.

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That is not to be mistaken for operational life

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and the design life is simply the point at which it is anticipated as part of ordinary and business planning. It is likely that some elements of the associated development would need to be maintained and or replaced, in part because they will reach the end of their design life in the same way that

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any comparable facility

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will have components within them that have a design life. That doesn't mean it's a temporary development,

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and one of the things you would have seen in the Development consent order is the power to maintain, and the power to maintain includes replacing, repairing, worn out components, matters of that sort.

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That's obviously subject to a limitation where such works would give rise to

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new or

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significantly different material adverse environmental effects. And there's a constraint which means that you can't abuse that ability to take it beyond that which has been assessed.

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But it's important therefore to understand that the proposal is not put forward on the basis that at the

end of 25 years the associated development will be decommissioned and taken away. It's a permanent piece of development like any other

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that that that I think is important to understand in the context of then how it's been assessed. And I'll hand over to Mr. Lewis in a moment to deal with the particular matters.

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But the assessment does not assume that the associated development will be gone. And after the end of the design life of 25 years, it's cleared away. And it is assuming effectively that the operation will be like any other permanent development. But I'll hand over to Mr. Lewis to take it from there, unless you've got any questions about that particular aspect before I do.

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Thank you for that explanation. I think that wasn't clear

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to me in the documentation which is why I've questioned the decommissioning that that only mentions the marine side decommissioning because it makes very clear that the marine, the marine side will be there in perpetuity. But then it always refers to this 25 year life span of the of the hydrogen plant. So I think it it, I think perhaps there's some clarity required in the documentation for that. Thank you. Well, Madam, that's that's I

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discerned that that had not been made sufficiently clear in the written material from some of the questions that have been identified and also from the point that had been raised in the agenda item. And I've sought to provide a a brief oral explanation.

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But we can back that up with a more detailed written explanation in the notes that come in at deadline one.

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Sorry, Yeah.

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I suppose the question that that you probably seen as sort of debating amongst ourselves is how does this translate into what's been assessed in the environmental impact assessment as a whole? Has that been assumed to be a permanent development? Because I think we thought that the EIA looked at it from A2 aspect point of view. And you correct me if I had not understood this, which was the phase one aspect which you took us through very helpfully yesterday and then the other aspect which had a 25 year and then we thought that's how the assessment had been undertaken.

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I'll pass on to Mr. Lewis to explain how the assessment has been undertaken. But my understanding at least is that it has not been assumed that at the end of the 25 year design life that the associate development would all disappear and therefore it's a assessed on a temporary only basis. But I'll pass on to Mr. Lewis to deal with that.

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Alan Lewis for the applicant just to say that in relation to the the question as listed in the agenda in relation to the terrestrial side. And I can cover that and then maybe move on to the marine side in relation to survey for birds, particularly in relation to anthology. So in relation to existing terrestrial habitats, suitable habitat for breeding and wintering birds across all the terrestrial

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land areas will be essentially removed in year one of construction. So all of the habitats will be removed. So for that, for those 25 years, those areas are not gonna support areas that are particularly suitable for breeding or wintering birds. Other than a few common species that are likely to breed in the areas that we talked about in relation to the Olymp, they're not the sort of species that could be functionally linked with the estuary, which is one of the concerns in the HRA space. And so for 25 years

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there, there's no reason to believe that there is any need to survey the birds on land because there's a development in place there and there's nothing to suggest that the adjacent areas are very important for breeding or wintering birds. So that explains, I think, why we're not proposing surveys in relation to the terrestrial Ornithology receptors and turning to the marine side. The obviously has already been explained on a number of occasions to date

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for the and and and you've already stated Madam that the the N SIP itself would be a permanent feature. But in relation to the decommissioning of the land side infrastructure and how that might interplay with the marine side, almost all of the decommissioning on the land side would be over 200 metres away from the marine side. So we don't see any opportunity, if you will, for the decommissioning of the land side infrastructure to impact in the HRA space. I mean

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there's no functionally linked land at the moment and we wouldn't see that any functionally linked land coming forward and we wouldn't see the decommissioning process as impacting the birds that are important in the marine space. And I know the marine is going to be covered tomorrow. Don't interrupt. It might be helpful when you said, can you define what you mean by decommissioning? Because if we're talking about a development that's going to be there in perpetuity,

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what are we decommissioning.

