



The Planning Inspectorate

3/18 Eagle Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services: 0303 444 5000

e-mail: BurboBank@infrastructure.gsi.gov.uk

Your Ref:

To all Interested Parties

Our Ref: EN010026

Date: 07 October 2013

Dear Sir/Madam

Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 8

Application by DONG Energy Burbo Extension (UK) Ltd for Burbo Bank Extension Offshore Wind Farm

Examination Timetable and Procedure

Following the Preliminary Meeting held on Thursday 26 September 2013 at The Floral Pavilion, Marine Promenade, New Brighton, CH45 2JS, I am writing to inform you that the **examination for the above application has commenced**.

I am grateful to everyone who attended the Preliminary Meeting, for the clear commitments to engagement and cooperation evident there and for all of the views expressed about the examination procedure and the draft timetable. I have considered all of the matters raised with care in arriving at my procedural decisions and the timetable for the examination.

This letter sets out my procedural decisions made in the light of the discussions at the Preliminary Meeting and provides you with some guidance on the next stages of the examination procedure. Annexes set out the approved timetable, requests for the preparation of statements of common ground and contributions to a Report on the Implications for European Sites. These annexes replace equivalent draft annexes to my earlier correspondence.

An audio recording of the Preliminary Meeting has been published on the National Infrastructure pages of the Planning Portal website. A written note of the Preliminary Meeting is under preparation and will shortly be available on the National Infrastructure pages of the Planning Portal website and made available for inspection at the venues listed in **Annex A**.

I am conscious that aspects of the application may affect both sea and land in Wales. However, the draft Development Consent Order relates to an area of sea within English waters. Elements of the proposed development within Wales are the subject of separate approval processes conducted by Cyfoeth Naturiol Cymru / Natural Resources Wales (for offshore works) and Cyngor Sir Ddinbych / Denbighshire County Council (for onshore works). No-one at the Preliminary Meeting expressed the wish to participate in the examination in Welsh. It follows that this letter is and my conduct of this examination will be, in the English language.

If a person who was not present at the Preliminary Meeting wishes to participate in the examination in Welsh, the approved timetable provides for them to do so. Written representations and responses may be made in Welsh and will be translated. If a person wishes to make oral submissions in Welsh at a hearing, translation services will be required and the approved timetable requires these services to be requested in advance. [This paragraph is repeated below in Welsh.]

Os yw unrhyw un nad oedd yn bresennol yn y Cyfarfod Rhagarweiniol yn dymuno cymryd rhan yn Gymraeg yn yr archwiliad, mae'r amserlen gymeradwy yn caniatáu am hynny. Mae'n bosibl gwneud sylwadau ac ymatebion ysgrifenedig yn Gymraeg a byddant yn cael eu cyfieithu. Os yw unrhyw un yn dymuno gwneud cyflwyniadau ar lafar yn Gymraeg mewn gwrandawriad, bydd angen gwasanaethau cyfieithu ac mae'r amserlen gymeradwy yn gofyn bod y gwasanaethau hyn yn cael eu trefnu ymlaen llaw.

1. **Approved timetable**

The **approved timetable** at **Annex B** sets out my procedural decisions in respect of all matters for which timetabled arrangements are required and specifically in respect of opportunities to make written representations and the number and type of hearings anticipated.

The changes made to the draft timetable respond closely to suggestions made during the Preliminary Meeting. There are relatively few of them and they are of relatively limited effect, addressing the particular matters raised. However, as some dates and processes have changed, all interested parties are urged to **check the approved timetable carefully** and ensure that the correct dates and processes are included in their diaries. It is important to retain the approved timetable for future reference and to either dispose of or mark the draft timetable as superseded.

Given the widespread agreement to the timetabling arrangements discussed at the Preliminary Meeting, I do not anticipate needing to change the approved timetable, unless relevant new circumstances emerge. I will be grateful for your efforts to adhere to the approved timetable at all times. If I do need to vary it for any reason, I will write to everyone who attended the Preliminary Meeting and to inform them of the changes, except in circumstances identified in items 2 (hearings) and 3 (site inspections) of this letter below, where I may notify minor changes either orally or on the National Infrastructure pages of the Planning Portal website, without writing a further letter.

2. Hearings

The timetable reserves time for **Issue-specific Hearings** to address the following topics:

- natural environment impacts and Habitats Regulation Assessment;
- seascape, landscape and visual impact assessment and mitigation;
- shipping, boating, port and aviation operations;
- economic impacts and mitigation; and
- the provisions and effect of the draft Development Consent Order;

A detailed agenda for the first of these hearings will be issued as provided for in the approved timetable. Agendas for all other Issue Specific Hearings will be provided at least one week before the hearing commences.

Interested parties at the Preliminary Meeting indicated that they do wish to make representations at an **Open-floor Hearing**. Provision for this hearing to be held is therefore included in the approved timetable. As indicated in the draft timetable, this will be an evening session to ensure that people can attend outside the normal business day.

The inclusion of an Open-floor Hearing in the timetable does not prevent the same parties attending and participating in Issue Specific Hearings that are relevant to their interests. That being said, it is not necessary for the same submissions and evidence to be heard twice. If following participation in an Issue Specific Hearing, an interested party considers that they no longer need to attend the Open-floor Hearing, I would be grateful if the case manager could be informed by email.

The application before me does not include any compulsory acquisition proposals or give rise to any special procedures under Part 7 Chapter 1 of the Planning Act 2008 (as amended). It follows that there will not be a Compulsory Acquisition Hearing or any Special Procedures Examination or Hearings.

