

GALLOPER WIND FARM (GWF) - DRAFT HRA SCREENING REPORT (MAY 2011)

To assist the IPC's understanding of the project prior to submission of the application, the IPC Secretariat has provided general comments on the draft HRA Screening Report as set out in the table below.

Please note that at the pre-application stage the IPC does not undertake a detailed formal review of draft HRA Screening Reports. These comments do not constitute legal advice on which you can rely. It is for developers to review their work and satisfy themselves that they have complied with relevant legislation and had regard to relevant guidance obtaining their own legal advice on which they can rely if this is considered necessary. These initial comments do not prejudice the position of the IPC at further stages of the DCO process including determining whether 'sufficient information' as required under Regulation 5(2)(g) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 has been provided to the IPC when the application for development consent is submitted.

The IPC has produced advice on the HRA process set out in Advice Note 10 'Habitat Regulation Assessment' to which the applicant, Galloper Wind Farm Limited (GWFL) is referred.

| Issue | Reference in HRA Report | Details |
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| Identification of relevant European Sites | Table 4.1 | <p>Whilst reference has been made to the four sites identified by NE and JNCC in their joint scoping consultation response to the IPC, it is unclear on what basis the other 5 European Sites have been selected. If these were identified through agreement with the Nature Conservation Bodies (NCB) then information supporting this should be provided appended to the HRA Screening Report.</p> <p>The IPC notes that Flamborough Head and Bempton Cliffs SPA has been identified as of relevance to GWF, this site is located over 250km north of the GWF site, yet other sites within this distance are not identified, nor is an explanation of the approach provided.</p> <p>For each European Site identified, the IPC expects the information identified in the HRA Screening Checklist appended to the Advice Note 10: 'Habitat Regulations Assessment' in Table 1B 'Characteristics of the European Site's to be provided. Please ensure that the proposed HRA Screening Report includes this information.</p> |

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| <p>Qualifying features of the European Sites</p> | <p>Paragraphs 4.4 – 4.12 of the draft HRA Screening Report.</p> | <p>The IPC notes that for each European Site identified as relevant to the proposed GWF, qualifying features have been identified in the main text of the draft HRA Screening Report. The HRA Screening Report should identify all the qualifying features for each European Site, or if not, explain why. It is noted that for example, a qualifying features of the Alde-Ore Estuary SPA is the western marsh harrier (<i>circus aeruginosus</i>), however, this does not appear to be identified as a qualifying feature in paragraph 4.4.1 of the draft HRA Screening Report.</p> <p>Where a European Site has more than one qualifying feature, but not of all these features have been identified as ‘of relevance’ to the HRA screening assessment, the reason for the determination of a feature as ‘relevant’ or ‘not relevant’ should be clearly explained in the HRA Screening Report.</p> |
| <p>Presentation of plans</p> | <p>Figures 4.1 and 4.2</p> | <p>The HRA Screening Checklist appended to the Advice Note 10: ‘Habitat Regulations Assessment’ in Table 1B ‘Characteristics of the European Site’, states that the ‘Map(s) indicating the relative position(s) of the European site to the project and where appropriate showing the location and spatial extent of the qualifying features’ should be provided with the HRA Report.</p> <p>In Figure 4.1 in the draft HRA Screening Report, the physical extent of the European Sites is unclear. Plans provided with the HRA Screening Report should be of a scale to be easy to read and clearly show the features.</p> <p>The Flamborough Head and Bempton Cliffs SPA has not been shown in Figure 4.1. Plan(s) should to be provided showing the position of all European Sites to the project.</p> <p>The IPC expects the plans provided in the HRA Screening Report and any other documentation provided under Regulation 5(2)(g) of the APFP Regulations 2009 to conform to the requirement set out in Regulation 5(3) of the APFP Regulations 2009.</p> |

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| | | Advice on the scale of plans and drawings set out in Advice Note 6 (Preparation and Submission of Application Documents) and the guidance in Guidance Note 2 (Preparation of Application Documents under S37 of the Planning Act 2008), applies. |
| Identification of potential impacts | Table 5.1 and Table 7.1 of the draft HRA Screening Report | <p>The IPC notes that in Table 7.1 of the draft HRA Screening Report, the potential significant effects have been assessed and identified where such a potential effect (identified as habitat loss, disturbance, displacement, collision risk and barrier effect) has been considered relevant. Whilst Table 5.1 appears to include the reasoning for the determination of 'no likely significant effect' or 'likely significant effect' it does not include all of the reasoning for each of the identified effects set out in Table 5.1. For example, Table 7.1 states that habitat loss and disturbance has been considered for Alde, Ore and Butley Estuaries SAC but in Table 5.1 no mention is made to the assessment of these potential effects.</p> <p>Flamborough Head and Bempton Cliffs SPA is over 250km from the proposed GWF site yet the potential effects of habitat loss, disturbance, displacement, collision risk and barrier risk has been considered as set out in Table 7.1. An explanation should be clarified in the main text of the HRA Screening Report and should be reflected in Table 5.1.</p> |
| Screening of the European Sites | Appendix B and C of the draft HRA Screening Report. | The IPC notes that Appendix B 'Ornithological Technical Report' assesses the potential impacts on the Outer Thames SPA (red-throated diver) and the Alde-Ore Estuary SPA (lesser black-backed gull) and the assessment of potential impacts on the Margate and Longsands dSAC in Appendix C. It is unclear whether similar assessments were undertaken for the other six European Sites identified in Table 4.1 of the HRA Screening Report and if not why not. |
| Competent Authority (CA) | Paragraph 1.7 of Appendix B 'Ornithological Technical Report' | This paragraph states that the IPC is the CA. Please note that at present this is incorrect. The IPC will only be the CA when it is the decision-maker following the designation of a relevant National Policy Statement. At present the relevant Secretary of |

