

ISH8 Pt1

0:04

Good morning, everybody.

0:06

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 immigrant green Energy Terminal. Just before I carry on with some introduction matters, can I just sort of confirm that you can hear me? I can see you on the screen,

0:24

Mr Philpott, and you're not scratching your head, so I'm guessing you can hear me clearly. So yes, I, I can hear and see you clearly. And I can see that colleagues that you have seated to your immediate left and immediate right, those further out at the moment are not visible, if that helps. OK, yeah, I'll get the, the AV team can sort of see what they can do as we're as we're working through and that that's fine. OK. Brilliant. Thank you for for that. And can I just confirm as well that the, the live stream has commenced as well? That has excellent. Brilliant. Thank you very much.

0:58

So my name is Adrian Hunter, and I've been appointed by the Secretary of State to be the lead member of the panel to examine this application. And just before I run through some housekeeping and some preliminary matters, I'm just gonna ask the other members of the panel if they could just introduce themselves, please.

1:14

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

1:24

Good morning. My name's Catherine Metcalfe, and I've also been appointed by the Secretary of State as a member of this examining authority.

1:32

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.

1:39

Good morning. My name is Mukhtar Sheikh and I have also been appointed by the Secretary of State as a member of this examining authority.

1:47

Thank you. And together we, we constitute the examining authority for this application. And I've just got some preliminary matters that I just want to, to go through, some of which you've probably heard before, but I just need to, to go through some things. So, so just bear with me if, if you could. The meeting will follow the agenda which was published on the National Infrastructure Planning website on the 24th of June. The examination library reference for that is EV11-001. And it will probably be

helpful if you do have a copy of that in front of you as we work through everything. This agenda is for guidance only and we may add other considerations or issues as we progress

2:22

will conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. But if the discussions can't be concluded, then it may be necessary for us to prioritise matters and if there are other matters to further written questions. Likewise, if you can't answer the questions being asked or require additional time to get the information required, then please do let us know that you wish to respond in writing. Today's hearing is being undertaken virtually mean that everybody is participating by Microsoft Teams and as you've seen Ferris, the the XA are all in the same rooms. That should make it a lot easier for for us and hopefully yourselves as well. And

2:55

please can I just ask that every time you use an abbreviation or an acronym, you give it its full title just in case people here today or listening back on not as familiar with the application or the documents. And can I also just remind you that the chat function in Microsoft Teams will not work. So please don't post any comments or questions in there as they will not be seen. And recording of today's hearing we made available on the project page of the National Infrastructure website as soon as possible after this hearing is finished. And with this in mind, please can I ensure cast that you ensure you speak clearly, stating your name and who you represent each time before you speak.

3:31

A link to the Planning Inspectors Privacy Notice was provided in the notification for this hearing. We assume that everybody here today is familiarised ourselves with this document which established how personal data of our customers is handled in accordance with the principles set out in the data protection laws. Please contact the case team if you do have any questions about this. So intention to take a number of breaks throughout the day. We're conscious that it's quite hard work sometimes working sort of virtually. So we'll aim to take a mid morning break about 11:30 and aim to have an afternoon break for lunch about 1:00 PM. So I entered break for lunch about 1:00 PM and we will take him

4:05

the afternoon break if required.

4:08

My final point on the agenda relates to post hearing action notes should they arise during the hearing would be Nutting hearing actions as they emerge and prior to the close of the hearing. As we have done with other other issue specific hearings, we intend to go through the list of the hearing actions and there will be formally issued as soon as practical after the close of the hearing. For anybody watching the live stream, can I also advise that when we do have a break in proceedings, we will have to start the live stream in order to give us clear recording files and as a result of the point at which we recommence the meeting and restart the live stream. You will need to refresh your browser to review the revised live stream.

4:43

Just before I move on to sort of a few other bits, does anybody have any questions on what I've just outlined?

4:49

I'm not seeing anything what I should have said as well because we're doing virtual. Please by all means use the hands up function if that's helpful as well. So we can come to you if you do that as well.

4:59

In terms of the purpose for today's issue specific hearing,

5:02

it is being held to explore a number of matters orally in respect to the those matters have been set out on the agenda. And our purpose today is to examine the information submitted by the applicant and also by interested parties and others. As a result, I'd like to reassure you that we are familiar with all the documents that you have sent in. So in answering a question, you do not need to repeat at length something that has already been submitted. If you want to refer to information already submitted, please do give us the PINS library reference number.

5:28

Just before I move on to introduce introductions, does anybody have any comments on the purpose of of today's hearing?

5:36

No, great, thank you. So now I'd like to sort of move on to, to introduction. So if, when I come to you, if you could just say who you are, who you represent and anybody who you may well be looking to sort of call upon at during the, the hearing today. So if I could start

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with the applicant, please.

5:53

Good morning, Sir. My name is Harry Wood, Phil Potkins Council. I'm instructed jointly by Bryan Cave, Leighton Paisner on behalf of the applicant, Associated British Ports and Charles Russell Speechly is on behalf of Air Products. And I'm anticipating calling on 4 speakers to deal with individual items on the agenda. So I've got Mr Tymon Robson from Air Products who is like to speak on items 25 and 6:00. I've got Doctor Jamie

6:27

Newton from ABP Man speak in relation to item three, add Mr Adam Varley from Associated British Ports who speak in relation to item four and have Mr Alan Lewis from Acon who'll speak in relation to item 5. And of those speakers, the only one you haven't heard from before is Doctor Owton. So when he comes to speak, I'll summarise his credentials at that stage if that's convenient. And then we will also

7:01

and update the table of credentials, the most recent version of which is Rep 3041 at deadline 5 so as to include his details.

7:15

That's fine. Thank you very much for those introductions. That that's helpful. Thank you.

7:20

So if I can add, just move on to organisations and a number of individuals and if I could start first with NE Lincolnshire Council please.

7:31

Yes. Good morning, Sir Richard Lemmer from Northeast Lincolnshire Council.

