

# ISH4 Pt1

0:01

Good morning, everybody.

0:03

It's now 10:00 and it's time for this hearing to begin. So I'd just like to welcome you all to this issue specific hearing for the application made by Associated British Ports for an order granting development consent for Immingham Green Energy Terminal. Just before I carry on, can I just confirm that everybody can actually hear me? I think probably can, that's great. And can I just confirm with the case team whether the live stream and the recording of the event has commenced? I can confirm that the live stream and recording has commenced. Excellent. Thank you very much. My name is Adrian Hunter,

0:35

and I've been appointed by the Secretary of State to be the lead member of the panel to examine this application.

0:41

Just before I run through some housekeeping and preliminary matters, I'm just gonna ask the other members of the panel. I think it just introduced themselves. Please.

0:50

Good morning, everybody. I'm Karen Taylor, and I've also been appointed by the Secretary of State as a member of this examining authority.

1:01

Good morning. My name is Catherine Metcalf. I've also been appointed by the Secretary of State as a member of this examining authority.

1:10

Good morning. My name is Liam Page, and I've also been appointed by the Secretary of State as a member of this examining authority. And I'll be leading on Agenda item 5 and taking action points. Thanks.

1:22

Thank you all. And you've noticed that we're one member short today as well. So Mr Sheikh unfortunately can't be with us today or tomorrow, but he will be joining virtually for the compulsory acquisition hearing later this week, but we'll also be with us all next week as well. So just so that you, you know why there's only four people sat up here for the next couple of days and so together we constitute the the examining authority for the application. And just before I go through some introductory matters, just sort of a few few housekeeping for those here who are sort of here in the room and can I just check everybody sort of put firms and things on on silent if you could please

1:55

and that there's no fire drill proposed today. However, should the alarm sound, we need to vacate the building by the the fire exit signs and the the meeting point. The assembly point is on the lawn out in front in the rain, unfortunately, but but that's what we'll have to do if if the alarm goes off.

2:10

And just for those who are present at previous hearings, can I just ask you to bear with me? I've just got a few introductory comments there just go through, so I'll just run through those now if I could. You've probably heard those, but just just bear with me.

2:22

This meeting will follow the agenda that was published on the Infrastructure Planning website on the 2nd of April. And for those who need it, the examination library references EV6001 and it would probably be helpful if you do have a copy in front of you.

2:36

This agenda is for guidance only and we may add other considerations or issues as we progress through the the event. We'll conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to these discussions can't be concluded. Then it may be necessary for us to prioritise matters and if other matters, to further written questions.

2:55

Likewise, if you cannot answer the question being asked or require time to get the information requested, then please indicate that you wish to respond in writing.

3:03

It's our intention to make take a number of breaks throughout the day and we'll aim for a mid morning break about 11:30-ish and aim to have a break for lunch for an hour about 1:00-ish and then if needed we'll also have a mid afternoon break. But we'll sort of play those by ear as we work through the agenda.

3:19

And the final point in relation to the agenda relates to post hearing actions should they arise during the hearing and we or Mr Page will be noting these as we as we work through and as these emerge. So prior to the close of the meetings as we did at the other hearings, we intend to go through the entire list of hearing actions, which we will then issue formally as soon as practicable after the close of today's hearing.

3:41

Today's hearing is being undertaken in a hybrid way, meaning some of you are joining us in in the venue and some of you also joining us online and via Microsoft Teams. But we'll make sure that however you choose to attend, you'll be given a fair opportunity to participate today. And for those watching the live stream, can I also advise that when we do have a break in proceedings, we'll have to stop the live stream in order to give us clear recording files. So as a result, the point in which we recommence the meeting and restart the live stream, you may well need to refresh your browser page to

4:13

the view that restarted stream.

4:16

And just the purpose of identification, recording and ease of reference, Could I just ask that at every point in which you speak that you please give your name and who you represent?

4:26

Does anybody have any sort of comments just on those sort of outline bits that just just been through there?

4:33

OK. I'm not seeing anything in the room I'll online and so just now like to stick a few words in terms of data protection

4:41

and like to make you aware that the event is being both live streamed and recorded.

4:45

The digital recordings that we make are retained and published and they form a public record that can contain your personal information, to which the General Data Protection Regulation applies

4:55

planning Inspector practises to retain and publish recordings for a period of five years from the Secretary of State's Decision Decision on the Development Consent Order. Consequently, if you participate in today's hearing, it is important that you understand that you will be recorded and that you are therefore consenting to the retention and publication of this digital recording.

5:13

It's very unlikely that we will ask you to put sensitive personal information into the public domain. Indeed, we would actively encourage that you do not. However, if for some reason you feel that it is necessary for you to refer to sensitive personal information, we encourage you to speak to the case team in the first instance and we can then explore whether the information can be published in a written form that may well be redacted before it's published.

5:35

Anybody have any particular questions or comments in relation to to GDPR?

5:41

Excellent, good. And then briefly just want to explain the purpose of today's issue specific hearing. It's being held to explore a number of matters orally in respect of various marine side environmental issues, including matters in relation to Habitats, Regulations Assessment.

5:56

Our purpose today is to examine the information submitted by the applicant and also by interested parties and any others, and as a result I'd like to reassure you that we are familiar with the documents that you've sent in. So in answering your question you do not have to repeat at length anything that has already been submitted. But if you do want to refer to information, it would be helpful if you could give us the appropriate PINS Examination Library reference number.