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So as we've assessed in the environmental statement, the earliest time which we would start removing any plant on land would be at least 25 years from the point of bill out of the operation of the operational hydrogen production facility. But I think as we've probably explained over the last few days, we would be attempting to you know refurbish and update and and refresh that plant such that the hydrogen production facility is maintained for a for a longer and more substantive

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than the 25 years. The 25 years would be the very earliest

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point at which decommissioning would be considered. So when we say sorry, cause perhaps it's my misunderstanding, we say decommissioning in May

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layman's position, I'm thinking that means it's closed down, it's gone, it doesn't exist. So we're not talking about decommissioning in that sense. We're talking about

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reconditioning, refining, improving, updating to make sure that it is

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improved, maintained as opposed to decommissioned.

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Yeah, yeah,

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Yes, Sir. Just I've just checked my understanding of it. When the environmental impact assessment looks at decommissioning, it means decommissioning in the sense you've described it. So it assesses the possibility of decommissioning.

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The simple point that I've sought to clarify in it sounds like it is something that would helpfully be clarified in writing is that that doesn't mean that decommissioning is expected to happen at 25 years. It's simply because that's the earliest point at which it might be contemplated it it is assessed but is not assumed that that is likely to happen. It's just that it's there's not, it's not realistically going to be considered before that point

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thereafter if it occurs at 25 years, 50 years, 100 years that the assessor that the effects are assessed as best we can at this, at this stage.

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Sorry. If I could just Alan Lewis with the applicant. Sorry,

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I was just going to just going to dive in and and wait make one clarification. It's it's it's probably quite hard to understand in in ecology space and and I and I struggle myself understanding it. But so in relation to noise and air quality very important that we do understand that we do undertake assessment of decommissioning in the sense that that you that you outlined and and as Mr Philpott has demonstrated. So in all cases we're looking at a worst case assessment. So we are looking at decommissioning in the sense that

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that you that you understand it

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at year 25 to present an assessment in the environmental statement of decommissioning per se, although we don't expect that to happen after 25 years. So I hope that clears things up. So

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it does a lot I think. Just make sure I've got it right in my mind. So

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in terms of the operational life of the project, assume that's gonna continue us continue

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all that will happen at at

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25 years. You will then just review the plant integrity,

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carry out certain cheques, mechanical cheques, festival cheques, etcetera, etcetera.

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If the market remains,

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you will then just if needed, change some of the plant and equipment to ensure it continues. But the intention at this moment in time is for this

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you know the development in terms of the port and also the associated development to to some extent if the market is there continues to carry on. So that certainly my understanding and I'm getting nods to my right. And just to be clear, although as I said, the design life is 25 years, so there may be elements of the plant which at that stage perhaps have to be or expected to need to be replaced because of the. My understanding is that because of the ongoing requirement of regulation,

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there may be other cheques, may well be other cheques that are undertaken before then to ensure integrity is simply that because there is a design life of 25 years, one would expect that at that stage there may be a wider need to replace repair and matters of that sort. It's not that that's the only occasion where that might happen.

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Yeah, question to the applicant. So I think 25 years crops up quite a lot in the yes and the temporal scope,

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the lot, the assessments is based on 25 years in many cases.

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If it can operate for significantly longer than that, how has the worst case scenario been assessed?

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Alan Lewis with the applicant. I mean we could obviously do a note for this and explain this further. But the the key point is we wouldn't expect although the impacts would, the operational impacts, the effects would last for longer, we wouldn't expect them to be any different. So if the plant was in place for 30-40 or fifty years, whilst the duration of the effect would would last longer, the significance of the effect, the magnitude would not change.

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I think that's an important point.

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Does that make sense?

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Yeah, I think it's quite a naughty issue. So I think having a note from yourselves that we can digest and then come back on would be quite helpful. So I'll put put that down as an action point and then we can sort of take it from there.

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Of course we can do that. So just one more point to make, I think it's important is that we don't when decommissioning happens, whenever that is, there is no new effect or new net benefit that we gain when that happens that we're relying on in the application. So we're not saying in 30-40 or fifty years time when we remove the hydrogen production facility that there is then some some great benefit which we're drawing down on. So. So the application isn't dependent on that,

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on that perceived eventual benefit of decommissioning.