Notice of your **request to be heard at any hearing** provided for in the approved timetable must be provided by **Monday 28 October 2013**, which is also the date at which any requests for Welsh translation services at hearings must also be made.

Once an individual hearing is in session, I may adjourn it orally, without written notice to persons who are not present. Should it be that I receive no requests to be heard at an individual hearing, I may cancel it by posting a notice on the National Infrastructure pages of the Planning Portal website.

3. Site Inspections

At the Preliminary Meeting, I described my proposed approach to site inspections and reported orally on the unaccompanied inspections that I had already undertaken. A note of these first inspections is now available on the National Infrastructure pages of the Planning Portal website.

There was general agreement at the Preliminary Meeting that my proposed site inspection approach was appropriate. No interested parties at the Preliminary Meeting considered that I should undertake any accompanied site inspections on land or offshore. It follows that, subject to the explanation of my approach to visits to private and access-restricted land which I set out below, there are most unlikely to be any accompanied site inspections.

Whilst my unaccompanied site inspections are already underway, visits to locations north of the River Mersey and to some locations in the Clwydian Range and at the Great Orme in Wales that were obscured by fog during my first inspections still remain to be completed.

If you consider that I should inspect a particular location to observe a feature relevant to my deliberations in this examination, please write to me by close of business on **Monday 28 October 2013** to nominate and describe it, to identify its location and to indicate the reason(s) why an inspection is relevant.

Before making any nominations, you are encouraged to review my first note of inspections, from which it will be seen that a visit to Hoylake and environs requested at the Preliminary Meeting was undertaken directly after the closure of the meeting.

I am not able to visit private or access-restricted land without the consent of the landowner/operator and appropriate safety measures being taken. For this reason, unaccompanied site inspections are normally carried out in locations that can be viewed from the public domain or that are open to the public. Please nominate locations for inspection where relevant features can be observed from public domain or publicly accessible land wherever this is possible.

If you nominate a location which cannot be viewed from the public domain and particularly if it forms part of premises subject to access restrictions in the interests for example of operational safety, health or hazard management, please provide the name, address and contact details of the person responsible for decisions about access to it as part of your nomination. You should note that in such circumstances I will not be able to visit such a site unaccompanied and so I have retained reserved dates for a small number of accompanied inspections in the approved timetable, in case they prove to be necessary. I have included a date in the timetable when I would provide notice of any accompanied site inspections and another date at which interested parties can request to attend any accompanied site inspection.

If as appears likely from the discussion at the Preliminary Meeting, no nominations are made which give rise to a requirement for accompanied inspections, I may cancel them and release the reserved time from the timetable by posting a notice on the National Infrastructure pages of the Planning Portal website.

Note that I will only visit a nominated location where it appears necessary to do so to understand the application or representations that have been made to me. I may decide not to visit a nominated location where the action necessary to agree access or to secure health and safety during an inspection appears to me to be disproportionate to my need for information about the location. There may also be circumstances in which (having regard to the hazardous nature of some operational land) it is not appropriate to enter a nominated site.

Further notes of any site inspections that I undertake will be published on the National Infrastructure pages of the Planning Portal website in due course.

4. Local Impact Reports

No local authority present at the Preliminary Meeting requested to submit a Local Impact Report. However, on the basis that some local authorities with possible interests in the application did not attend the Preliminary Meeting, the approved

timetable provides a date at which such reports should be submitted.

5. Procedural Decisions: Statements of Common Ground

Annex C contains the Examining Authority's procedural decisions.

The applicant made submissions at the Preliminary Meeting that it was able to proceed with a wide range of Statements of Common Ground that I had indicated as likely to be necessary in Annex F of my letter of 4 September 2013. However, they also made clear that, as discussions with interested parties were ongoing, other processes and outcomes may also emerge. Commercial agreements to resolve issues raised in relevant representations were in progress with a number of interested parties. I strongly encourage this approach. Where it is possible to address issues to the mutual satisfaction of the applicant and interested parties, leading to the withdrawal or part withdrawal of relevant and written representations during the examination, this is also encouraged. In **Annex C(i)** I set out a process under which the applicant will record and report the development of and change to the matters set out in Statements of Common Ground, commercial agreements and any planning obligations that may emerge from negotiations between the applicant and interested parties, to enable me to take full account of progress and outcomes as the examination progresses. The record and report should be based on Schedules 1 and 2 to the letter from Bond Dickinson, solicitors for the applicant, to the Examining Authority of 10 September 2013.

The topic areas for Statements of Common Ground are identified in **Annex C(ii)**. The draft procedures for Statements of Common Ground set out in my letter of 4 September 2013 sought multi-party involvement in some statements. Whilst progress on the topic areas is noted, I also acknowledge submissions from the applicant at the Preliminary Meeting that it may not prove possible to secure multi-party approval to all anticipated statements. Whilst I hope that the applicant will complete multi-lateral statements where possible, my decision is to accept the provision of bi-lateral statements on the basis that subject matters identified in Annex C(ii) are covered.

All Statements of Common Ground must be produced by **Monday 28 October 2013** following which the timetable provides opportunities and deadlines for comments to be submitted.