6:21

Well, not like to is just sort of move on to sort of introducing people who who are in the room and who wish to speak. So when I ask you a name if you could just sort of state the organisation and who

you represent and if possible which agenda items if it needs be that you wish to speak on. And so if I could start with the applicant, please.

6:42

Good morning, Sir. I appear on behalf of the applicant. My name is Harewood Philpott Kings Council. I'm instructed jointly by Bryan Cave Leighton Paisner on behalf of the applicant Associated British Ports and Charles Russell Speechley's on behalf of Air Products. And I anticipate calling on at least two additional speakers during the course of the hearing and both of whom you've heard from before. Miss Natalie Frost from ABP Mayor to my right and

7:13

also Mr Alan Lewis from Akon, who you heard from in the last hearings. And

7:19

if there are others needed to respond to particular questions, I'll introduce those speakers as and when they're called. I anticipate that all of the speakers from whom you're here today are included within the table of credentials that we provided you last time, which is Rep 1045 and that identifies the experience and expertise of the speakers from whom you'll hear.

7:52

Thank you myself up. Much appreciated. OK, if I could now move on to other organisations and starting with that NE Lincolnshire Council.

8:02

Thank you. Sir Richard Limmer from NE Lincolnshire Council Senior Planner.

8:07

Thank you.

8:11

Good morning. Thank you very much for that.

8:14

I'm now gonna move online because I think we are expecting representatives from the Immingham oil terminal operators who are represented by Burgess Salmon, but I'm not sure they have joined us yet

8:26

and no. So I'd say is if they do join us, if you could just just let us know, that would be great. And

8:32

don't think there's anybody else on line who we're expecting to speak, but I'll just ask if there is

8:40

no and if there's anybody else in the room who I've not mentioned who is looking to to to speak today.

8:47

Nope. I'm not seeing anybody else either. OK.

8:52

My next point was this is a public speaking, if he does want to speak, please feel free to, but that sort of seems slightly pointless to make it, but I will anyway. If there is somebody does wish to feel free to to to to make any comments and we'll come to you at the appropriate point in the agenda. And so just before we move on to agenda item 3, is there anybody who's got any particular sort of comments just on the procedural side of today's hearing or or the agenda that we've we've prepared?

9:15

No, no,

9:17

excellent. Well, that that sort of brings to a conclusion my opening sort of comments and that sort of deals with items one and two on the agenda. So I'd now like to hand over to to Miss Metcalf, who will who will take us through item number 3.

9:33

Thank you, Mr. Hunter. We now move on to agenda item 3, which is marine ecology in the Habitats Regulations assessment. I'll be referring to several documents from the examination library during this session, and I'll refer to them as we go.

9:48

Umm,

9:50

so firstly, the Examining Authority acknowledges the progress that's been made with the MO indicated in the Statement of common ground that's been submitted. It's clear that many issues have been agreed and that there are positive discussions ongoing with others for which we await further updates. At deadline 3,

10:10

I have some queries regarding 2 items that are noted as amber. However, as these relate to the DCO, I think we felt it was best covered in item five later on today, so I'll leave those aside for the moment.

10:23

Just as an action point for all future Statement of Common Grounds updates, I'd be grateful if you could ensure that the ID references that you use correlate to the MMO paragraph numbers, because there's

10:38

it was quite tricky to actually work through the documents and work out which points have been responded to. So if we can make that as an action point and also I'll ask MO to

10:50

adopt the same referencing as used so that there's some clarity in the documents moving forward.  
Thank you.

10:58

That really covers my my first question. It was probably going to be deferred, so moving on to piling times. Thank you for the for the table that was shown during IS H3 and that's now been submitted. It's in Rep 1-021, page 203 if you need to refer to it. I've got a couple of questions on this also in relation to the

11:28

MO responses.

11:33

So, as requested by the MMO, could the official data that's going to be used to define sunrise and sunsets also be added either to the table or into an official document?

11:49

Please? Harwood Philpott KC, on behalf of the applicant and I'm just going to pass over to Miss Frost to deal with that matter.

12:01

Natalie Frost on behalf of the applicant, yes, we can definitely add that in. We certainly intend to use that as the marker for sunset and sunrise. So we will put that in both within this and any other document where it's referred to.

12:13

Lovely, thank you. Thank you for that clarification.

12:16

And I also think that at the last hearings an apology. Apologies if I've missed the response, but I asked about whether vibro piling can be undertaken without being followed by percussive piling. I don't recall seeing a response to that, but I wondered whether you

12:35

whether you knew that

12:40

that's defrost on behalf of the applicant. So certainly for the piling operations that are intended for this project, there will be a period of vibro piling followed by percussive piling. So vibro piling wouldn't be undertaken alone.

12:59

Thank you.

13:01

In that case, the yellow sections on the table refer to percussive piling for clarity. Could that be amended to say, any piling? Because then presumably the Vibro piling wouldn't be undertaken

13:18

separately.

13:22

Natalie Frost on behalf of the applicant. As far as I'm aware it can be. I would like to just confirm that with my engineering colleagues so that it doesn't present a precedent for elsewhere where people interpret this information. But we could if we could make it specific to reference to this project, then I wouldn't see why not. It's in a. In a different setting, it might be possible to do vibro piling without percussive piling.

13:44

Thank you. Understand yes. If it could be made clear that it's just for this.