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I hope that helps, Sir. Thank you Sir Hereward Phillpott for the applicant. Just to follow up on that and to circle back to the example I gave of the solar farm. You'll be familiar with the way that those applications are both presented and considered in accordance with government policy and guidance. That in those circumstances, the volunteering of a condition which

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provides A guaranteed end to the use of the land for the solar farm may have significance in the planning balance in the way that Mister Lewis has described. So if, let's say, you take out of Commission

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agricultural land, but you know that at the end of whatever the period is, it will become available again, it's not lost permanently. And the point that Mister Lewis is making is that there's no such consideration relied on here either as part of the EIA or as part of the wider planning case that might

cause a concern if the development doesn't go away 25 years. Indeed, the benefits that are associated with this

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get better the longer it goes on, because the more displacement of carbon you achieve in matters of that sort. But we will set it out in a note because it's clearly something that has led to some element of confusion and that's that that's obviously not been expressed sufficiently clearly so far.

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But the purpose of what we're saying today is to try and reassure you that this is not a an issue in terms of EIA or in terms of the overall merits of the case. It's simply the obviously you need to understand exactly what is proposed, how it's been assessed

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and therefore the basis on which it we ask you to report and recommend on it to the Secretary of State and we'll we'll do that. Sorry, can I just pick you up on that. So looking at the climate change chapter, I haven't got the reference in front of me but it uses a around a 25 year design life. So it's limited in some way and obviously that informs the greenhouse gas assessment. So if it goes on significantly longer that is going to change that assessment. So there will be a material impact

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that's not quite

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a beneficial impact if that happens because the beneficial impact after that point is that it continues to displace what would otherwise be carbon emissions associated with other fuels that it is going to continue to displace. So we can obviously pick that up in the note in terms of any implications that may have. But to take that example, all that would do is mean that that assessment is particularly conservative for the purposes of decision making because the benefits are likely to extend beyond that

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point

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that there's a net beneficial effect the longer it goes on as my understanding of of that. So. So my line of thought is in. You can correct me if I'm wrong, but if the hydrogen production is decommissioned,

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those hydrogen offset in benefits go away

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and therefore changes the greenhouse gas assessment in a in the negative

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to the first part.

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They they go away in the sense that if it's decommissioned, of course it's not producing anymore. But if it's decommissioned at the end of the design life, then it doesn't change the assessment. If the assessment assumes that at the end of 25 years it starts because it's conservative,

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so it it it doesn't change the the case, it doesn't change the assessment. It's simply that the assessment is inherently conservative because it doesn't make any assumption that the benefits continue after 25 years. And if they do, it only pushes further in favour of allowing the application as opposed to refusing it.

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That's helpful. Obviously we'll wait for the note and then we'll take it from there. But thank you all.

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I'm just going to highlight a couple of things and and I think

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in terms of the case for the development for the for the application.

37:56

Umm,

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I'm not that concerned. I think our concerns as hopefully it's become clear is more in terms of the EIA, the environmental impact assessment.

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Second thing that I'm concerned about is the use of the words decommissioning.

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And I'm just gonna read out from the DCO how decommissioning has been defined in Schedule 2.

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Decommissioning means the decommissioning of the relevant part of the authorised project when it is no longer required for operational use, or as the case may be, upon the permanent cessation of operational use, such that it is the undertaker's understanding and expectation that the relevant part will not be returned to operational use

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at some point in the future. And of course decommissioning has been used in almost in several articles and requirements.

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So that's one thing. And then



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if you go to

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Article 1, which is interpretation are maintained, has been defined,

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where are we?

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Yeah,

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includes, inspect, repair, adjust all to remove or reconstruct. And any derivation of maintain is to be construed accordingly.

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And I'm pretty sure there's a question on maintain in the written questions. So we're not accepting this, that this definition is right, but this is your current definition. So

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the way that you've described decommissioning or certain decommissioning, some aspects of the proposed development to me sounds closer to this than it does to the definition of decommissioning

39:53

that I just read out from the Co Madam Harry would fill up on behalf of the applicant. It may be that I haven't explained myself sufficiently clearly, in which case that's that's my fault. I made reference to the definition of maintain.

40:06

Precisely to distinguish that from decommissioning. So maintain includes adjusting ALTER and removing or reconstruct and which means that you're not decommissioning at that stage, you're maintaining as you've identified the definition of decommissioning for these purposes is about permanent sustained cessation of operational use. Hence where you look at something to which that would relate within schedule

40:37

to do so requirement 18 prior to the decommissioning of in each case the entirety of WORK #2, work #3, etcetera, a decommissioning environmental management plan for that part must be submitted. So it's only where you are decommissioning something that you engage that requirement and that fits with the definition. But if you are simply repairing something because it's not that you are

41:08

have formed the view, looking at the definition, that the relevant part of the authorised product is no longer required for operational use, that wouldn't be the situation if you were repairing or replaced. So it may be that I didn't make myself clear, but I I hope through those submissions

41:28

I've clarified that the way that I've described it is entirely consistent with the definition of decommissioning and the definition of maintain and distinguishes those two situations.