6. Procedural Decisions: Matrices contributing to a Report on the Implications for European Sites (RIES)

Annex C(iii) provides that the applicant is to provide draft matrices summarising the implications of the application for European Sites¹ by **Monday 28 October 2013**, following which the timetable provides opportunities and deadlines for comments to be submitted. These may be the matrices that have already been provided in Annex 4 of the Habitats Regulations Assessment Report (Document Ref: 4.3). They may also contain amendments. If amendments are proposed, these should be highlighted and reasons provided for each change.

¹ Further guidance is available in the Planning Inspectorate's Advice Note 10: <http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/09/Advice-note-10-HRA.pdf>

7. Procedural Decisions: Changes to the Application

Annex C(iv) addresses changes to the application proposed by the applicant in a letter from Bond Dickinson, solicitors for the applicant, to the Examining Authority of 10 September 2013. In summary, these changes are:

- to increase the total installed capacity of the offshore wind farm stated in the draft Development Consent Order by 1 MW, from 258 MW to 259 MW; and
- to amend the approach taken to the draft Deemed Marine License which forms part of the draft Development Consent Order, by subdividing this into two draft licenses, one providing for the proposed generation assets and one providing for offshore transmission assets.

The Examining Authority at this point in time has not decided whether or not to accept the proposed changes to the application. However, it agrees that these should be documented as representing the applicant's intention for the proposed development. Interested parties will be provided with an opportunity to comment on the changes and on an audit of the Environmental Statement and of the Habitats Regulations Assessment documentation submitted with the application that the applicant will undertake in the light of the proposed changes. The documentation and audit of the changes must be complete by **Monday 28 October 2013**. Comments on them can be provided by **Wednesday 13 November 2013**.

8. Procedural Decisions: Related Development Approval Processes

Annex C(v) identifies development approval processes for works on land in Wales and in Welsh waters that are proposed as a component of the project that is the subject of the application before the Examining Authority. The Examining Authority offers reasonable assistance to the authorities charged with the determination of these applications and requests equivalent assistance with the identification of cross-boundary issues and the alignment of approval processes. Annex C(v) also provides some guidance to these authorities about this examination.

The precise timescales of these parallel development approval processes cannot be fully predicted at this stage. It follows that some flexibility in the engagement between the Examining Authority and these authorities will be required.

9. Examining Authority's written questions

I intend to ask written questions and request further information about matters considered relevant to the application as provided for and at the times set out in the approved timetable.

My first round of questions **has been issued simultaneously with this letter** but is not annexed to it. The questions can be found on the National Infrastructure pages of the Planning Portal website.

My second round of questions will be issued, if required, on **Wednesday 26 February 2014**. I may decide not to issue these questions and provide notice of that decision on the National Infrastructure pages of the Planning Portal website, without making a further change to the approved timetable.

I have directed some questions at particular parties. If a question is directed to you or your organisation, please endeavour to answer it. If a question is not directed to you or your organisation, you may nevertheless opt to answer it, if an answer would

be relevant to the issues that concern you. Interested parties at the Preliminary Meeting were asked to provide full and clear answers to all questions relevant to their circumstances. I will be most grateful for your commitment in this regard.

Should it become necessary for me to write to interested parties again as the examination progresses with further questions or requests for more information that are not set out in the approved timetable, I am able to do so².

The answers to written questions must be provided by **Monday 28 October 2013**, following which the timetable provides opportunities and deadlines for comments on answers to be submitted.

10. Written representations

All interested parties are invited to submit written representations and supporting evidence on matters concerning the application, and on relevant representations and statements of representation already submitted in accordance with the approved timetable.

Please send your written representation (including any supporting evidence) by **Monday 28 October 2013**, following which the timetable provides opportunities and deadlines for comments on answers to be submitted.

Written representations can deal with any relevant matter. They are not restricted by the scope of the matters set out in my initial assessment of principal issues which was discussed at the Preliminary Meeting, nor restricted to the subject matters addressed in my questions. As indicated in response to questions raised at the Preliminary Meeting, where circumstances have changed and new issues have arisen since the making of a relevant representation or statement of representation, written representations can address this change.

Please note, if you are submitting a written representation, you must identify those parts of the application or specific matters with which you agree and those parts with which you do not agree. You must state the reasons for your disagreement.

There is no prescribed form for written representations. However, "DCLG Guidance for the examination of applications for development consent" (April 2013) advises that participants should provide "*any data, methodology and assumptions used to support their submissions*" with their written representations, in the interests of fairness and to avoid delay³.

For ease of reference, any written representation that exceeds 1500 words should also be accompanied by a summary, not exceeding 10% of the original text. The summary should set out the key facts of the written representation and must reflect the submissions made. However, I will take the full written representation into account in making my report and recommendation to the Secretary of State.

11. Submitting written representations and other documents

Timely submissions in advance of the deadlines set in the timetable are encouraged and welcomed – although when submitting comments, you should not submit until all of the relevant documents that you may need to consider in order to comment have

² Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 ('the EPR')

³ See paras 70 and 71

been published on the National Infrastructure pages of the Planning Portal website. All submissions should quote reference EN010026 and your unique reference number if you have one⁴.

Where practicable, interested parties are asked to send electronic copies of their documents as email attachments, to:

BurboBank@infrastructure.gsi.gov.uk

Electronic attachments should be clearly labelled with the subject title and should not exceed 12MB for each individual email (large documents will need to be subdivided into sections). Should electronic submissions include technical information of 300 pages or more, interested parties are advised to send an additional full paper copy of their submission by post.

Paper documents should be sent to the postal address at the top of this letter.