7:37

Good morning, Mr Lima.

7:39

If I could then move on to the Environment Agency, please.

7:49

Perhaps the Environment Agency aren't here.

7:54

OK. I'm not. I'm not seeing them. Fine, OK.

7:58

And if I could then move on to the harbour master, please.

8:07

Good morning, Sir. My name's Jane Wake and I'm a partner at Winckworth Sherwood and I'm representing Captain Andrew Furman, who's the Harbour Master Humber. And I think you can see both of us on your screen at the moment.

8:22

Thank you very much. Yeah, that that's helpful. Good morning, birth. And while I've got you both, actually we were due to have the Immingham oil terminal operators attend, but we've received an e-mail from them last night. And I think we've also received a further e-mail today from the applicant this morning just confirming that the oil terminal operators aren't intending to attend today. And we did have quite a number of questions for them, in particular on item number four, navigation, operational safety. In fact, principally most of our questions were were for them to be honest and given they're not in attendance

8:56

might and our thoughts are that item 4 seems slightly superfluous to discussions today because there seems no point in asking questions of yourself because we've heard from both yourselves at previous hearings. So, so we're quite clear of of your positions on on a number of matters.

9:13

But just before we sort of move on and, and sort of make that decision, can I just ask the applicant, Mr Howard, was there anything in particular that you were looking to, to bring up under Item 4,

9:25

Sir Harry would feel part on behalf of the applicant. The short answer is, is no. You, you have seen the exchange of emails overnight. And I'm sorry, it appears you didn't see our e-mail before we saw the response to it. But hopefully now you've seen both together you, you get a sense of the overall position so far as we're concerned that the position that has now been reached with the IT operators is sensible

9:58

and satisfactory. It, it, it allows for the operation of the usual and well established mechanisms for dealing with navigation and safety matters

10:10

in the usual way to operate. It provides appropriate level of reassurance to the IT operators as to how they fit into that. And we are content with the position as if we've now reached and there will be a written update in the statement of common ground at deadline 5. And but given that they are not attending for the reasons they've given, we don't have anything else that we particularly want to articulate the for you under this item. And that's obviously you've got any particular

10:45

questions for us and we'll try and help as best we can.

10:50

Thank you. That that that's helpful. And Mrs Whitman, perhaps if I can come to you and see if there was anything you particularly wanted to raise under under item four. I think what I'm minded to do is think that given we're going to get a written submission at at deadline five, we have the opportunity, if needs be to ask written questions in our in questions three. So it seems like it's a matter that might

11:12

probably most appropriately dealt with through written questions once we've seen those submissions. But I don't want you to miss out on the opportunity for any comments that you wish to make to us at this point.

11:22

Sir Jane. Waking for the whole of Master Humber.

11:26

I'm grateful, Sir. We, we don't

11:30

have any points that we wish to raise. Our attendance today was really to answer any questions that you might have and and we would be perfectly happy to deal with any written questions that you might have

11:45

in due course. But no, if you're happy to release us, we would be happy to be released.

11:52

Yes, is the short answer. So yeah, thank you. Thank you for coming. We will be dealing with item 6 because I think we do have some questions. Even though the oil terminal aren't here, we do have some questions for the applicant just to clarify some things. You're more than welcome to stay should you want to, but I understand that you may well want to go off and do other things. So thank you for coming anyway. And, and, and we'll sort of move on to other, other bits. So thank you for that.

12:16

Thank you Sir, Thank you. So just before we move on to other items on the agenda, can I just

12:21

to see if there's anybody else online who was looking to speak who I have not mentioned?

12:30

No, I'm not seeing anybody. So that's, that's fine. So are there any other questions on the procedural matters today and how we're looking to run the agenda or the things we've just been through?

12:43

No, I'm not seeing any, any hands up, Sir. I think that concludes item one on the agenda, Sir. So thank you for your inputs on on that. That's it. That's been helpful.

12:53

Item 2 on the agenda is the applicants proposed further change request or change application as it is now, which we which was submitted and received on the 29th of June. So we're aware of all those changes and and we've seen previous sort of correspondence that you had with us and are aware of the the submissions that you made a issue specific 6 as well, just to sort of give us a, a sort of a heads up of, of what to expect. But that said, I think we felt it might just be helpful if we could ask the applicant to sort of briefly outline the changes that you're looking to do, the consultation you've undertaken and in particular the responses

13:27

that you've received. And we do have some questions and most of those actually relate to proposed change. 9:00 So I think once we've sort of been through your sort of brief introductions and and outlines of, of the changes that I thought might sort of give you a heads up in terms of sort of the questions that we've got. And it's really just around that that change now that you're looking for.

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So if I could hand over to the applicant, Yeah. So I'll do my best. If you find that I'm going into more detail than you would like in the summary do do just let me know. And but

14:03

if I start by saying obviously the proposed changes and their implications are set out in full in the proposed further change application report, which are referred to as the report as I'm going through. And the request concerns a small number of minor changes to the application and also deals with updates to the information that's contained in the environmental statement leading to a minor adjustment to proposed mitigation. And the proposed changes reflect broadly two things. First, the outcome of continued

14:37

engagement with stakeholders over the detail of the proposed development and secondly, continued development of the design and the changes themselves and their rationale and the need for them are explained in section two of the report. And I would summarise the proposed changes as follows. So first of all, there are minor adjustments to the highway and associated drawings. These follow requests from KNELT in its capacity as local highway authority. These are grouped together as proposed change number

15:11

five and there are three minor adjustments within that. First, minor adjustments to two accesses from the A1173 to work #7, which we call change five A. Second, it's a minor beneficial reduction in the area to be stocked up to the South of La Porte Road. And then associated reduction in work #3 that's changed by B. And then thirdly, an adjustment to the way that the speed limit change that's agreed with Nelk will take place

15:46

along Newport Road and that's changed 5C.