41:41

Yes, you have in terms of what you've said today, but perhaps it's not consistent with the application material that's come through so far.

41:51

We we can check that, OK. And we'll take that away as an action on our part because if there is any confusion in the way that is expressed in the material, then we would want to clarify that.

42:05

But that is, that's certainly my understanding

42:09

of how it is meant to be. The application is meant to be understood and we've discussed how it has been assessed.

42:18

But decommissioning as defined in Schedule 2 reflects the discussion we've just had as to what I believe is a mutual understanding of the word. Decommissioning is ordinary.

42:31

It's ordinary usage.

42:35

OK. Just to elaborate on my point Mr Page will just, um

42:42

yes. So just going back to how this 25 year design life is ingrained in the assessment. So I'm looking at Chapter 18, Water Use, Water Quality, Eco Subjection, Flood Risk and Drainage, paragraph 18, point 8.13

42:59

and it says at the end of its 25 year design life, all above ground equipment associated solely with the hydrogen production facility would be decommissioned and removed from site. There doesn't seem to be, you know that's ingrained in that assessment. There's no, you know,

43:16

it's not vague. It's pretty direct. This will be decommissioned after 25 years. So how can that assessment not

43:26

change if

43:28

this facility is gonna be permanent?

43:32

So I think that that's a helpful example which we can consider in the note. But if I just take it in terms of the way you've expressed it,

43:40

the assessment, we need to clarify

43:44

and to take that example and if there are others like it,

43:49

whether the assessment would change. So to take that example, it may be that if you decommission it 25 years, the effects will be no different than if you decommission at 50.

44:02

The point, if I may say so, that is highlighted by that example is whether the EIA is clear enough that the assumption that it is made of decommissioning taking place at 25 years, which is the assumption that's used to to take a date in that instance, makes a difference in terms of the effects. So as as Mr. Lewis was alluding to earlier in the generality, that may not be the case. What we need to be

44:34

clear about and to make clear to you is

44:39

whether there are any examples where that is not the case.

44:42

If so, to address those. If there are no examples why where that is not the case, to explain to you why that is the position and demonstrate that it's correct. So it is helpful to have that highlight as an example of something that we clearly need to audit and then come back to you on. But as I said, my understanding is that the proposal is as I've described it, insofar as the EIA

45:13

has taken 25 years as an assumption. We just clearly need to check and confirm that. It's not sensitive to that going out in the way that I've described as the expectation. I think that's the number of the issue, isn't it? It's, you know,

45:29

you need to assess the worst case scenario and if that is beyond 25 years,

45:34

whether it makes a difference or not. We need to see that you know, assessed so that we can take a view on it.

45:42

Alan Lewis for the applicant. Again, just to say that I've got a note in front of me which does review the operational life across all of the topic areas, identifies what's said in the chapter and whether the effects would be any worse if the operational life extended. We can obviously do the same in respect of decommissioning or you know or refurbishment and all all of those sort of permutations and we can look at that as well and provide that in tabular form as well for either. In a note for you if that would be helpful Sir, Yeah, that's

46:13

that'd be very helpful. Thank you very much. Much appreciated,

46:21

appreciate the sort of getting quite away from biodiversity and ecology, but just to keep us away from it as far as possible and just to go back to and it might be something that we can pick up later on. But I thought it seems to probably sort of flag it now in terms of requiring 18 that you help for referred to the the decommissioning environmental management plan

46:39

that seems to be something that that may never happen and may not be the situation. But you and I understand what the why in etcetera we seem to be talking about in 25 years that there will be a need to do some maintenance. Should we therefore be having an additional requirement that deals with a maintenance environmental management plan that looks at what the environmental implications are of the sort of works that you've been talking about. And again, if it's easier to pick that up in the latest session under control the the development centre, that's fine, but

47:09

we can take that away. My my initial answer would be because the definition of maintain

47:18

it is.

47:20

It is one that is intended to

47:24

that

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would be limited.