13:50

For this project

13:58

I keep revisiting the combined piling times and the 196 hours over 4 weeks as opposed to the

14:07

270 minutes per day and I still

14:12

I still think it's slightly unclear as to the actual timings and how it equates to the separate daily limits that are quoted in minutes that don't add up to 106 hours ohh 196 hours over the four weeks. There's also contingency times that are quoted for the piling, which is to allow for the slow start,

14:35

which again once you add those in, there's still, there's still a discrepancy between the minutes per day and the hours over the four weeks and the and the in combination and the separate and the just the I get and I would really welcome an explanation of it today, but also something fairly unambiguous to be to be provided so that we can be really clear about

15:04

piling times. Thank you.

15:07

OK, Natalie Frost on behalf of the applicant. So if I take the project alone in the first instance, so the reference to 196 will be removed in relation 196 hours will be removed in relation to the project alone. So the amount of piling that is allowed for that project will be the on a typical working day would be the 270 minutes of percussive piling reflecting 33 piles being pile driven in any one day. The reason that we've also included a contingency

15:39

is very much meant for exceptional circumstances. So if for example on a particular day a marine mammal entered the mitigation zone or there was adverse weather conditions, piece of equipment

broke down again all all highly exceptional conditions, then we would just need that additional contingency. Adding to that particular day so

16:02

that we could carry on operations and that largely reflects the the requirement to repeat that soft start process which takes that 20 minutes. So that that's where that comes from.

16:13

The way that we've been discussing that with the MO is that they were happy with that in principle they as long as we entered into a reporting protocol with them so that they could see how much piling had been undertaken on any given day and how many times that that had been exceeded. So that we we can confirm that it is exceptional effectively and they they were happy with that and we've agreed to sort of a weekly reporting period and and meeting schedules with them until they consider them not to be

16:45

if if things are going as as planned. So that's the project alone so that so the reference to the 196 hours will be removed. So that will hopefully avoid that confusion.

16:57

Where the 196 hours comes into play is effectively when we're looking at I, I at and I get together. So that will ensure that there is a overall cap on the amount of percussive piling that happens within that four week. So the 196 will be a total from both projects effectively and again that would be that would be inclusive of any contingency. So if we'd had to use contingency, that would still be capped at the 196 hours, so the 196 hours

17:29

with the overall cap for that four week, four week. If the two projects occurred simultaneously,

17:36

the one thing to just highlight is that this assumes, UM,

17:41

that the piling operations are not happening or might or might not be happening absolutely simultaneously. If they're happening simultaneously,

17:50

then the timing doesn't get double counted for the two projects because it's effectively that that barrier will be in place, whether it's just the one or the two projects. So the 196 is effectively the total amount of time that there is percussive piling in that part of the estuary really whether it's together or separately exactly.

18:11

OK.

18:13

And again, that 196 is, is part of the protocol that is being updated and will be captured within the within the outline camp at the next deadline,



18:27  
OK.

18:30  
And I think I had a question also on the,

18:37  
yeah, can you explain why? Because there's four piling rigs on IoT and two piling rigs on, I get, but there's but the the piling type, the daily piling time is less on higher than on I get and I wasn't quite sure of why that would be as well. Thank you.

18:57  
At Natalie Frost on behalf of the applicant. From my simplistic understanding it's due to the ground conditions. So it's the amount of time that it will take to to drive a pile in in the two locations effectively. So it will be the the actual amount of piling that, but the the duration that it takes.

19:16  
Thank you that that makes sense. My colleague now has a question as well. Thank you.

19:20  
Thank you. Yeah, it was just just taking a step back in terms of the reporting that you referred to and the the health will sort of step through the hours, how are they secured through the DCL. So where is that sort of commitment to make sure those hours are in terms of an enforcement side of things to make sure that that's adhered to and then that reporting again with the Mr, how is that secured through the the application?

19:46  
Said Natalie Frost on behalf of the applicant. So the reporting across the two projects is currently documented within the outline camp and the specific

19:58  
measures in relation to mitigation measures in relation to the project alone are captured within the DML.

20:09

20:25  
Thank you for that. Well, I would welcome that in a written format just to have that properly clarified because I think it has been slightly confused to date. So thank you for that. I'll, well, I welcome that.

20:40  
Moving on to the HRA,

20:46  
I. So since the last hearings and our subsequent written questions, you've revised a a revised, sorry, you've submitted A revised version of the Shadow Habitats regulations document. Given these

changes and before we get into some of the detail points around specifics, it would be helpful to us, helpful to us if you could provide an overview of the changes made and the reasons why. Thank you.

21:13

Thank you Madam Hereward Phillpott KC on behalf of the applicants. I'm going to take this from the start from the submission point from May and just to briefly run through where we are and why things have changed. So as you'll be aware a shadow HRA which is App 238 was submitted with the application itself. That is our stage two HR report to inform the Secretary of states appropriate assessment

21:44

was a project was screened in for HR at stage 1

21:49

a deadline One we put in an updated shadow HRA, the clean version of which is Rep 1012 and that was updated to reflect changes to the IoT application

22:06

in the in combination assessment and also to address points that have been raised by Natural England on the shadow HRA which had been submitted with the application. So those are the 1st

22:20

series of changes. There will be a further update to the Shadow HR A at Deadline 3 which will cover the change application

22:32

and also noise monitoring and air quality updates that have been requested by Natural England and the the Shadow HR A, both in its original and updated form conclude no adverse effects on integrity on the European sites either alone or in combination. Nevertheless, as you'll be aware, we've put in a without prejudice report

22:59

to inform an HR A derogation that App 235 that went in with the application. And as you'll discern on the basis of the conclusion reached in the shadow HR A, it's our view that the need for derogation is not engaged. But because Natural England has not yet formed a view as to whether an adverse effect on integrity can be ruled out, that report was put in on a without prejudice basis.