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The second change is a new area of permanent stop me up in the vicinity of the existing entrance AA from Kings Road to work number 7. And that arises as a result of new information about the adopted Hwy boundary with an associated minor reduction in work #7 called that proposed change number six,

16:13

and then a beneficial reduction in the area of work #9. And the order limits to reflect ongoing discussions with the relevant landowner and the Environment Agency. And that's proposed change #7

16:27

so in addition to those proposed changes to the development phased in the application, the applicants also updated the information contained in the environmental statement. In two respects, that leads to an adjustment to the mitigation described in the outline and CMP. That's Rep 3O27. These are described as proposed changes 8:00 and 9:00 in the report, although they don't alter the description of development for which development consent is sought or the powers

17:01

supposed to be contained within the DCO. But they have nevertheless been treated as changes for the purpose of consultation and applied for as such.

17:11

So taking the first of those proposed change #8 that's a change to the proposed ground protection methodology in work #9 So instead of using ground matting, the proposal is now to install a geotextile layer and a layer of compacted fill material. And that change will provide better protection to the soil.

17:34

And then change #9 is a change to the proposed terrestrial piling methodologies in works at 35 and seven to include the potential use of driven piling

17:48

that that brings the following advantages. It has a reduced potential for adverse effects on the underlying aquifer and source protection zone.

17:59

It reduces the material requirements. It also reduces the duration of the works.

18:07

The location of each of these proposed changes, as shown in the plan at Appendix 1 to the report and the changes to the associated application plans are shown as Appendices 2:00 to 4:00.

18:19

Appendix 12 to the report is a schedule of the application documents that are proposed to be changed. In light of the proposed changes, we've supplied clean and track change versions of the draught, DC and explanatory memorandum,

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and we've undertaken targeted consultation and engagement in respect of the proposed changes, the response to which was limited both in volume and scope and is set out in the Report Section 5 and in the Consultation Report Addendum at Chapter 3.

18:54

There were only three substantive responses to consultation. They came from Anglian Water, from Natural England and from the Environment Agency. None of those bodies raised any objection to the proposed changes and all agreed with the assessment of the implications for the environmental effects of the project.

19:17

The consultation feedback that was received was taken into account, but it did not lead to any changes to what was proposed. And as we've explained in the covering letter that was submitted with the change application, and that's a paragraph 3.1 of that letter following engagement with NELK as the local highway authority during the consultation. It's a minor adjustments were made to the final shape of the polygons for Access AB and Access AC as compared to those that were shown on the indicative

19:51

plans in the proposed further changes notification report. But those are very limited adjustments and they don't affect any of the assessments that were contained in that report. And looking at the changes overall, they don't lead to a requirement for any additional compulsory acquisition powers.

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So the compulsory acquisition regulations are not engaged. As explained at Section 6 of the report,

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the applicants also examined all of the proposed changes to understand whether individually or in combination, they would affect the assessment of likely significant environmental effects as reported in the environmental statement and other environmental information that the applicant has

submitted. And none of the changes either alone in combination, are considered likely to result in new or different likely significant residual environmental effects. That's taking into account the adjustment to mitigation that summarised in the report of Section 3.

20:54

Detail is in Appendices 5:00 to 11:00.

20:59

And we believe that the remaining examination timetable allows a fair opportunity for interested parties to consider and to make representations about these minor proposed changes and for the examining authorities to ask any questions that you may have.

21:15

We don't think there's any difficulty in accommodating any issues arising and before the close of the examination of the 20th of August. So, so that's what I'm proposing to offer by way of an overview and I've got here with me by way of speakers able to answer questions and both Mr. Allen Lewis who deal with environmental impact matters, if you if your questions relate to that. I've also got Mr Tymon Robson from Air Products who can deal with practical points of

21:50

what's given rise to some of the changes, and in particular, I think in relation to change #9 which is the piling points. I believe between the two should be able to answer your points.

22:06

Thank you, Mr Howard, that was sort of a helpful sort of summary of of what we've got. Thank you for that. And

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in terms of, of questions, like I said, I think they all principally relate to, to change #9

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and if I could sort of kick off and, and, and it's to do with the applicants updated noise assessment and the proposed change to, to the method of piling. And I think it concludes that there would be a moderate struck major and therefore a significant adverse effect, but only if the work is undertaken between 1300 and 1900 on a Saturday. Just be helpful if you could just explain

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this to us and, and, and why those particular hours in

22:48

have been, have been identified.

22:51

So yes, I'll, I'll ask Mr. Lewis to deal with that.

23:03

Hello Sir Alan Lewis for the applicant. The choice of Saturday as a key time for an assessment of noise

is that it is that. During the working week which is most sensitive for the receptors. And I think we can probably explain by way of subsequent note exactly why Saturday is a sensitive criteria. I expect it's already in the documentation in relation to the assessment methodology for noise. But the key point is

23:37

that there is this, the commitment in the, in the Ozempic and the revised Osen to ensure that there's no driven piling on a Saturday such that that effect would be triggered. So we're not shying away from the fact that they're in theory is a, a potential for a significant adverse effect prior to mitigation. But the, the mitigation to control that is the, the, the, the removal of driven piling as an option on a Saturday. Does that help, Sir?

24:10

It does, yeah. That that's helpful, I think. I think the other point that that I'm sort of trying to understand is why not Saturday morning? What's the difference between Saturday morning and Saturday afternoon

24:22

and lose the applicant? Again, I can probably explain better by a written note on this, but I think Saturday morning is often considered to be part of the working week, whereas Saturday afternoon is not part of the working week. I think it depends on the exact parameters within noise assessment, but I think those are fairly standard that that you have the option to work on a Saturday morning and that's within the the the the the criteria that Saturday afternoon is deemed to be a time when people should have their

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they're mainly protected.

24:58

OK, thank you. Yeah, that that be helpful. I think if you could put that in a a note for us, that would be quite.

25:03

If the information is there, it's just a signpost as to to where that is and that will be tremendously helpful.