The applicant is asked to supply seven paper copies of their written representation(s) for the Examining Authority⁵ to use and make available for public inspection⁶ at the locations specified in Annex A.

It would also be helpful if respondents could provide duplicate electronic copies of their submissions from which their signature and contact details have been redacted, as these submissions will need to be published on the National Infrastructure pages of the Planning Portal website (see item 12 below).

Written requests to attend hearings should be forwarded separately to the Planning Inspectorate Case Team, at the above email or postal addresses.

12. Inspecting written representations and other documents

Relevant representations, written representations, any notice, report or other document required or authorised to be sent or prepared under the Infrastructure Planning (Examination Procedure) Rules 2010 or the Planning Act 2008 (as amended) must be made available to all interested parties and to anyone who requests an opportunity to inspect and take copies of them.

In order to meet this obligation, all interested parties should note that, as soon as practicable after each stage of the examination set out in the approved timetable at **Annex B**, I will make any submitted documents available by publishing them on the 'Burbo Bank Extension offshore wind farm' project area in the National Infrastructure pages of the Planning Portal website. The project area of the website can be found at:

<http://infrastructure.planningportal.gov.uk/projects/north-west/burbo-bank-extension-offshore-wind-farm/>

The application documents, the Preliminary Meeting arrangements and a copy of this letter can already be found at this location.

I shall also provide an opportunity for inspection and copying of the documents at the deposit locations in **Annex A**.

⁴ If you have a unique reference number, it will be included in this letter head

⁵ Rule 10(6)(a) of the EPR

⁶ Rule 21 of the EPR

13. Compliance with deadlines for receipt of documents and requests for hearings

It is important to note that **if any requested written representations, responses to questions or further information are received after the date, or the expiry of the period, specified for their receipt in the timetable, the Examining Authority may disregard them**⁷.

If no requests to be heard are received by the identified deadline for Open-floor hearings, then the Examining Authority may cancel any such hearings by placing notice on the National Infrastructure pages of the Planning Portal website.

14. Award of costs

I also draw your attention to the possibility of the award of costs against any party who behaves unreasonably. You should be aware of the relevant Costs Policy that applies to National Infrastructure Projects, which is available via the National Infrastructure pages of the Planning Portal website⁸.

15. Future notifications

Unless you are registered with the Planning Inspectorate as an interested party you **will not** automatically continue to receive notifications from us about the examination of this application and **will not** receive any further communication from us relating to this application. You can, however, visit the project area on the Planning Portal website to stay informed of the progress of the examination.

If you are:

- a statutory party⁹, whether or not you have informed the Planning Inspectorate of your intention to become an interested party **before the issue of this letter**; or
- an adjoining local authority¹⁰;

please note that you **will not** automatically become an interested party (and therefore not have a statutory entitlement to participate further in the examination) unless either:

- you have already submitted a relevant representation, or
- you notify me, **following receipt of this letter** that you wish to become an interested party¹¹.

If you are in any doubt about your status as an interested party, please telephone the Planning Inspectorate's Customer Services on 0303 444 5000, and ask to speak to the Burbo Bank Extension offshore wind farm Case Team.

⁷ Rule 10(8) EPR

⁸ See <http://infrastructure.planningportal.gov.uk/application-process/costs/>

⁹ See Regulation 3 of the Infrastructure Planning (Interested Parties) Regulations 2010 (as amended) (IPR)

¹⁰ A local authority whose area adjoins that of a local authority in which the proposed development is proposed to be situated – see Planning Act 2008 (as amended) ('the PA 2008'), ss 88(3)(d) and 88A

¹¹ PA 2008, s89(2A)(b) and s102A

Please let me know if you are an interested party and for any reason, you no longer wish to be involved in the examination procedure, so that you need not receive any further correspondence from the Planning Inspectorate about this examination. The Planning Inspectorate will minimise the volume of correspondence that you are sent. However, you should note that certain types of correspondence (including timetable changes) are required to be sent by law to all interested parties and any other persons invited to the Preliminary Meeting whether or not such persons are actively participating in the examination.

Finally, I trust that these arrangements are clear. I very much look forward to your participation in this examination.

Yours faithfully,

Rynd Smith

**Rynd Smith LLB MA MRTPI FRSA
Examining authority**

- ANNEX A Availability of relevant representations and application documents**
- ANNEX B The Approved Examination Timetable**
- ANNEX C Procedural Decisions regarding an application for the proposed Burbo Bank Extension offshore wind farm:**
 - (i) Master Index of Statements of Common Ground, Commercial Side Agreements or Planning Obligations Related to the Proposed Development**
 - (ii) Statements of Common Ground**
 - (iii) Matrices supporting a Report on the Implications for European Sites (RIES)**
 - (iv) Changes to the Application**
 - (v) Related Applications in Wales and Welsh Waters**

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

Annex A

Availability of relevant representations and application documents

On the National Infrastructure pages of the Planning Portal website at:
<http://infrastructure.planningportal.gov.uk/projects/north-west/burbo-bank-extension-offshore-wind-farm/>

For inspection and copying:

Sefton Council

Bootle Town Hall,
Oriell Road,
Bootle,
L20 7AE;
Opening times: Monday - Friday 8am –6pm
Copying : No copying facilities available

Wirral Metropolitan Borough Council,

Wallasey Town Hall,
Brighton Street,
Wallasey,
CH44 8ED;
Opening times: Monday - Friday 9am – 5:30pm
Copying charges: 10p per A4 sheet (Black and White)
20p per A3 sheet (Black and White)

Rhuddlan Library,

Vicarage Lane,
Rhuddlan,
Rhyl,
LL18 2UE;
Opening times: Monday to Saturday, 9:30am to 12:30pm, 1:30pm to 5pm. Closed Tuesdays
Copying charges: 5p per A4 sheet (Black and White)
10p per A3 sheet (Black and White)

Annex B

The Approved Examination Timetable

The Examining Authority ('ExA') is under a duty to **complete** the examination of the application by the end of 6 months beginning with the day after the start day¹².