23:31

Now an updated derogation report, the clean version of which is 1008, was put in at deadline one

23:41

and that was in all that was to deal with three matters. First of all, the derogation report had to reflect the updates to the Shadow HR A that have been made as a result of changes to the IoT application.

23:58

Secondly, we wanted to respond to questions that the examining authority had raised here on alternative jetty designs that had been considered because that was relevant to the derogation

24:12

a report. And thirdly, also to clarify some points in relation to the Europe case following the discussion that had taken place in the first round of issue specific hearings and we thought again that would be helpful. There will be a further update to the derogation report at deadline three to bring it up to date in terms of the change application.

24:35

And of course it is possible that the shadow HRA may be updated further during the examination if required. For example, if there's anything that emerges from ongoing discussions with Natural England, we may pick that up so that it's all in one place.

24:52

In due course, it will be the responsibility of the Secretary of State, as the competent authority under the Habitat Regulations, to undertake an appropriate assessment of the project, taking into account what's in the shadow HRA and the views of Natural England and others. And if there's a conclusion that adverse effects on integrity can't be ruled out, then it will move on to the derogation stage. And again, the material that we put in will inform

25:23

that assessment and a conclusion will have to be reached by the Secretary of State on each of the stages required for a derogation.

25:33

I should also add, I know it's an issue that comes up in due course that the intention is that a Section 106 unilateral undertaking will be provided to secure the compensation that is referred to in the derogation report. That a draft of that is expected to be submitted to the examination at deadline 3,

26:02

and that will be drafted so that it will be binding in circumstances where the Secretary of State decides that it is necessary for a derogation to be made in order to grant consent.

26:19

So that's by way of an overview of what we've put in, why it's changed, why it's going to change again, and that it may change, if necessary, during the course of the examination. But there's nothing, nothing unusual about that.

26:47

Thank you for that, Mister Philpot. That was very clear.

27:03

The the shadow HRA

27:09

notes that there may be limited a adversary tech effect on integrity on just two receptors, which could be reduced to negligible through mitigation. Those are the potential effects on airborne noise and visual disturbance during construction and decommissioning on qualifying species of coastal birds,

and the potential effects of underwater noise and vibration during marine piling on qualifying species of fish and marine mammals.

27:41

And I know we're going to cover the airborne noise at tomorrow's session

27:47

because your specialist is attending tomorrow. But overall, are you satisfied that you have provided or can provide all the information that's required so in order for these two issues to be resolved during the examination? Thank you.

28:06

I'm going to ask Mr Ross to deal with that

28:11

Natalie Frost on behalf of the applicant. Yes, I'm satisfied that we've given sufficient evidence against all of the pathways that relate to birds and fish to be able to successfully mitigate the potential effects arising from the project. One of the other diseases that we've added to the shadow HRA at the previous iteration is a effectiveness of mitigation document, which effectively outlines why we believe, given all the evidence that those mitigation measures are sufficient.

28:45

I think you saw that one

29:00

and it's noted that

29:02

Natural England didn't submit a or make a submission that deadline 2 because they wanted to have time to provide a comprehensive response at deadline 3 which is on the 3rd of May. And that will give us sufficient time to explore issues further through the next set of written questions due to the issues on the 17th of May.

29:26

But again, can you indicate to the best of your current knowledge there's still 18 issues that are marked amber on the statement of common ground. Are there any areas that the principal areas of disagreement and do you feel that the that the issues will be able to be covered off?

29:45

Thank you

29:48

Natalie Frost on behalf of the applicant. It's certainly our intention to be able to cover all of the issues off we you will have noted in their deadline in Natural England, deadline two response that sorry deadline one response that we they have turned a number of those issues green and a lot of instances where they weren't able to do that, it was because they hadn't had time to review the information we provided them with. So we have provided information against every item that they currently still have as Amber and we've got a further meeting with them next week.

30:19

But does this carry on discussions with them? So it's certainly our intention to resolve them before the end of the hearings.

30:30

Thank you. Yes, I think certainly their response at the at the 3rd of May is going to hopefully as you say turn will turn more of those issues Amber, but we'll we'll wait and see and and if there is any outstanding issues we'll bring it up in the written questions.

30:46

Madam Hereward Phillpot Casey on behalf of the applicant I've just been reminded and the issue that we're covering tomorrow rather than today because of the availability of witnesses, air quality rather than noise. So it's that issue which is being deferred to tomorrow.

31:06

Did I say noise, I I thought I I believe I believe you did. But in any event, just to be clear, that's the, that's the witness we're waiting for. Thank you. Yes,

31:22

I want to move on to the the out straight to skeffling managed realignment site. Again I think you we agreed last time that we could just call it scaffoldings which makes it a lot easier. Thank you.

31:37

Having looked back at the recording for I SH 3,

31:41

we we what we wanted to receive was a copy of the management plan for the skeffling scheme. But because that wasn't in your gift to supply it without consultation with the EA, you offered us the environmental statement from the original development. Thank you for providing that. That's now in our

32:02

examination library at Rep 1027,

32:06

having skimmed through it.

32:09

Umm,

32:10

there was. There was an Appendix 1.2 of the original ES which was the Environmental Action Plan and it stated that this document provided more detail on the management of the scheme. But having looked through the document, it doesn't look as though that was actually included. So

32:31

I wonder if that could be provided then for at the next deadline.

32:37

Natalie Frost on behalf of the applicant. Yes, certainly it may not be as its title suggests fully in that it might cover some of the terrestrial elements of of the wider scaffolding scheme. But we can certainly provide it. Yeah. Thank you.