25:09

I I will do Sir it it's probably obvious, but I'm not annoyed specialist, but I'm not we can we can provide that. Thank you. And the other question I have, Mr Howard touched on on this in in his sort of overview was to do with the duration and saying that that the method would be shorter than the previous proposed method.

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Question is sort of by, by how long is it a noticeable amount? How, how long are we talking in terms of what, what difference of duration

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analysis of the applicant. It may be better if Mr Robson, Mr Simon Robson provides an answer to that.

But I think it is a matter of fact within the construction industry that driven piling does tend to be much quicker than cast in situ piling. So there are always programme advantages. But also you are the, the, the totality of the construction impact on adjacent receptors is much shorter with driven piling because it is a quicker method that I don't know if Mr Robson will be able to clarify that little bit further. I'll perhaps refer back to him

26:17

Morning Time and Robson speaking for the applicant.

26:22

I can't give you a specific figure in terms of how much shorter the piling duration would be. Piling is a, is a, is a long activity on the site

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sort of eight, eight months duration. And we can take it away to give you an indication of how much shorter that duration would be

26:49

using, using driven piling or a combination of driven and CFO piling.

26:58

Yeah, I think, I think that would be, would be helpful. It's it, I suppose it's entirely in your hands as to what you want to do. But if it's, if it's considerably shorter then and you want us to, to, to consider that in terms of our report, then that would be helpful to understand exactly how much shorter it, it actually is or whether it's the eight months and, and it may be less or whatever. So if you are able to take that away, that'd be that'd be useful to us. I think.

27:23

Yes, we will do.

27:26

Thank you.

27:29

I don't have any further questions, but I think one of my colleagues has has some questions on on this as well.

27:39

Thank you. Yes, I have some questions relating to changed mine and in particular the change from board to driven piles in work Area 7 in relation to archaeology.

27:52

Now I note in the report on geological Archaeology Archaeological survey, which was at

28:00

201 that Pete's deposits were identified between 3:00 to 5:00 metres below ground level across the site during the archaeological investigations. The report, the recommendation in that report at

paragraph 8.2 noted that depending on the construction design and likely depths of piles, the proposed works may impact deposits of high Geo archaeological potential. It's noted that the impact of the development will need to be assessed in order to establish the need for scale and scope of any further

28:34

deal or Geo archaeological evaluation.

28:38

So my question is, has the assessment of impact been carried out in relation to work Area 7 and particularly in relation to the potential increase or difference in impact from board to driven piles?

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The place?

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Thank you, Madam allows Mr. Lewis to answer that.

29:02

Alan Lewis for the applicant. Just to confirm, we have recently received the results of the peak analysis from the laboratory and we will be sharing that with the with the examination of the next deadline. We have already sent that through to the relevant heritage consultees and we will be updating the the CMP in that regard very shortly at the next deadline.

29:38

So

29:39

one thing that I am unable to, to, to confirm at this point is whether that analysis provides any distinction between the two piling types. I think the answer to that is no, but we can take that point away for further consideration. It certainly provides the the the baseline information in respect of the peak deposits that we've that we've committed to previously.

30:07

Does that help, Madam? Thank you, Mr. Lewis. That's actually the answer to my the, the second part of my question that I was just about to ask. So well done. But yeah, I think that yes, I, I was going to ask whether that the the work had been carried out on the, on the investigations on the boards. But I think it really sort of going back to the first part is, is that distinction how how it's been assessed in relation to board piles rather than the driven, sorry, driven piles as opposed to the board piles. So it's really that, that

30:43

I, I'm, I'm after if it's possible to, to investigate that further. Thank you. Sorry, unless the applicant if I could just come back on that point. What tends to happen in relation to the impacts on peat deposits is that the mitigation is, is the investigation. So what I would say is that I, I suspect there is no difference between the mitigation for board piles as as compared to CFA or cast in situ.

31:12

The mitigation is the analysis, if that makes sense. You're recording it for posterity in the same way As for many archaeological impacts and effects. The assessment, the mitigation is the strip and record of the archaeological artefacts and in the same way for Pete, the analysis is the mitigation. So I rather suspect there is no difference. But I will confirm that Madam. Thank you. Mr. Lewis.

31:41

My next question is results from looking at the change request. However, it's more of a general question, so I wonder if we'd be able to look at that now. It's regarding the sound monitoring locations,

31:59

it's up 084. Figure 7.1 denotes those sound monitoring locations. Noise sensitive receptor 4 is made-up of seven separate assessment locations along the eastern residential edge of Immingham.

32:16

And I wondered could you explain why measurement location 4, which represents NSR 4, is located at the northernmost point? Because to my eye this is nearly 200 metres further away from the development site than the southernmost NSR point. So I was wondering why that particular measurement location had been chosen and also whether it would make a difference to the readings. Thank you

32:49

Alan Lewis for the applicant again. I, I, I, I rather suspect the answer to this is, is, is buried in the methodology appended to the environmental statement, but we will, we will find that reference for you. What I would say is that we have chosen NSR 123 and four, so one and two on Queens Road. Obviously the the closest, the closest residential receptors and three and four were chosen as representative locations of the eastern edge of Immingham in the knowledge that NSR one and two on Queens Road were likely to have been acquired by that point.

33:25

You know the next sense most sensitive receptors were on the east edge of Immingham. But the precise point in relation to NSR 4, we will have to go back and and and dig out the the the selection criteria for that and I will do that.

33:39

Thank you, Mr. Lewis. Yes, that is thank you.

33:49

Thank you.

33:51

I just have one further question actually, which

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I'll, I'll ask it now, but it may not be relevant for now. Maybe something we pick up later on and that that'll make sense perhaps when I, when I pose it and it's really to do with the Anglian Water response. And I see that what they've said is they've referred to a water resources assessment and they've said we'll be subject to a requirement in the draught DCO. Now I'm not aware that I've seen a requirement

in the draught DCR specifically dealing with the water resources assessment. So it was really to seek sort of clarification as to whether that's something that will be added in, whether that's something that's caught up with perhaps within the camp or what

34:30

that's the intention was to deal with with that. Now we can either pick it up now or we can pick it up under the the draught DCR section later on, whichever, whichever is easiest. So I'll deal with it now if I may hurry would still pop Casey on behalf of the applicant.