Item	Matters	Due Dates
1	Preliminary Meeting	Thursday 26 September 2013
2	Issue by ExA of: <ul style="list-style-type: none"> • Examination timetable • ExA's first written questions 	Monday 7 October 2013
3	Issue by ExA of: <ul style="list-style-type: none"> • Notification by ExA of date, time and place for issue-specific hearings and open-floor hearings • Provision by ExA of agenda for Issue-Specific Hearings at timetable Item 6 	Wednesday 23 October 2013
4	DEADLINE I Deadline for receipt by the ExA of: <ul style="list-style-type: none"> • Comments on relevant representations (RRs) • Summaries of all RR's exceeding 1500 words • All written representations (WRs) • Summaries of all WRs exceeding 1500 words • The Applicant's audit of the Environment Statement (ES) and Habitats' Regulation Assessment Report (HRA), responding to a proposed 1MW increase in the installed capacity of the proposed development (the ES and HRA audit) • The applicants proposed revised draft Development Consent Order (DCO) to incorporate two Deemed Marine Licenses (DMLs) • The applicant's Master Index of Statements of Common Ground, Commercial Side Agreements or Planning Obligations (the Master Index) (see Annex C(i)) • Statements of Common Ground (SoCG) requested by ExA (see Annex C(ii)) • Any Local Impact Report • Responses to ExA's first written questions 	Monday 28 October 2013

¹² s98 PA 2008 (as amended).

Item	Matters	Due Dates
	<ul style="list-style-type: none"> • Changes to the Applicant's draft matrices summarising effects on European sites (See Annex C(iii)) • Notice of wish to be heard at an open-floor hearing • Notice of wish to be heard at any issue-specific hearings • Nominations of locations to be inspected during any site visits and the features to be observed there, with reasons for each nomination • Notice of wish to participate in the examination in Welsh / <i>Dyddiad cau ar gyfer rhoi rhybudd o'ch dymuniad i gymryd rhan yn yr arholiad yn y Gymraeg</i> • Notice of need for Welsh translation services at a particular nominated hearing / <i>Dyddiad cau i roi rhybudd o'ch angen am wasanaethau cyfieithu Cymraeg mewn gwrandawriad a enwebwyd penodol</i> 	
<p>5</p>	<p>DEADLINE II</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Responses to comments on RRs • Comments on WRs • Comments on responses to ExA's written questions • Comments on Applicant's draft matrices summarising effects on European sites • Comments on Local Impact Reports (if submitted) • Comments on the applicant's ES and HRA audit • Comments on the applicant's proposed revised draft DCO to incorporate two DMLs • Written summaries of matters to be raised by interested parties in their oral representations at an Open-floor Hearing <p>Deadline for issue by the ExA to the National Infrastructure pages of the Planning Portal website of:</p> <ul style="list-style-type: none"> • Notice that accompanied site inspections will be carried out and a list of sites to be visited, or • Notice that no accompanied site inspections will be carried out 	<p>Wednesday 13 November 2013</p>
<p>6</p>	<p>Issue-specific Hearings relating to:</p> <ul style="list-style-type: none"> • Natural environment impacts and Habitats Regulation Assessment 	<p>Tuesday 19, Wednesday 20 & Thursday 21 November 2013</p>

Item	Matters	Due Dates
7	<p>DEADLINE III</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Written summaries of all submissions and evidence provided during the issue-specific hearing at timetable Item 6 • Any additional evidence requested by the ExA during the issue-specific hearing at timetable Item 6 • Responses to questions raised by the ExA during the issue-specific hearing at timetable Item 6 that were unable to be answered during the hearing • The applicant's report on changes to the applicant's Master Index (if any) since timetable Item 4 • Requests to attend any accompanied site inspection provided for under timetable Item 5 	<p>Thursday 5 December 2013</p>
8	<p>Issue-specific Hearings relating to:</p> <ul style="list-style-type: none"> • Strategic issues emerging from the draft Development Consent Order (DCO) (if any) • Seascape, landscape and visual impact assessment and mitigation • Shipping, boating, port and aviation operations • Economic impacts and mitigation • Consequential natural environment matters emerging from the hearing at timetable Item 6 (if any) 	<p>Tuesday 10, Wednesday 11 & Thursday 12 December 2013</p>
9	<p>Open-floor Hearings</p>	<p>Evening of Wednesday 11 December 2013</p>