32:53

I think that would be helpful if it's a bit all over the place, anything that you can do to sort of help reference the bits that we need to look at and because sometimes these things can be quite, quite lengthy. So at least if you can give us sort of a an overview guide to the relevant paragraphs and sections that might that might help us with time as well.

33:12

Thank you. Yes. And also the environmental statement was itself quite long. So again, if there's anything that that you particularly want me to to to read, it would be good to be signposted for that because

33:26

yes, thank you.

33:29

Umm,

33:31

So I just wanted to talk as well about the means of securing the additional compensatory habitats and how this would work

33:41

should the Secretary of State disagree with your findings of no adverse impacts. And you then have to provide the without prejudice report to inform the derogations, which concludes that there's no other feasible alternatives to the project and there's demonstrable needs. And that the compensatory habitat at Skeffling's will provide more than the recommended ratio of compensatory habitats that will ensure the continuation of the national network.

34:13

So that's that's laid out in your derogations document

34:19

and assume that given the nature of the scuffling site, the habitat will be that habitat will be provided regardless of the findings of the Secretary of State in relation to the scheme. Is that correct,

34:34

Natalie Frost on behalf of the applicant, yes. So the scaffolding project is already under construction and due for breaching later this year, and so that habitat will be provided it as it as it currently stands, it's not been allocated for a compensation or enhancement to any particular project, with the

exception of I assuming that that that grant is granted consent and this particular project. So yes, the habitat will still be delivered, but it is won't be allocated to a particular project.

35:05

Does that answer your question? Yes, thank you. I understand that.

35:10

So if the Secretary of State agrees with your assessment that the intertidal loss is predicted from the project and not of a scale that would result in an adverse effect,

35:21

the Scuffling's scheme will continue but without the one hectare block allocated through legal company through legal agreements. That's that's correct then

35:31

so under that sorry Natalie Frost on behalf of the applicant, under that scenario, the one hectare would be a still offered to the iget project as as enhancement rather than compensation. So it's a it, it's effectively the same hectare and there will be a proportion of it if required allocated as compensation and the remainder would be assigned as enhancement.

35:54

So it's, it's the same one hectare, it's just how it's allocated effectively. Thank you. Yes, I think that was where I was trying to get to that. It it will it still be allocated to the scheme as enhancement rather than compensation? Then if if

36:10

there is an agreement that there's no adverse effects, Natalie Frost on behalf of the applicant, yes, that's the intention.

36:36

And sorry, just going back to the Section 106 that you refer to, presumably that's the purpose of that document and that's how that will be delivered. And will that make that, if that is the case, will that make that differential in terms of that's how it's being allocated to use this? That's my understanding.

36:50

Yes, it will explain and provide a mechanism for differentiating between those two things.

37:07

Thank you. So

37:09

I've got a question now on the requirements of the Managing Naturist 2000 sites

37:18

which requires the compensatory habitats to be additional.

37:25

So if the if the scuffling scheme is being provided in any event, and the and the one hectare site will be provided, whether it's allocated as compensation or enhancement, how does that meet section 5.4 of the Managing Natural Sites? By being additional?

37:51

And I'm going to ask Miss Moss to just explain the background to the wider scheme which is an important part of the answer to that question and then once she's finished, if necessary, I'll come back with any further comments.

38:04

Natalie Frost on behalf of the applicant. So the scheduling scheme is being undertaken by in joint partnership with Associated British Ports and the Environment Agency. The objectives of the scheme from an ABP perspective. So which is where in which the one hectare would fall for this particular project is to create a compensation for future port development. So it's it's effectively being delivered as a habitat bank that can be drawn upon to deliver a compensation against future projects as they

38:36

as they arise whether that be for a compensation or enhancement of objective. So

38:43

if they weren't allocated to this project, they could be allocated to to another project effectively. So it is in addition it ABP wouldn't be doing scaffolding if they couldn't use it to draw down from from this perspective

38:57

and Howard Philpott Casey on behalf of the applicant, just to expand that. That is, as it were, a necessary and logical expedient in circumstances where, for understandable reasons, it is desirable to have compensation in place so far as possible ahead of the impact occurring or so that the timing coincides. It's therefore necessary in order to achieve that and as a matter of best practise

39:29

to provide these things in anticipation. It doesn't mean that they are not appropriately taken into account as compensation. It simply means that when those schemes aren't being set up, it's obviously important to understand that that is their objective and that one is not simply taking advantage of something that was entirely unrelated and happening in any event. So this is an example of that sort of thing. It does require forward thinking on behalf of applicants, but increasingly that is that is the case where there's opportunities arise and this is one of them.

40:01

Mercifully

40:06

is this something that BP do at other ports is this sort of when you say best practise is this something that they've got experience of and has been accepted as a as a way to sort of deliver this in in terms of that sort of forward thinking that creating that that land bank like you say Hereward Phillipott Casey on behalf of the applicants. I'd have to take instructions on that particular point I'm happy to do. So what I would say is just to give other examples, it it is is not uncommon for public bodies such as the Environment Agency to providing



40:36

compensation schemes in relation to say

40:41

flood defences. Where it's going to have there's going to need to be compensation elsewhere. Also in the Sizewell C examination, slightly different context where years in advance of the application for the Co going in an application for Planning Commission was put in to create compensatory wetland habitat adjacent to the Triple SI habitat. In that case rather than habitats regulations and and that was advance

41:13

mitigation compensation for the loss of triple SI that was known to be coming. And that was taken into account in the decision that the loss of part of the wetland of the triple S in that case was acceptable. So it is not an isolated example, but whether ABP has other areas where it's doing this, I'd have to check and report back

41:37

that might be helpful. But I think that that explanation there is sort of useful in terms of sort of the the wider context, particularly the the, the other DC and that side of things. Yeah. Thank you.