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| <p>In-combination assessment of other projects and plans</p> | <p>Paragraphs 6.1.2 and 6.1.3 in draft HRA Screening Report and Paragraph 5.6 and 5.9 of Appendix B, 'Ornithological Technical Report'</p> | <p>State will be the CA when acting as the decision-maker.</p> <p><u>Criteria</u> Paragraph 6.1.2 interprets the scope of 'other plans and projects' as including three categories only. The IPC recommends that, unless there are good reasons to the contrary, 'other 'plans or projects' which have not yet been submitted to a CA for consideration should also be included within the scope of the 'in-combination test'. The inclusion of such other 'plans or projects' would relate to all those for which sufficient detail exists on which to make judgments on their impact on a European Site. These may include proposed Round 3 off-shore wind farms. This approach is consistent with that set out in paragraph 2.3 of the 'Habitats Regulations Guidance Note' issued by English Nature dated May 2001. The IPC recognises though that the amount of detail available on such other 'plans and projects' will vary and acknowledges that the in-combination assessment will be reflective of the level of information available at the time of writing the HRA Screening Report.</p> <p><u>Projects Assessed</u> The IPC notes that the identification of in-combination projects has been identified as wind farms projects from Rounds 1, 2 and 2.5. The IPC notes that in the meeting dated 06.07.2010 between SSER, NE and JNCC (Appendix A – Ornithological Consultation meeting minutes) at paragraph 3, the comment that "Agreement that R2.5 and R3 should be excluded from the cumulative assessment due to lack of data, but if GWF is delayed then this will not be reviewed. Both phases of London Array should be assessed". It should be noted that these bodies are not the CA.</p> <p>The IPC also notes that in paragraph 5.9 of Appendix B (Ornithological Technical Report) that "the main non-wind farm threats to red-throated diver and lesser black-backed gulls" have been identified. However, it is unclear whether these non-wind farm activities have been considered in the 'in-combination' assessments for the Alde-Ore Estuary SPA and the Outer</p> |
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| | | <p>Thames Estuary SPA as well as the 'in-combination' assessments for the other seven European Sites, as set out in Table 5.1 of the draft HRA Screening Report.</p> <p>It is unclear whether any on-shore plans or projects have been identified and considered in the 'in-combination' assessment. This should be clarified in the HRA Screening Report.</p> |
| No Likely Significant Effects Report | Paragraph 7.1.5 of the draft HRA Screening Report | <p>The IPC notes that it is the intention of GWFL to submit a 'No Likely Significant Effects Report' with the DCO application on the eight European Sites (identified in paragraph 7.1.4) that have been screened out.</p> <p>The IPC expects the 'No Likely Significant Effects Report' to include the information set out in Table 2 of the IPC Advice Note 10: 'Habitat Regulations Assessment'.</p> |
| Shadow Appropriate Assessment (AA) | Paragraph 7.1.3 of the draft HRA Screening Report | <p>The IPC notes that GWFL have identified that GWF may have a likely significant effect on the integrity of the Alde-Ore SPA, both alone and in-combination with other neighbouring wind farms.</p> <p>If the CA determines that an AA is required, GWFL must provide 'sufficient information' to enable the CA to undertake the AA (Regulation 5(2)(g) of the APFP Regulations 2009). The IPC notes that GWFL state that 'information will be provided within the GWF Environmental Statement to enable the competent authority to make an AA' (Executive Summary of the HRA Screening Report). The IPC Advice Note 10: 'Habitat Regulations Assessment', strongly advises developers to shadow the HRA process at the pre-application stage so that the necessary information can be provided with the DCO application to the CA.</p> <p>It is unclear whether GWFL has undertaken a shadow AA and concluded whether or not there is an anticipated adverse effect on the integrity of the Alde-Ore SPA. If the CA determines that an AA is required and undertakes one, GWFL must have provided sufficient information on mitigation measures to avoid or reduce</p> |

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| | | <p>each impact and any residual effects which may constitute an adverse impact on the integrity of the European Site. If the CA's conclusion of the AA is that adverse effects on the integrity cannot be avoided, the information provided by GWLF must also include statements to enable the CA to give full consideration to alternative solutions, imperative reasons of overriding interest and compensatory measures. GWLF need to be satisfied that, if applicable, these considerations have been addressed in the information submitted with the DCO application.</p> <p>The IPC will not be able to request further information at the acceptance stage to supplement or clarify information provided in the developer's HRA report and failure to provide sufficient information may result in the DCO application not being accepted.</p> |
| Parameters of assessment | Paragraphs 2.2.4 and 2.2.5 of the draft HRA Screening Report | <p>The IPC notes that the size class of turbine proposed to be used for the GWF development is between 3.6MW (140 turbines) to 7MW (72 turbines) and that the wind turbines used may not necessarily be of the same capacity and dimensions.</p> <p>Where flexibility is sought both the 'No Significance Assessment' and the shadow 'AA' must ensure that they meet the requirements of the Directive.</p> |

24 June 2011