47:28

You can just bear with me while I find the

47:32

find the relevant part, but the the, the limitation on on maintenance is that it does not go beyond that which has been assessed. In other words, if the maintenance activities give rise to materially new or materially different environmental effects,

47:54

yes, it it it's, forgive me for just having to remind myself of the reference, it's Article 41.

48:01

So Article 41 is the power to maintain

48:08

and the first part of it allows the undertaker to maintain the authorised project within the order limits,

48:18

subject to the exceptions it gives which present purposes on material. But then Part 2

48:26

makes it clear that it doesn't authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement.

48:38

So when one understands that any maintenance activity will necessarily have to remain within the scope of that which has been assessed and of course, if the DC is approved, found to be acceptable,

48:53

then to impose a new requirement

48:58

that seeks to regulate such activity further.

49:03

When no such

49:05

necessity for further regulation is identified through the assessment that would fail the test of necessity for imposing a requirement.

49:17

So that's that, that's my immediate answer. But obviously, we will reflect on that and if there's anything more needs to be done, we'll report back.

49:29

So I think this note is becoming quite crucial and what I would suggest is that of course we'll include it in the hearing actions, but I think it is something that we probably need to process

49:44

and when we issue the written questions and the post hearing actions together, we will make sure that that's what we're expecting in that note is very clearly defined. So do start working on it as soon as

you hear the notes, the the hearing actions, but I think you'll have clarity on what we're expecting in it when you see our written questions

50:09  
in. Yeah.

50:10  
Thank you. That that's that's extremely helpful.

50:17  
Thank you. Note we'll try and get back to terrestrial ecology

50:23  
that we can slightly diverted. My second, the second part of my question is also about decommissioning, which I think has probably been

50:33  
explained, but I'll ask anyway. And then we can just sort of have that as another note. So

50:40  
in their shadow HR A which is APP 238, it suggests that decommissioning would be considered in relation to all European sites and qualifying features and that the results are in the table in Appendix C However in this table decommissioning has not been included.

51:01  
So yes, if you could explain that, although I think I know the answer. Thank you Alan Lewis of the applicant, I apologise, apology, I apologise if there's any discrepancy there and there was certainly no intention to cover decommissioning in the HR space. I I gave up an answer earlier on about decommissioning in relation to the potential impacts of the of any decommissioning that happened on the terrestrial on the land side and how that wouldn't affect the marine side. So it would simply be

51:33  
to consider whether the the jetty, the terminal itself would be decommissioned and of course we we make the point that that wouldn't be decommissioned that would become part of the the port estate for the long term And and so that is not assessed in the HR as I understand it, but I know that's that will be picked up tomorrow and Natalie Frost will be able to provide more on that tomorrow in IHI H3. Madam.

52:00  
Thank you. And yes probably also question for tomorrow, but I'll just pose it now. So we've been talking a lot about decommissioning and maintenance. Presumably the jetty will also have a maintenance schedule and

52:16  
have the effects of any maintenance on the jetty being taken into account into the in the HEIA

52:26

our Lewis with the applicant, certainly in relation to the HRA obviously, and that can be dealt with tomorrow. I'm I'm not aware of any substantive operational maintenance operations being considered on the land side in respect to the jetty, but certainly in respect of the HR, I would assume that and it would only be an assumption because I've not LED that particular work stream that any substantive refurbishment is included or it's not been included. It would sit within the envelope of effects

52:57

that you would see on the construction side. So what tends to happen is is you'll be aware is that the the more significant effects happen during construction and that that subsequent maintenance operations tend to be of of orders of magnitude smaller such that they are essentially not significant or at least trivial in the context of the construction effects. I hope that helps, Madam.

53:20

And how would Phil put on behalf of the applicant just to come back to the way that the power to maintain is limited? Of course, if any maintenance of the jetty was proposed, which went beyond the effects that have been assessed, then it would not be within the power.

53:44

Thank you. And I know we've gone slightly around in circles, but NE Lincolnshire, have you got any comments on terrestrial ecology? We'll stick with that and not the decommissioning side of things. Thank you.

53:57

Thank you. Richard Lemon, NE Lincs Council. No comments at this time. Thank you.

54:02

Thank you very much. Are there any other comments from anybody else

54:06

and any further comments from the applicant?

54:10

No. Thank you, Madam.

54:23

Thank you. Well, we've now finished with this session. So I propose that we break, we take our break a little bit early, which then gives us a little bit longer for the final session, which I think sounds like it would be appreciated. So if we can break now and we'll come back at 3:15. Thank you very much.

54:42