41:54

Thank you. That's excuse me, that's all the questions I have at the moment. On that, as I say, I think there probably will be some more issues arising at written questions too, following Natural England's responses, but we'll come back to that

42:10

NE Lincolnshire. Do you, do you have any comments on anything that you've heard in the gender? Item

42:17

three, please. Thank you. Richard Lemon NE links council. We've got no comments to make. Thank you.

42:23

42:43

Thank you. That concludes the gentleman. Item 3. So moving on to agenda item 4, Marine Archaeology. I only really have one question on this. The Thank you for writing the Statement of Common Ground between yourselves and Historic England,

43:02

and that along with their representation at Deadline One, seems to indicate that there are no major areas of disagreement between yourselves. There was just one point to pick up on. ID Three of the Statement of Common Ground notes that following the recent Geological Archaeological Evaluation, laboratory sample analysis of the samples collected will be undertaken to mitigate against direct

impacts of the project on underlying deposits. Historic England have noted that the earlier that this work is completed

43:33

more effective. It can be used in order to manage our archaeology and the project delivery risks going forwards. Could you update us on on the those laboratory analysis testing and when that might be undertaken?

43:51

Natalie Frost on behalf of the applicant, I can confirm that that sampling is already taken place and the Geography Investigation survey was undertaken in September 2023 and the samples were subsequently analysed by Wessex Archaeology. They sampled a total of 15 geotechnical borehole logs and assigned them with varying priority levels for further assessment at at what they class as a stage 2 assessment. And those samples have have since also been analysed. So

44:22

all of the assessment has now been completed and reported outlining the features of archival, paleo paleo geographical interest within the area of interest. So that that has all been documented and we can provide that report at deadline 3.

44:51

Sorry, just a quick question for me. Is that something that historic England would need to be consulted on and that you would agree with them in terms of the results and and they would provide us sort of with their their comments or their their conclusions if you like that they are sort of acceptable

45:07

Natalie Frost on behalf of the applicant. So we will certainly provide them with a copy of it. What what those tend to study tends to be used for is more to effectively improve the archaeological knowledge and understanding of a particular area rather than necessarily how it influences the works themselves. So it's it's a way of contributing to the underlying evidence base.

45:34

Thank you. Well that that was the only question I had on archaeology. Northeast Lincolnshire. Do you have any comments on archaeology?

45:43

Thank you. Richard Lemon NE links council. We've got no comments to make on that. Thank you.

45:49

Thank you. Well, that concludes item 4. So I'd now hand over to Mr Page for item 5. Thank you.

46:00

Thank you, Miss Metcalf. So moving on to agenda item 5 on flood risk and coastal change.

46:09

I appreciate the applicant is covered the effect of land raising on ordinary water courses in their response to the environment, environment agencies relevant representation.

46:19

However, also note Northeast Lincolnshire Council's response to our first written question on the matter did not bring a resolution, nor did the applicant respond to NE Lincolnshire Council on this matter in their deadline 2 submission.

46:34

So, for the avoidance of doubt, it may be useful for the applicant to give a brief

46:39

oral response as to whether their assessment is sufficient. It may also be useful for the applicant to clarify whether this matter is sufficiently covered off in the Draught agreed Statement of Common Ground with NE Lindsay Drainage Board. For example,

46:56

the impact of land raising on flood risk is mentioned in Table 2/1,

47:01

but it's not clear whether this has been carried forward into Table 3/1. As a matter that needs agreement Over to the applicant, please

47:10

Sir Harry Wood, Philpott Casey. On behalf of the applicant, I'm going to invite Mr Alan Lewis from ACOM, who's now taking his place facing you, to respond on this matter.

47:24

Hello, Sir Alan Lewis for the applicant. So we recently made direct contact with North East Lindsey Drainage Board to seek clarity on their position in relation to ordinary water courses. They got back to us yesterday indicating they are not yet yet satisfied they've got sufficient information. So we are in contact with them to set up a meeting in the coming weeks to agree a way forward and to determine whether there's any need for any further assessment. And we will

47:54

provide update on progress on this matter at deadline three, if that's acceptable to the panel.

48:01

Yeah, that'd be really helpful.

48:04

I suppose this is kind of a difficult question, but

48:07

how do you know how far away you are in terms of disagreement or how much more information in general terms needs to be provided? Because I think this sort of cuts across all the statements of common ground insofar as, you know, the amber matters are obviously still in discussion, but there's no real indication of how far away you might be to reach an agreement or disagreement. So I think it'd be helpful just to get a bit of an understanding of of where you are in that respect.

48:38

Alan Lewis for the applicant. Of course, Sir, just very briefly, I mean I think there are perhaps some, some, some differences of interpretation. I think by meeting them particularly our flood risk lead, Carl Pelling who unfortunately is a broad actually this week, but he will be involved in those discussions with the Drainage Board. And I think once we've had those discussions, we may or may not be able to convince the Drainage Board, they got enough information. But I think until we've had that meeting, we can't clarify the way forward. I think that's probably our position, Sir.

49:10

OK, that that's fine. Thank you very much for that.

49:19

Does North East Lincolnshire Council have anything to add on that? Because I'm mindful that our first written question was directed to yourselves

49:29

and it'd be good to get your your position. Thanks.