34:45

Cool points in relation to this. Obviously it is raised by Anglian Water in their response to the the proposed change request. It doesn't actually relate in any particular way to the changes that they happen to have made it there.

35:00

One of the things we're trying to get assistance from Anglian Water in relation to at the moment is quite what the plan is intended to address.

35:13

And at the moment that has not been made clear. As you might anticipate. There are other processes in place that deal with the the use of water and the supply of water. So for, for example, the environmental permit deals with measures to regulate and and rationalise the use of water on site, just to give one example.

35:44

And so before simply acceding to the request that there should be a requirement to submit a water plan of some sort, we need to understand exactly what it is intended to regulate and why. And therefore on the basis of that information, we'd be able to begin an assessment as to whether such a requirement could satisfy the tests in position of the requirement. And without getting too far into the INS and outs of the discussions that are going on

36:19

behind the scenes as yet that has not been made clear to us.

36:25

We are continuing to discuss with Envy and Water what exactly it is they want and how it fits into the general statutory scheme for the regulation of water supply and use so far, and we have come up in empty handed, but we have, we haven't closed the door to it. We're simply trying to understand exactly what it is they want and we will report

36:50

back. If agreement is not reached, the parties will need to set out their positions. But I'm, I'm not able to say at the moment whether we deal or don't agree with it because we don't know what it is quite yet.

37:03

Thank you that, that's helpful. Yeah, and I and I appreciate it. It's, it does have nothing to do with the change request, but given it was in their response, we thought this was an appropriate point to sort of

bring it up. That's helpful. And and and you've sort of again, second guessed my, my sort of follow-up question in terms of if you can't reach agreement, we would presumably get the case from you as to what it was. But you've you've identified that so, so thank you.

37:28

And just before I move off this this item, I just want to see if there's anything that anybody else wanted to raise in particular, there was anything from knelt in terms of

37:38

the the proposed further changes that they wish to raise at this point.

37:47

Thank you, Sir Richard Lemon NE links council. No, no matters to raise at this point. Thank you.

37:55

OK, thank you very much. I think that probably brings an end to to item two. I don't think anybody else has got any any further questions. So I think now we can move on to to item 3, which is marine ecology and Habitat Regulations assessment.

38:13

Thank you, Mr. Hunter. So yes, we're now moving on to item 3. As you'll see from the agenda, I only have one overarching question, which is in several parts. So I had proposed to go through the amber and yellow items individually to ensure we've covered them all. However, on the amber issues which are any 36 and any 38, we received an e-mail from Natural England on Friday afternoon confirming that they've reached a position of agreement with you on issue 30, any 36

38:45

and have additional information that is currently being considered by their specialists on any 38 and they expect to update us by a deadline five with those

38:58

with the results from their specialists. Both of these issues are to do with the in combination grey seal assessments.

39:05

So as such I don't have any specific questions for you at this time on the amber issues. However, I would be grateful if you could just run through the additional information that you've submitted to Natural England on these so that I can be aware of of this. Thank you.

39:22

Yes, Madam. Before, before I hand over to Doctor Open, if I can just give you a brief overview of who he is and his credentials. So Doctor oration works for ABP Mayor. He has some a masters in environmental science from Southampton and a pH D in marine pollution. He's got over 10 years experience in marine research and consultancy and specialises in environmental assessment at water and sediment quality and marine ecology.

39:55

He's undertaken numerous environmental impact assessment, water framework directive assessments

and habitat relation regulations assessments for a range of marine projects, including port developments and NSIPS. And we'll obviously set all of that out in writing. And then just to give you an idea of how we propose to deal with this and also to get rid of the steep and if I can and Doctor Ration is able to deal with.

40:26

The the amber issues, he's also, if necessary, noting the way it's put in the agenda item, able to deal with the yellow issues. However, I just wondered whether in the absence of Natural England, and given the way that the yellow issues are described by Natural England themselves, whether you might prefer to have our response on the yellow issues in writing a deadline 5. We'll go through each of those in turn. We can deal with it orally now, but that that might be

40:59

more efficient. And I just wondered whether you had a, a view on that and how, how you prepare to have it presented?

41:08

Thank you. Mr Philpott. Yes, I mean, there's, there are several yellow issues. There's only two that we actually wish to focus on though, so which are 33 B and 34. So I, I think what I'll do is I'll ask the questions after we've discussed the amber issues, I'll ask the questions on, on those two yellow issues.

41:34

If you would then prefer to go back and respond in writing a deadline 5, then we can discuss that that then or if you are able to run through it, that would also be acceptable.

41:46

So hopefully we'll be able to deal with your your questions on the particular items orally today. But perhaps if we say that we will deal with any other yellow items in writing in due course. In any event, will obviously follow up on what we say orally with a written that's account about the due course. So I'll hand over now to Doctor Orton to provide you with a summary in relation to the amber issues and and then we'll hear what question will further questions you have.

42:20

Thank you.

42:23

Good morning, Jamie Olson on behalf of the applicants.

42:27

And before I go into the detail on the key outstanding amber issues from Natural England, if I may, I'll just provide a quick general updates on the recent engagement that we've had with Natural England. And so since the statement of common ground with Natural England, which was an exit deadline three that's wrecked 3052, constructive discussions with Natural England have continued. And as you know from Nature's recent communications, progress has been made on the outstanding issues.

42:58

So we had a meeting with Natural England on the 4th of June to discuss the remaining member items

on the statement of common Ground and where there are updated shadow HR. That's the that's regulations assessment submitted it deadline 3 which is 3032

43:16

was sufficient to resolve those outstanding issues.

43:19

But those discussions were very productive. Additional clarifications requested by Natural England in that meeting very hot incorporated into a further updates of the Shadow HA and we shared those updates with Natural England prior to submitting the updated Shadow HR at deadlines for such Rep 4014.

