

Kate Harvey  
Galloper Wind Farm Limited  
55 Vastern Road  
Reading  
RG1 8BU

19 December 2011

Dear Kate,

**EN010003: Proposed Galloper Offshore Wind Farm ('the proposed project')**

**IPC advice to Galloper Wind Farm Ltd ('GWFL') in respect of the application for development consent for the proposed project**

I am writing in relation to your application submitted to the IPC on 21 November 2011 for the proposed Galloper Wind Farm (GWF) project. You will be aware that the IPC has today issued its decision to accept the application to proceed to examination. The IPC's 'Acceptance of Applications Checklist', published on our website, sets out the IPC's comments in respect of the tests that must be met under s.55 of the Planning Act 2008 (PA 2008).

In the course of the IPC's acceptance process for this proposed project, a number of issues have come to light which we feel it would be prudent to draw to your attention at this stage. This letter therefore contains advice which is issued to you under s.51 of the PA 2008 to assist you in considering what action to take and when.

You will be aware that you now have some influence over the timetable for the start of the examination by choosing when to carry out your notification and publicity obligations. This is because the examining authority cannot be appointed until after receipt of your certificate under s.58 and notice under s.59 confirming you have carried out the statutory notification. The examining authority will make its initial assessment of principal issues within a 21 day period beginning with the day after the deadline you set in your s.56 notice for submission of relevant representations.

**Habitats Regulations Assessment (HRA) (application document 6.3)**

The IPC's Advice Note 10<sup>1</sup> explains the obligations placed on both the developer and the decision maker under the Habitats Directive and the 2010 Habitats Regulations. The advice note states that consideration of the likely significant effects of a proposed project

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<sup>1</sup> IPC Advice Note 10: Habitat Regulations Assessment relevant to nationally significant infrastructure projects

on European sites should take place at the pre-application stage, in consultation with the appropriate statutory nature conservation bodies (SNCB), including during s.42 consultation. This is designed to ensure that an application provides sufficient information to enable an appropriate assessment to be carried out, if required.

You will note from the s.55 checklist that the IPC considered on the evidence available in this case it would be unreasonable to conclude at this stage that an appropriate assessment could not be carried out.

You should, however, be aware that if the examining authority is unable to conclude any necessary 'appropriate assessment' as part of its recommendation, it would be required to conclude that the competent authority under the 2010 Habitats Regulations should refuse to authorise the project.

Moreover, you should be mindful of the strict timetable for the IPC's examination of applications, and the significant risk of delay to the examination timetable if further assessment work has to be carried out and completed during the examination.

### **Environmental Statement (ES) (application documents 5.1 – 5.4.6)**

The IPC has considered the ES (application documents 5.1 – 5.4.6) in order to ascertain whether it could reasonably be described as an ES as defined under the EIA Regulations 2009<sup>2</sup>. As set out in section 2.4(a) of the s.55 acceptance checklist, the IPC has concluded that for the purpose of acceptance, the ES meets the requirements set out in Schedule 4 Part 2 of the EIA Regulations.

### **Rochdale Envelope**

As stated in section 2.4a of the s.55 acceptance checklist, the IPC notes the use of the Rochdale Envelope approach. The IPC Advice Note 9<sup>3</sup> seeks to address the degree of flexibility that might be appropriate, including in respect of proposals for offshore wind farms. The IPC recognises that it may not be possible for an applicant to have resolved all the details of a project at submission stage.

However as stated in the Advice Note:

*'This does not give developers an excuse to provide inadequate descriptions of their projects. It will be for the authority responsible for issuing the development consent to decide whether it is satisfied, given the nature of the project in question, that it has 'full knowledge' of its likely significant effects on the environment. If it considers that an unnecessary degree of flexibility, and hence uncertainty as to the likely significant environmental effects, has been incorporated into the description of the development, then it can require more detail, or refuse consent'.*

We note that in seeking to assess the worst case for each type of impact/receptor, the environmental impact assessment has assessed a very large number of scenarios which include a wide range of permutations of what the proposed scheme may comprise.

During the examination of an application, if it comes to light that the ES should contain further information, consideration of the application would be suspended pending receipt of the further information (Regulation 17 of the EIA Regulations). Clearly this would have time

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<sup>2</sup> The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 - SI 2263

<sup>3</sup> IPC Advice Note 9: Using the Rochdale Envelope

and potential cost implications. This could, for example, occur where potential significant impacts arising from any permutations associated with a wide range of flexible options within an application had not been assessed or fully assessed.

### **Scale of plans**

The s.55 acceptance checklist sets out the conclusions of the IPC's review of the application plans, including those for the offshore element of the proposed development. We note that the offshore element, within the proposed order limits, covers an area of 183 sq. km. Given the distances and areas involved, we recognise the practical challenges of producing plans that are no larger than A0 size to a scale not smaller than 1:2,500.

However, you should note the comments in the s.55 checklist regarding the scale of plans. When taken together the prescribed plans and the draft Development Consent Order (DCO) should clearly and consistently show and describe the proposed development for which consent is being sought, and the limits within which this may and may not be carried out.

### **Development with likely significant effects on the environment of another EEA State**

You should be aware of the IPC's view regarding the likely significant transboundary effects of the proposed project. The IPC has obligations under Regulation 24 of the EIA Regulations where a proposed project is considered to have significant effects on the environment of another EEA State.

The IPC has conducted a review of the information provided and is of the view that the proposed development is **not likely** to have significant effects on the environment in another EEA State with regard to the marine ecology (fish and marine mammals) and commercial fisheries, but **is likely** to have significant effects on the environment in another EEA State, relating to connectivity with Special Protection Areas (SPAs) in Sweden, Belgium, Denmark, France and the Netherlands due to migration of Red Throated Diver, Lesser Black-Backed Gull, Artic Skua, Great Skua, Common Guillemot and Razorbill.

In reaching this view the IPC has applied the precautionary approach (as explained in IPC Advice Note 12<sup>4</sup>); and taken into account the information currently supplied by GWFL in the application documents. We will write to you again shortly to advise you of the steps we will be taking to meet our obligations in this respect.

Should you wish to discuss the content of this letter please do not hesitate to contact me.

Yours sincerely,



**Jessica Potter**  
**Senior Case Manager**

Tel: 0303 444 5077

Email: [jessica.potter@infrastructure.gsi.gov.uk](mailto:jessica.potter@infrastructure.gsi.gov.uk)

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<sup>4</sup> IPC Advice Note 12: Development with significant transboundary impacts consultation

The IPC gives advice about applying for an order granting development consent or making representations about an application (or a proposed application). The IPC takes care to ensure that the advice we provide is accurate. This communication does not however constitute legal advice upon which you can rely and you should note that IPC lawyers are not covered by the compulsory professional indemnity insurance scheme. You should obtain your own legal advice and professional advice as required.

We are required by law to publish on our website a record of the advice we provide and to record on our website the name of the person or organisation who asked for the advice. We will however protect the privacy of any other personal information which you choose to share with us and we will not hold the information any longer than is necessary.

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