Item	Matters	Due Dates
<p>10</p>	<p>DEADLINE IV</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Written summaries of all submissions and evidence provided during the issue-specific and/or Open-floor hearings at timetable Items 8 or 9 • Any additional evidence requested by the ExA during the issue-specific and/or Open-floor hearings at timetable Items 8 or 9 • Responses to questions raised by the ExA during the issue-specific or Open-floor hearings at timetable Items 8 or 9 that were unable to be answered during the hearing • The applicant's report on changes to the applicant's Master Index (if any) since timetable Item 7 • Statements of progress and cross-border matters (if any) emerging from other consenting bodies (Natural Resources Wales/Cyfoeth Naturiol Cymru and Denbighshire County Council) work on related applications. <p>Deadline for issue by the ExA to the National Infrastructure pages of the Planning Portal website of:</p> <ul style="list-style-type: none"> • A detailed schedule of arrangements for accompanied site inspections. This schedule will not be issued unless inspections were notified at timetable Item 5 and persons requested to attend at timetable Item 7 	<p>Tuesday 7 January 2014</p>
<p>11</p>	<p>Time period reserved for Issue-specific hearings relating to:</p> <ul style="list-style-type: none"> • Draft Development Consent Order and • Natural environment and Habitats Regulation Assessment <p>It would assist the ExA if Natural Resources Wales/Cyfoeth Naturiol Cymru were able to table a draft Welsh Marine License at any hearing held at this time.</p>	<p>Tuesday 28 & Wednesday 29 January 2014</p>

Item	Matters	Due Dates
12	<p>Time reserved for accompanied site inspections (if required)</p> <ul style="list-style-type: none"> • Accompanied site inspections are provided for within the hearing days or on days following hearings • The ExA may amend or cancel these inspections or any accompanied site inspection arrangements made under timetable Items 5, 7 and 10 	<p>Tuesday 28, Wednesday 29, Thursday 30 & Friday 31 January 2014</p>
13	<p>DEADLINE V</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Written summaries of all submissions and evidence provided during any issue-specific hearings at timetable Item 11 • Any additional evidence requested by the ExA during any issue-specific hearings at timetable Item 11 • Responses to questions raised by the ExA during any issue-specific hearings at timetable Item 11 that were unable to be answered during the hearing • Applicant's revised draft DCO taking account of issues raised in all hearings and WRs to date 	<p>Wednesday 5 February 2014</p>
14	<p>Issue by ExA of:</p> <ul style="list-style-type: none"> • A Report on the Implications for European Sites (RIES) taking issues raised and comments into account 	<p>Wednesday 19 February 2014</p>
15	<p>Issue by ExA of:</p> <ul style="list-style-type: none"> • Revised draft DCO taking issues raised and comments into account • Second written questions (if required) 	<p>Wednesday 26 February 2014</p>
16	<p>DEADLINE VI</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Responses to ExA's second written questions • Comments on ExA's revised draft DCO • Comments on ExA's RIES 	<p>Thursday 13 March 2014</p>

Item	Matters	Due Dates
17	<p>DEADLINE VII</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses to ExA's second written questions • Responses to comments on ExA's revised draft DCO 	<p>Tuesday 25 March 2014</p>

Annex C

The Planning Act 2008 (as amended by the Localism Act 2011) ('PA 2008') and the Infrastructure Planning (Examination Procedure) Rules 2010 ('EPR')

Procedural Decisions regarding an application for the proposed Burbo Bank Extension offshore wind farm Project

C(i) Master Index of Statements of Common Ground, Commercial Side Agreements or Planning Obligations Related to the Proposed Development

The ExA requests that at timetable Deadline I, the applicant provides it with a written representation, indexing and tabulating all of the following documents that it has produced or, subject to agreement or otherwise, proposes to produce during the remainder of the examination:

- A. all Statements of Common Ground**, identifying the subject matter(s) and the involved interested parties or other persons;
- B. any commercial side agreements¹³ proposed between** the applicant and interested parties or other persons, identifying the subject matter(s), the involved interested parties or other persons and whether the conclusion of such an agreement is considered likely to obviate the need for one or more Statement of Common Ground or lead to the withdrawal of one or more relevant or written representations; and
- C. to the extent that any might be proposed, any statutory planning obligations** under the Town & Country Planning Act 1990 (as amended) or other legislative provisions relevant to planning, identifying the legislative head of power for the obligation, its subject matter(s), whether the obligation would be unilateral, bilateral or multi-lateral, if bilateral or multi-lateral the involved interested parties or other persons and whether the conclusion of such an agreement is considered likely to obviate the need for one or more Statement of Common Ground or lead to the withdrawal of one or more relevant or written representations.

At the identified timetable deadlines, the applicant is requested to update the Master Index and to identify what changes (if any) have occurred since the previous update.

C(ii) Statements of Common Ground

The ExA requests the preparation of Statements of Common Ground (SoCG) between the Applicant and certain interested parties and other bodies.

The aim of a SoCG is to agree factual information and to inform the ExA and all other parties by identifying where there is agreement and where the differences lie at an early stage in the examination process. It should provide a focus and save time by identifying matters that are not in dispute or need not be the subject of further evidence. It can also usefully state where and why there may be disagreement about

¹³ A 'commercial side agreement' means any contract, covenant or other legally enforceable mechanism under which performance or outcomes relevant to the construction, operation or decommissioning of the development proposed under the draft Development Consent Order would be delivered or guaranteed.

the interpretation and relevance of the information. The reasons for the differences and the interpretation of the implications of a difference can then be expanded in the evidence.

Unless otherwise stated or agreed, the SoCG should be agreed between the Applicant and the other relevant interested party(ies) or other person(s), and submitted by the Applicant. Whilst a SoCG can be prepared multi-laterally (between the applicant and several parties around a common theme or subject matter), should this not prove possible within the time allowed, the ExA will accept the submission of multiple bi-lateral SoCGs addressing the same subject matters.