43:42

So the position has moved on since since the deadline 3

43:47

and their latest position is set out in their Natural England, said Black Horse, which is Rep 4054.

43:57

So what I'll do now is I'll, I'll provide a brief summary on the on that progress that's been made. And unless you want me to, I'll skip over the issues that have been turned from amber to green

44:10

and focus on the two amber items that you mentioned. That's M36, I think 38.

44:16

Yes, thank you. Yes, having read Natural England's deadline for response, I am happy just to focus on any 36 and 38. Thank you, Doctor Orton.

44:29

OK, no problem.

44:31

So with respect to any 36 that issues specifically on the in combination assessment in the HRA relating to habitat one.

44:41

So on this point, Natural England requested further information on the ecological integrity, the functioning and the overall quality of the habitat that will be lost in combination with other projects.

44:54

So to address this specific point, we've provided additional detail into the final rows of Table 36 and Table 38 of the shadow HR A. And it's those rows in those tables which presents the in combination assessments for all of the projects together that have been screened into the since the in combination assessment.

45:17

So as you know, we, we've shared, we've already shared a draught of that updated assessment with Natural England.

45:24

And as they confirmed yesterday, they ohh, sorry, last week they, they've confirmed that they agree with that assessment and the conclusion that there won't be an adverse effect on integrity on the Humber Estuary SAC or Ramsar site from habitat loss in combination with other projects. So that's that. That issue has now been resolved.

45:45

Will provide that updated assessment in an updated shadow HR which will submit it

45:53

Headline 5.

45:56

Would you like me to cover the sort of content of that updated assessment or would you like them to move on to any 38?

46:10

I think it would be useful just to just to hear that. Thank you, Doctor Ordon.

46:14

No problem. That's fine.

46:18

So the key, the key projects in relation to this impact pathway in combination are the Able Marine Energy Park project,

46:28

the Stallingborough Flood Defence scheme

46:31

under the Immingham Eastern Railroad Terminal or Hyatt for short. Those three projects, along with the IGET projects, will result in the loss of qualifying intertidal habitat

46:44

now lost, caused by the AIM Amet projects. The Able Marine Energy Park I'm the stunning Bradford Defence Scheme will be compensated for at the Cherry Cop Sounds development and the Skeffling mandatory alignment site respectively.

47:02

With respect to the Hyatt project, the total loss of intertidal habitat in combination with IGET is anticipated to be nought point nought 541 hectares.

47:16

But that number is based on both the combined direct losses IE beneath the piles

47:22

and it's also based on the on modelling both schemes together to calculate potential indirect losses. So in simple terms that's losses due to erosion of the foreshore and due to potential changes in tidal flows and currents.

47:38

So that's amount of habitats, a small amount and it represents approximately nought point nought, nought nought one, 4% of the Humber St SAC

47:50

and approximately nought point nought nought nought 5, seven, 6% of the mud flats and sand flats feature of the Humber St SAC.

48:03

Now in terms of the direct loss beneath the piles for both Hyatt and I get

48:08

this won't involve a kind of continuous or solid footprint as you as as would be the case for a reclamation, but instead it constitutes discreet and highly localised point features of loss. And they'll still be large spaces of open mud flat between each of the pipes,

48:28

and the spaces and mud flap between the powers will not be altered, and the ecological function and the species composition of the mud flap between the powers will still be maintained following the loss.

48:41

In terms of the indirect losses for both projects together, that's how I get higher

48:47

and

48:49

that loss consists of very narrow strips on the lower shore around what's known as the sublittoral fringe.

48:56

Now these predicted losses will be of a similar scale which can occur due to natural background changes in mud flats extents. So for example, following storm events

49:06

and away from these very thin strips of predicted losses, the ecological functioning of the mud flats will will continue and natural processes associated with maintaining the mud flats might be affected.

49:20

In addition to that, any changes associated with other ecological parameters that are important in

maintaining mudflat, things like sediment type, the elevation of the mudflat and sediment deposition will all be negligible as a result of the predicted loss.

49:39

So in summary, bringing all that together, the the provision of compensatory habitat that's required for a MAP and a Stallingborough flood defence scheme

49:50

and given that the combined intertidal loss from both Payet and IGET will be de minimis and ecologically inconsequential. There's not considered to be an adverse effect on integrity on the qualifying interest and features as a result of its title habitat loss.

50:08

And as Natural England have confirmed they they're in agreement with that assessment.

50:16

Thank you, Doctor Rotten. That was useful.

50:19

Shall we turn to any 38 then? Thank you. Yes, absolutely. So with respect to any 38,

50:30

this relates to the in combination assessment of underwater noise, specifically on the grey seal feature of the Humber St SAC and Ramsar site.

50:42

Now again, Natural England requested more detail on the nature of the combined effects of underwater noise on the grey seal feature for all projects together.

50:52

So As for any 36, we've added detail to the final rows of Table 36 and Table 38, the Shadow HRA.

51:02

And again a draught of that information's been shared with Natural England. As you know, they were unable to provide an update on their position on this ahead of the hearing.

51:11

They understand they're waiting special specialist advice from their very mammal advisor before they can do that. So I'll continue to engage with Natural England on that point and hopefully provide enough data at deadline 5.

51:26

So by way of a brief summary on that updated assessment, the key relevant projects to this impact pathway includes the maintenance dredging that's undertaken in the Humber Estuary,

51:38

the Humber International Terminal Birth 2 project,

51:42

again the Able Marine Energy Park project,

51:46

the imminent Eastern Railroad Terminal project and the North Killing Home

51:52

Power project. Each of those projects either involves dredging or piling or both, so therefore relevant to underwater noise.

52:03

Now, firstly, just to clarify,

52:06

injury effects on marine mammals have been assessed and appropriately mitigated through the use of soft starts and really mammal observers and Natural England agree with the conclusions reached from this point. So the outstanding issue solely relates to behavioural, behavioural effects of of grey seals.