49:34

Thank you, Richard Lemon, NE Links Council. I think in light of what's just been said, we'd welcome our drainage team to be involved in those discussions just so that we're working all together there would be very useful. Thank you.

49:48

Thank you. So if we're all in agreement, I'll include that as an action point just for everyone to get together and and sort of figure out where you are in terms of what needs to be done.

50:00

Is there any further comments from the applicant to anyone else in the room? Alan Lewis for the applicant. And we're happy to support that, Sir. And we will include Northeast NE Lincolnshire in those conversations. Thank you.

50:13

OK. Thank you very much.

50:16

That's the end of agenda item 5 from me. Then I'll now hand back over to Mr. Hunter who will continue with the gender item 6 and the applicants intended change request. Thank you.

50:32

Thank you. Mr Paige,

50:34

just conscious of time, I think we got a bit of time to sort of start on on this one rather than sort of looking to break, but I think we can we can sort of make a make a start on this one.

50:42

So really I think we felt it was useful to sort of put this on there just to sort of give us a bit of an update and I know that we may well have some some questions that we want to ask in terms of the change request and and the the implications of that. So we've seen what was submitted at deadline one and that we sort of understand you know the process that you've commenced along with the the consultation that you've you've already started. So helpful to us we've seen that and and in terms of the process I think we consider that to be sort of that the change in notification step as identified in in the advice note. So I think that's

51:14

that's the stage that we we feel we're at and and I think that probably accords with with what you think as well. And as you're probably aware we're looking to go on site on the 17th next week and the itinerary there includes that additional land. So we'll we'll be able to sort of see that and get a sort of a clear idea then. But like I say, I think it would be helpful to us to sort of ask you to sort of briefly just explain those changes and the consultation that you've got that's underway and whether and I think we probably know the answer to this, but whether there any sort of the timetable for when things are going to come to us in terms of the the formal next step

51:46

just so that we're aware. And then like I said, I think we may have sort of questions that that have sort of arisen from our reading of the the information that's before us.

51:55

Sir Harry Would Philpott Casey on behalf of the applicant, I'll, I'll start with the brief outline of the change request. I hope that it strikes the right balance between being brief and being informative. But if you've got further questions, I'll do my best to help answer them. And I've got others here who can help with questions on the individual changes themselves. So the proposed request for a change is described in the change notification that went in on the 26th of March, which is repped

52:27

2027. Subject to consideration of responses to the consultation on the proposed request, the intention is to submit the Change application and all of the required accompanying information on the 3rd of May of this year,

52:46

and there are 4 proposed changes identified in the Change notification and described in more detail in the Proposed Changes Notification report, which is Rep 2024. All four proposed changes are minor in nature and I'll just briefly run through each one. So Proposed change one is a change to the number of monopiles forming part of the iget Jetty Birth

53:17

be constructed as part of work #1, which will change from 2:00 to 4:00.

53:25

The second proposed change is a change to the diameter of the piles supporting the approach jetty which is also part of work number 1, from 1.2 metres to 1.575 metres. And that's to support the loading from the pipe racks. And as a result of the increase in pile diameter, there is a concomitant increase in distance required between the piles

53:53

and a two metre increase in the width of the approach jetty.

54:00

The third proposed change is a minor change to the red line boundary in the vicinity of Work #7

54:07

to include additional land for temporary construction purposes and minor changes to the northern access from the A1173 to Work #7.

54:20

And then the 4th proposed change is a change to the works plans at AS002 to add visual detail to Work #1A. That's the approach Jetty and topside infrastructure to show the walkways linking the jetty head to the mooring dolphins. And those walkways are already described in Schedule One and Schedule 3. And each of the proposed changes is described in more detail in Section 2

54:53

off the report.

54:55

And the rationale and need for each change is described in Section 3.

55:01

And if it would help, I'd just briefly run through why each one is needed. So proposed change one reflects the need for a floating rather than a fixed Fender system as a result of further detailed development of the design. And at the floating system requires 2 monopiles for each Fender panel rather than one. Hence the overall total increases from 2:00 to 4:00.

55:28

The second proposed change reflects the increased pipe rack loads that have resulted from further detailed development of the design and the greater diameter is to accommodate those increased loads.

55:41

That in turn leads to the need to increase the spacing between the piles and in addition the pipe racks and the access walkways need to be slightly wider and that gives you then the overall 2 metre increase in the width of the jetty. The third proposed change reflects discussions with Kayden Gas as to the constraints that are required to protect the existing high pressure gas pipeline that crosses Work #7. In short, the likely light layout of the highest

56:13

the production facility will need to move approximately 10 to 15 metres NW of the gas pipeline. And that has knock on consequences first of all for Access AB, which also moves 10 to 15 metres northwest. And also, as I explained

56:30

in the last set of hearings, the work that's needed temporarily during construction to lay down the pipelines, the pipeline sleeves and the cables ahead of their installation as part of work number six.

56:43

And then the 4th proposed change is just to provide clarification of an aspect of the development which is always formed part of the application and is itself unchanged.

56:55

And then as we have explained, the Compulsory Acquisition Regulations are not engaged here for the reasons that are set out in Section 4 of the report. Although for completeness, the consent of the landowner affected by proposed change #3 has since been obtained and that consent will be provided to the examination along with the change application itself.

57:25

So that's belt and braces on that point.

57:29

And no new or materially different environmental effects are predicted to arise as a result of the changes either alone in combination and no new mitigation measures are required. That's explained in Section 5 of the report

57:43

and for the reasons set out in section 6 of the report, we're confident any issues arising from those proposed changes can be accommodated within the existing timetable for the examination. And then Section 7 describes the timetable and the scope of the consultation, which, as I said, commenced on the 26th of March, is due to end on the 24th of April of this year.