Where bi-lateral SoCGs are prepared in relation to a theme or subject matter which relates to the interests of three or more interested parties, the ExA requests that the comment process in the timetable (**Deadline II**) will be used by relevant interested parties to identify whether a bi-lateral SoCG has in their view adequately addressed a subject matter which is also of relevance to them. This will be of particular relevance in respect of the subject matters encompassed within SoCG C(ii) A below, relating to Natural environment and Habitats Regulation Assessment.

The Examining Authority is conscious that a number of the subject matters identified below are currently proposed to be the subject of commercial or other agreements, which may obviate the need for SoCGs, a position which it supports and provides for in Annex C(i) above. However, where that is the case, a requirement for a SoCG has nevertheless been retained here. If a commercial or other agreement supplants the need for a detailed SoCG, the applicant is asked to explain that, pursuant to the process outlined in Annex C(i). However, if a commercial or other agreement cannot be obtained in whole or part, then the conclusion of a detailed SoCG on the balance of the issues that cannot be dealt with by agreement within the allotted time remains the default setting within this examination.

On this basis, SoCGs are requested to be prepared to address the subject matters and involving interested parties as follows:

Natural environment and Habitats Regulation Assessment

A. the Applicant, Environment Agency, Natural England, Natural Resources Wales/Cyfoeth Naturiol Cymru, Marine Management Organisation/Cefas, RSPB, relevant local authorities and any other interested/statutory party responsible for the management of the natural environment, habitats and species to include:

- the adequacy of base data, impact assessment methodologies, construction, operational and decommissioning effects on or in respect of:
 - marine sediment characterisation, turbidity and water quality;
 - coastal processes;
 - marine fish stocks;
 - shellfish stocks;
 - aquatic organism migratory routes into the Mersey and Dee river systems;
 - marine mammals;
 - marine and terrestrial bird species, including the calculation of prospective bird strike mortality effects;
- the relevance of impacts in individual European protected sites;

- the adequacy of specific assessments of impact on individual European protected sites and the qualifying features / species contained in those sites, taking account of the recent formal designation of the North Wirral SPA and Ramsar Site;
- the need for and adequacy of particular approaches to impact mitigation and the mechanism for securing any mitigation through the draft DCO or Marine Licence;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Access, highways and transportation effects

B. the Applicant and relevant local authorities, to include:

- the adequacy of access, highway, other transport and harbour-front provision for construction and decommissioning;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Other consequential onshore effects

C. the Applicant and relevant local authorities, to include:

- the employment effects of the project;
- the tourism effects of the project;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Air navigation

D. the Applicant, the Civil Aviation Authority, NATS en route plc, Liverpool John Lennon Airport any other interested/statutory party responsible for air navigation or aviation services to include:

- the degree to which air navigation and the integrity of navigation systems have been adequately protected by the project;
- the need for and adequacy of particular approaches to impact mitigation;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Ports and commercial sea navigation

E. the Applicant, Peel Ports, the Mersey Docks and Harbour Company Ltd., UK Chamber of Shipping, the Marine Management Organisation, Trinity House, the Maritime & Coastguard Agency and any other interested/statutory party responsible for marine navigation and shipping services to include:

- the degree to which the operational needs of commercial ports and harbours have been adequately protected by the project;
- the degree to which marine shipping channels, access to navigable rivers and canal navigations, anchorages, navigational aids and systems at sea have been adequately protected by the project;
- the effect of the project on commercial shipping movements during construction, operation and decommissioning;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Boating and yachting

F. the Applicant, the Royal Yachting Association, the Marine Management Organisation, Trinity House, the Maritime & Coastguard Agency and any other interested/statutory party involved in recreational boating to include:

- the degree to which the needs of recreational sea and river navigation have been adequately protected by the project;
- the need for and adequacy of particular approaches to impact mitigation;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Fishing

G. the Applicant, the Marine Management Organisation/Cefas, the National Federation of Fisherman’s Organisations and any other interested/statutory party involved in fishing to include:

- the degree to which access to commercial and recreational fisheries has been adequately protected during the construction, operation and decommissioning of the project;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Historic environment

H. the Applicant, English Heritage¹⁴, relevant local authorities, relevant historic and amenity societies and any other interested/statutory party involved in the historic environment or archaeology to include:

- the adequacy of base data, impact assessment methodologies, construction, operational and decommissioning effects on the historic marine environment;
- the adequacy of base data, impact assessment methodologies, construction, operational and decommissioning effects on the setting of terrestrial heritage assets;
- the need for and adequacy of particular approaches to impact mitigation;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Offshore oil & gas infrastructure

I. the Applicant and BHP Billiton to include:

- adequacy of measures to protect and safeguard access and communications to offshore oil and gas industry assets;
- the protection of pipelines;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Seascape, landscape and visual impact assessment

J. the Applicant, relevant local authorities, relevant historic and amenity societies and Natural England, to include:

- agreed approaches to seascape, landscape and visual impact assessment;
- the adequacy of mitigation;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

Military affairs

K. The ExA notes that there is no relevant representation from the **Ministry of Defence (MoD)**. However, it has written to the MoD, which has agreed to participate in the examination and so a statement of common ground will be prepared to include:

¹⁴ English Heritage will represent the interests of Cadw (Welsh Historic Monuments) in this process.

- a review of actions necessary and agreed to safeguard military aviation, with particular reference but not limited to Warton Aerodrome, taking account of BAE Systems¹⁵ operations there;
- to the extent necessary and relevant, a review of actions necessary and agreed to safeguard military shipping;
- a summary statement of matters agreed; and
- a summary statement of matters not agreed or outstanding.