52:27

Now with respect to dredging, this is only expected to cause behavioural reactions in a very localised area in the vicinity of the dredger and that's relevant to all the projects and it won't cause a barrier effect across the estuary.

52:41

And on that basis, it's concluded that the predicted residual in combination effects from judging won't result in a little less effects on integrity and grey seal feature.

52:54

With respect to piling,

52:56

behavioural effects are limited to the section of the estuary between salt End, which is located upstream of the IGET project

53:07

and Grimsby to Spurn bites which is located downstream.

53:13

Now these are hard geographic geographical constraints which mean that the underwater noise from piling in the Humber St won't propagate to the outer part of the estuary and that's important because

53:27

that means unorganised. Both affects the grey seal breeding quality, which is OK to that Donna Nook which is located just outside the the mouth of the Land Registry.

53:39

A Grey seals are also known to undertake undertake wide-ranging seasonal movements over thousands of kilometres.

53:47

And what this means is that there's still expanses, expansive areas, essentially the entirety of the southern North Sea in which seals can still forage and therefore only a small percentage of their foraging ranges will be affected during any in combination marine piling activity that takes place in the Humber Stream.

54:09

In addition to that, any disturbance or or barriers to movements caused by noise during marine piling would only be temporary and there would also be significant periods within the 24 hour period where no piling would be undertaken.

54:24

And that's because marine piling doesn't take place continuously. There will be periods of downtime, there will be time between the positioning of the piles and setting up the piles where no underwater noise will be caused from the marine piling activity. So that in itself will allow the unconstrained movements of marine mammals including grey seal through the Humber Estuary.

54:51

Now the same mitigation measures are proposed for both I get and I at to help minimise potential adverse effects associated with an underwater noise. So these include things like soft start procedures that will be employed, timing restrictions to avoid sensitive periods for

55:07

migrating fish, but also the use of marine mammal observers during planning activity

55:13

and the other projects involving piling. So that's that's the Humber International Terminal Berth 2, the AMAC project and knocking power project. Again, we'll also require similar mitigation to what's supposed that I get and that will also help to minimise the potential for accumulative and in combination effects.

55:34

So taking all that into account, the predicted sum of residual behavioural effects from all projects together are not considered to result in it at best spectrum integrity on the grey seal and interest feature of the number HSBC and Ramsar sites.

55:56

If any of that's not clear, please do let me know, but I'm happy to take any questions if you have any.

56:05

Thank you, Doctor Orton, that was really useful run through. No, that's all. I understand all of that and we shall await Natural England's response then once they've spoken to their specialist

56:19

mammal person. Thank you. Does anyone else have any questions on that?

56:27

If I could just turn to Nelk quickly and see if you have any questions on for Doctor Roton on that subject? Thank you.

56:40

Ohh, thank you. Richard Limer NE Lincs Council at no questions at the moment. Thank you.

56:46

Thank you, Mr Limmer,

56:50

Right,

56:52

that that's that's answers the the amber questions. Thank you very much for that. It's very useful run through. So turning out to the yellow issues, as I said, there's there are 11 issues or sub issues that we've identified as being yellow. However, there's only two that we wish to focus on here. And as I say, we're more than happy to to accept a written

57:20

response to the to the other issues just for an update. Thank you. So any 33B

57:28

is in relation to the number of vessel movements and how this may be secured in the DECO. I've read the applicants response to this question in the statement of Common Ground at Rep 3052 and understand the reasons given for not requiring that the final number of vessels is to be secured.

57:48

I can see that the figure of 292 vessel calls has been given as a worst case scenario and that forms the baseline for the assessments. But to help me understand the potential of the jetty at some point in future when it's at full capacity, could it accommodate more vessel calls than this

58:07

please?

58:10

That and Perry would fill Pop Casey on behalf of the applicant. And what our provide is my understanding of the evidence that's already been put forward on this. So I can't obviously give evidence of this myself, but my understanding is that the the number of vessel movements which has been used for the purposes of the assessment is regarded as a highly conservative number. In other words, it is unlikely that that that it will be

58:40

right as I as that and I'm I'm not aware of any evidence that shows that there is a realistic scenario in which the numbers would exceed that. And and hence the, the there doesn't appear to be as far as I'm aware, any evidence from interested parties that there is a realistic likelihood that the capacity will go beyond that which has been used for the purposes of the assessment.

59:11

You know, as I don't understand any party to be saying to the examining examination that the number should have been higher. The only issue is whether it is necessary to provide for some mechanism in the DCO to prevent the number from being higher than that. And that's the issue that we have focused our submissions on. And I, I don't have in the room

59:41

with me now the experts in relation to the capacity of the Jetty, but we can provide if you've got specific questions about the analysis that you've seen so far, we'll seek to address those in writing. But I'm happy to deal with the issue that has been controversial as to whether there is a necessity to.

1:00:08

Control the numbers, but as you've indicated, we have set that out in writing, in particular in our deadline two response to Natural England's Deadline One submissions, which is wrecked to zero 13 on page four. That's where we've drawn together

1:00:29

the threats in a reasonably succinct way. And I, I appreciate you have read that and I don't want to repeat it. And to you, all I would add at this stage is that this is an item that Natural England themselves have classified as yellow.

1:00:48

Now on their own system, that means that in the view of Natural England, it is unlikely to make a material difference to Natural England's advice or to the outcome of the decision making process. That's the way they describe

1:01:06

their decision to classify this as yellow, and it's even therefore taking their categorization as the starting point.

1:01:17

If it wouldn't make a material difference to the advice of the Natural England or to the decision making process, it necessarily means that Natural England think that this project can be approved whether or not such a requirement is imposed. And therefore the requirement is not necessary, which is the starting point for any consideration of whether to impose a requirement can't be necessary if it won't make a difference to its advisory,

1:01:47

the decision making process.