58:10

So I hope that's satisfactory. By way of a brief outline

58:18

it is. Yes. Thank you that that's helpful. And like I said we're, we're likely to have some questions, although hopefully you've answered mine.

58:26

So I've just go over that one out. So, so that that's my question Done. Thank you.

58:31

And now I think Miss Metcalf probably got a few questions as well.

58:37

Thank you, Will. You also answered one of mine as well. So getting fewer questions as we go. Just to clarify the other than the monopiles, is the total number of piles changing at all.

58:52

But I'm going to ask Mr Varley, Adam Varley on behalf of ABP to just provide clarification and confirmation. At that point

59:04

Adam voted for the applicant. No, the total number does not increase.

59:10

Thank you. And is it every pile on the approach, Jesse that will increase in size or will there still be some that are at the smaller size

59:20

the applicant? No, only those supporting the the pipe rack. So

59:26

two of the four in every pile bent

59:31

on the western side of the approach. Jetty, to be

59:36

clearer,

59:48

Thank you.

59:51

Just going back to archaeology, looking at the written schemes of investigation, there are several seabed features of archaeological potential that are noted which are very close to the jetty. Now, I completely acknowledge that at that very small scale, for such an enormous project, those distances might not actually be as close as they appear. But could you?

1:00:16

Could you just confirm whether or not Wessex archaeologist, I think that's your archaeologist and have looked at the change request and have commented on whether or not that increase since width of the jetty and the size of the piles may have any additional impact on on those features.

1:00:37

Natalie Frost on behalf of the applicant, I can confirm that Wessex Archaeology have been involved in producing the report and have, have and are satisfied with it as it's presented. So Yep, no change in our assessment or conclusions.

1:00:51

Thank you.

1:00:54

Is that, is that actually written in the change request somewhere that they have, they have considered the change. Thank you Natalie Frost on behalf of the applicant Say the appendices to the change report detail each impact pathway in turn that was considered in the original environmental statement. And whether we feel that that has changed or the outcome of that assessment has



changed as a result of the change application and and they confirm as part of completing that appendix that there is no change to the

1:01:26

investment. I don't think we specifically say that Wessex Archaeology have undertaken that, but I can confirm they have. And and if, if, if it would be helpful, we can certainly add that into the change application report.

1:01:38

Thank you. Yes, it would be helpful just to have that written down somewhere. Thank you for that.

1:01:51

And I just have one one other I thought I better find a question giving you answered my other one, but I think you may have already answered this earlier on actually in terms of the HR side of things. Is that being addressed in terms of the developed, the the DL3 submissions, in terms of looking at the change to the area and therefore the change or that the amount of land, sea bed is being lost or those calculations then going to come into us in terms of the DL3 submissions and Howard

1:02:15

Pot Casey on behalf of the applicant, Yes, that that's right. You correctly understood my earlier explanation in relation to what's going to change in the HR. It will pick up the consequences of the change application.

1:02:30

OK.

1:02:32

Can I just in terms of the change request, whether there's anything NE Lincolnshire want to ask whether they're clear on on the process or there's any sort of comments that they wish to make in terms of the changes that they've heard any sort of effects that they're concerned about?

1:02:46

Thank you, Richard Lemon NE links council not at this stage, it's still going through sort through our consultation process. So just sort of waiting our internal consultees to come back as to whether there's any issues there. Thank you.

1:03:01

Thank you. Could just what is the process in terms of responding to to comments. So if you get for example a comment from NE Lincolnshire which raises sort of significant issues, what's the process for sort of taking taking that through given you know the consultation clauses pretty close to the end of April and then you're looking to submit May. How does how do you sort of allow time to sort of take on board and respond to any comments.

1:03:24

I I'd have to take instructions as to the internal process but the as as I said the the decision to submit and and the form in which it will be submitted will be determined following consideration of comments in response to consultation and what we can do if it would help is with the change application itself we can explain and will explain the consideration that has been given to consultation

1:03:56

responses in deciding to submit the application and the form it goes in. I think that's probably the best that I can offer today. I think that's fine. I think that would that would be helpful for us. In terms of the and you understand the process that we need to go through once. Yeah. Once we receive that, that formal application, if we can then be assured that the consultation responses have been

1:04:17

sought to responded to where possible. Yeah. And we got an understanding that I think that would help us. Yeah. Indeed. And and just just to provide some reassurance as as you might expect, we are in a process of ongoing engagement with all of those who have an interest in these matters and we, we are certainly seeking to ascertain their views. So for example, the landowner who whose land is affected by the change to the red line near work #7. In order to obtain their consent to the changes you might imagine we've engaged with them as to what's involved,

1:04:52

to where we are trying to front load that process, if I can use that term. But nevertheless, we will explain when the application goes in, how we've taken account of what comes out of the consultation and and the the formal responses we received through that as well as engagement that takes place alongside the formal consultation.

1:05:15

Yeah, thank you. That, that's helpful that that was the question I was going to ask in terms of the discussions with the landowner and what we were going to get. So yeah and brilliant. Well, I've I've got nothing further on on that item.

1:05:26

What I'm thinking is that it might be worth sort of a short break now perhaps before we move on to the the next item.

1:05:33

It's 5 past 11. So perhaps if we take sort of a a 15 minute break and we're back at 11:20. So this hearing is adjourned till 11:20. Thank you.

1:05:45