C(iii) Habitats Regulations 2010 (as amended)

The examination must include a process that provides sufficient information to enable the Secretary of State for Energy and Climate Change to meet his statutory duties as the competent authority under the Habitats Regulations 2010 (as amended) relating to European protected sites and species.

In order to inform the ExA's report and recommendation to the Secretary of State on this application and to provide information for the Secretary of State, the Applicant is requested to complete two matrices, to:

- A. summarise the screening for likely significant effects for each European protected site assessed; and**
- B. summarise the implications for the integrity of each European protected site assessed, where a likely significant effect either alone or in combination with other plans and projects has been identified.**

Template matrices and guidance on their use are available to download from the National Infrastructure pages of the Planning Portal website

Advice Note 10 (revised in August 2013):

<http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/09/Advice-note-10-HRA.pdf>

The matrices accompanying Advice Note 10 (revised in August 2013):

Appendix 1 (screening matrices)

<http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/08/AN10Appendix1v4.doc>

Appendix 2 (integrity matrices)

<http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/08/AN10Appendix2v4.doc>

The dates by which the completed matrices must be received and then by which comment on them is provided are set out in the timetable.

It is noted that the applicant in this case has already completed this work and submitted draft matrices in Annex 4 of the Habitats Regulations Assessment Report (Document Ref: 4.3). However, this procedural decision and the relevant timetable deadline have been retained in case any amendments to the matrices are required in the light of changes proposed to the application which are addressed in Annex C(iv) below.

¹⁵ It will be important to ensure that elements of any statement prepared bearing on air navigation to Warton Aerodrome take full account of BAE Systems and any other operators' existing and proposed utilisation of this facility, in addition to any direct military utilisation.

C(iv) Changes to the Application

Changes to the application were proposed by the applicant in a letter from Bond Dickinson, solicitors for the applicant, to the ExA of 10 September 2013. In summary, these changes are:

- A.** to increase the total installed capacity of the offshore wind farm stated in the draft Development Consent Order by 1 MW, from 258 MW to 259 MW; and
- B.** to amend the approach taken to the draft Deemed Marine License which forms part of the draft Development Consent Order, by subdividing this into two draft licenses, one providing for the proposed generation assets and one providing for offshore transmission assets.

The applicant must produce a document which describes and explains the reason for each change and submit this to the ExA by **Monday 28 October 2013**.

- **The proposed change to the total installed capacity of the offshore wind farm** is a change to the physical design or delivery of development proposed in the submitted application. As such, the applicant must complete an audit of the impact of the changes against the assessments and conclusions contained in the Environmental Statement and the Habitats Regulations Assessment documentation submitted with the application. This must be complete by **Monday 28 October 2013**. Comments on the audit can be provided by **Wednesday 13 November 2013**.
- The proposed change to the structure of the Deemed Marine License does not appear to include a change to the physical design or delivery of development. On this basis, it does not have any implications that require to be considered against the Environmental Statement or the Habitats Regulations Assessment documentation submitted with the application. However, if any substantive changes to the development are proposed to arise and be provided for in the changed license structure, an audit of these against the assessments and conclusions contained in the Environmental Statement and the Habitats Regulations Assessment documentation submitted with the application is required. This must be complete by **Monday 28 October 2013**. Comments on the audit can be provided by **Wednesday 13 November 2013**.

The applicant must provide a revised draft Development Consent Order, annotated to identify the location of the proposed changes to the Deemed Marine License by **Monday 28 October 2013**. Comments on the revised draft can be provided by **Wednesday 13 November 2013**.

Comments on the nature and the justification for the proposed changes and the effect of them may be submitted by **Wednesday 13 November 2013**.

C(v) Related Applications in Wales and Welsh Waters

The project that is the subject matter of the application before the ExA is also subject to two further development approval processes:

- A.** an application for a marine license for an export cable alignment from the marine border between Wales and England, to the Welsh coast, under consideration by Natural Resources Wales/Cyfoeth Naturiol Cymru; and
- B.** an application for planning permission to develop an onshore export cable alignment and a grid connection including a substation near Bodelwyddan, under consideration by Denbighshire County Council / Cyngor Sir Ddinbych.

These processes and the authorities responsible for them are wholly separate to and do not fall under the control of, or timetable for, the examination conducted by the ExA.

However, the examination of the application by the ExA is likely to give rise to matters that may be relevant or material to the consideration of these applications by the authorities responsible for them. Similarly, these approval processes can be expected to give rise to matters that may be relevant and important to the Secretary of State in his decision on the application before the ExA.

For these reasons:

- the ExA will endeavour to respond to reasonable requests for information from the authorities responsible for these development approval processes, within the constraints of its timetable; and
- the ExA similarly requests that the authorities responsible for these development approval processes respond to its questions and provide such information as it may reasonably request, in accordance with the examination timetable.

Given the need for flexibility inherent in the effective coordination of three distinct development approvals processes for what is, in effect, a single development proposal, the ExA foreshadows a possible need for correspondence and questions that are not provided for in its approved timetable, in order to address the as yet not fully resolved issues and timescales under which the authorities responsible for these development approval processes will manage their decision-making processes.

The authorities responsible for these development approval processes should note that any correspondence from them to the ExA, or from the ExA to them, will be public documents and will be lodged on the National Infrastructure pages of Planning Portal website.