1:01:54

Thank you, Mr Philpott. Yes, that's that's understood. I think it was just really reading the evidence that's been provided whether that 292 vessel movements was a likely figure, an aspirational figure, a maximum figure. It was just really trying to get the the the understanding of that.

1:02:17

So thank you for that. I think my other question really relates to the vessel movements.

1:02:27

In terms of that, you've stated that further consents would be required for the import and export of anything other than ammonia and carbon capture bulk liquids.

1:02:43

How, how will the number of vessel movements be controlled through those further consents if you have if, if the DC O allows for up to 280 movements, how will that be monitored really? And maybe that's a question for Nelk rather than for the applicant.

1:03:02

So if you reach that, if if the applicant reached the maximum number, how is that monitored? And perhaps, Mr Limmer, that's a question for yourself. But Mr Philpott, if you'd like to respond in the first instance, if I can go 1st and just to clarify,

1:03:21

so far as the import of carbon is concerned,

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the infrastructure that would be required off the jetty in order to facilitate that will itself require further consent.

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And so the the number of vessels that has been used for the purposes of assessment exceeds by a considerable margin the number of vessels that are likely to service first customer of the jetty, which is the Air Products and hydrogen production facility.

1:03:58

So in order to realise the capacity of the the jetty

1:04:06

to import, whether it's carbon or or anything else, further infrastructure will be required on land. And we've addressed that issue in the examination number of times already in the context of the, the definition of the exit, the matters of that sort. But it means that in order to make sure the assessment is robust at this stage, bearing in mind the capacity for which we are seeking consent, we have undertaken an environmental assessment.

1:04:36

Doesn't just look at the likely usage of projected by the 1st customer, but looks at what the Jetty could accommodate if it was importing at its full capacity. But, of course, in order to get from the use of the jetty by Air Products

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to the numbers that have been used in the purpose for the purposes of assessment, one would need to have the additional landside infrastructure.

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Now if as a result of

1:05:06

providing that additional infrastructure,

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it was identified at that stage, but the number of vessels that in fact were likely to be able to use the jetty were beyond those that have been assessed for the purpose of the DCOM.

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At that stage,

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there would be a control because Planning Commission or further development consent or whatever the appropriate mechanism would be would not be granted unless the

1:05:37

the decision maker was satisfied that the environmental effects and the effect on navigation and other matters were acceptable.

1:05:46

And therefore it's not a matter of then they're needing to be a process of monitoring the vessel numbers. Indeed, in the absence of any limit on the vessel numbers in the DC, there will be no requirement to monitor them.

1:06:00

It's simply that any development which would lead to use of the jetty beyond that which has been assessed would itself require further assessment because that would be a material matter for the decision maker to take into account when deciding whether to authorise any further land side infrastructure.

1:06:26

So that's the significance of the need for a further consent because we can't get

1:06:32

even close to the maximum number we've assessed unless we obtain some further permission for further instruction.

1:06:40

And it's that further decision making process that will provide the Secretary of State that the comfort that there is no real risk

1:06:52

that the maximum number that have been discussed could be reached, let alone exceeded, without there being a further point at which a relevant decision maker would have to consider. All of the effects associated with the further infrastructure would then be proposed, including any effects on navigation or effects associated with ship use, which would include effects on the natural environment.

1:07:20

Thank you, Mr Philpott, for that.

1:07:23

Mr Limmer, I wonder if I could ask you, is that your sort of understanding of the matter in terms of the further consents that would be required and also how, how the number of vehicle vessel calls would then be incorporated into those for for future assessments consents.

1:07:47

Thank you. Richard Limit NE links Council had to say, I was about to say I'd have to seek advice on that, but I think what Mr Philpott has sort of just run through, I think sort of explains it quite nicely and from our perspective as well. Thank you.

1:08:07

Thank you. I think we'll we'll leave 33 B for now then. And just turning to any 34 which stays with air quality impacts and requests the provision of source apportionment of the sites of sites of vessel,

1:08:26

sorry vessel emissions to project pollutant contributions has can I just ask has this been provided to Natural England

1:08:39

and but but my last Mr Doctor rations who

1:08:43

with us?

1:08:46

Jamie Oaten.

1:08:54

Sorry, Mr Mr Orton, you're unmute

1:09:00

Jamies and on behalf of the applicant, can you hear me?

1:09:04

Yes, we can. Thank you. Thank you. So just to confirm, a technical note will be provided to Natural England before Deadline 5 and will continue to have discussions on this on this matter with Natural England.

1:09:21

The the air quality specialist isn't here today. So I don't think I can provide a kind of technical answer on your question, but we can provide an update in in writing and our deadline 5 if it's helpful.

1:09:39

Thank you. Yes, that would be

1:09:43

further point is really just a clarification on an update to the HR Shadow HR A.

1:09:51

They also requested that text on potential emissions from flare stacks is added to the HRA at deadline 3, but it's noted that this hadn't been done. I've checked also the latest shadow HRA from deadline 4 which is Rep 4014 and still couldn't find the this information. So I wonder, could you either signpost meet me to where this information has been included or if it hasn't been then can you commit to including it at deadline 5? Thank you

1:10:23

ten years and on behalf of the applicants, yes, we'll provide this information in an updated version of the Shadow HR a Deadline 5.

1:10:36

Thank you very much, Doctor Rosen.

1:10:39

Just turning to everybody else, is there are there any other comments from anyone on this item?

1:10:49

I can't see any hands up. So that concludes agenda item 3. And I'll now pass back to Mr. Hunter for agenda item 4. Thank you.

1:11:01

Thank you.

1:11:03

Given our discussions at the start, I think we're actually going to do agenda item four. And no, that's OK. But what what I'm thinking, I'm sort of conscious at the time and sort of how long we've been going. I wonder whether now might be an opportune time perhaps just to sort of take a a short sort of break. So what I'm going to suggest is that perhaps we take sort of 20 minutes or just under 20 minutes and resume at 11:30.

1:11:26

So this issue specific hearing is adjourned to 1030. Thank you.

1:11:30