



## Meeting note

<b>File reference</b>	EN010026 – Burbo Bank Extension Wind Farm
<b>Status</b>	<b>Final</b>
<b>Author</b>	John Pingstone
<b>Date</b>	29 April 2013
<b>Meeting with</b>	DONG Energy
<b>Venue</b>	Temple Quay House, Bristol
<b>Attendees</b>	Jackie Anderson (Case Manager) Jessica Potter (Principal Case Manager) Tim Hallam (Legal Manager) Laura Allen (Senior EIA Advisor) Helen Lancaster (Senior EIA Advisor) John Pingstone (Assistant Case Officer)  Ferdinando Giammichele (Project Manager) Dong Energy Stuart Livesey (Consent Manager) Dong Energy Claire Rees (Legal Advisor) Bond Pearce John Houghton (Legal Advisor) Bond Pearce
<b>Meeting objectives</b>	Discussion of HRA, ES and draft DCO matters, and general examination logistics
<b>Circulation</b>	All attendees

### Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) explained its openness policy and the requirement to publish any advice under Section 51 of the Planning Act 2008 (the Act). It was confirmed that the Inspectorate is unable to give legal advice on which developers or others can rely and that developers should seek their own legal advice.

The Inspectorate discussed the general quality of the documentation that had been provided by the applicant, pointing out that it was of a high standard, particularly in relation to the consultation.

The Inspectorate summarised the purpose of the meeting, which was to assist the applicant with clarifying and improving certain elements of the documentation, particularly the Environmental Statement (ES) and Habitats Regulations Assessment (HRA) Report, in order to facilitate an improved examination process.

## The Description of the project as set out in the draft Development Consent Order (DCO), HRA Report and ES

It was pointed out to DONG Energy (DE) that the description of the development appeared to vary across the DCO, HRA and ES. In summary, all three elements include the Offshore Wind Farm and Offshore Substation, however:

- The description of the project within the DCO includes export cables to the boundary between English/Welsh waters
- The description of the project within the HRA Report includes export cables to mean high water springs (MHWS)
- Within the ES the description of the project includes export cables to MHWS, onshore export cables and the onshore substation.

### HRA Report

The Inspectorate emphasised that the queries raised in relation to the HRA Report were mainly in relation to presentation and clarity of the information. The Secretary of State, as the competent authority, will have to determine if significant effects are likely as a result of the project specified in the DCO alone, or in-combination with other plans or projects. Therefore, the Examining Authority, when examining the proposed development would need to be clear what was meant by a 'project' impact. For example does it mean what is consented via just the DCO, or the whole project including the elements consented via other consenting regimes.

As the description of the project in the DCO differs from that in the HRA Report (and the ES), the Inspectorate queried whether the Statutory Nature Conservation Bodies (SNCB) had requested this approach or raised any issues regarding it. DE confirmed that this approach had not been requested by the SNCBs, but that in reviewing the draft documents, they had not queried this approach with DE. DE explained that they took the decision to include the whole of the offshore cable to MHWS in the HRA Report as the predicted effects of the cable within English and Welsh waters would be identical in relation to the need to consider Natura 2000 sites as both territorial waters, in relation to the DCO application and Welsh Marine Licence application, lie within Liverpool Bay SPA and in proximity to other sites of conservation status. The Inspectorate thought that it would be helpful if DE could clarify this approach with the SNCB. This may take the form of a statement of common ground (SoCG) between the parties, which could be submitted to the Examining Authority, following the start of the examination.

The approach followed in the HRA Report to in combination assessment adopts a principle that in order for the project to contribute to in combination effects on any species, there must be sufficient cause to consider that a species is sensitive within the project site itself; European sites and features are only considered within the in combination assessment if it has already been demonstrated that the project alone may have a likely significant effect. This appears to be an assessment of in-combination effects from the project alone **and** in combination with other plans or projects. The Habitats Regulations require the assessment of projects alone **or** in combination with other projects. If the approach taken remained as 'alone and in-combination' it would appear to exclude effects that are not significant on their own but would become significant when assessed in-combination with other projects. The Inspectorate queried whether this approach had been agreed with the SNCB and recommended that this was clarified in a SoCG with the relevant SNCB.

The Inspectorate explained that if mitigation is required, the Examining Authority will need to consider what can be secured through requirements in the DCO and what would fall outside the remit of the DCO and would need to be secured through other consenting regimes. The Examining Authority will need to be clear about how the mitigation proposed relates to specific elements of the overall project and which relates specifically to the development to be consented in the DCO, which would need to be secured through requirements. The Inspectorate suggested that DE may wish to consider producing a Table, in similar format to the Table included within Chapter 37 'Summary of Mitigation' in the ES, which identifies for each proposed mitigation whether this would need to be secured through the DCO, and if so which requirement, or through a separate consent. This Table should also include any mitigation measures identified in the HRA Report, where appropriate. DE may wish to consider agreeing this Table with the relevant SNCB and appending to a SoCG, which could be submitted during examination to assist the Examining Authority.

In relation to the Marine License in Welsh waters DE stated that they had suggested the same conditions to Natural Resources Wales (NRW) (the consenting body) as had been included in the draft deemed Marine Licence appended to the DCO. NRW are working in collaboration with the Marine Management Organisation (MMO), being happy for the MMO to take the lead here, however NRW will require their own input. DE understood that NRW will make their decision at about the same as the Secretary of State decides the DCO application. The Inspectorate pointed out that the recommendation on the DCO application will not be made publically available until the decision is published, but NRW and DECC (the relevant SoS) may wish to coordinate to release their decision simultaneously.

## ES

The Inspectorate noted that the description of the project assessed in the ES covers the whole of the project including offshore elements in Welsh waters and onshore elements, which are not included within the description of the project in the DCO. The Inspectorate re-iterated its previous comments on the HRA Report (see above) and how DE may wish to clarify this approach to assist the Examining Authority.

In regard to the grid connection the Inspectorate pointed out that the applicant should have regard to the NPS test at paragraph 4.9.1 of EN-1 which states that, "*the IPC [Secretary of State] will want to be satisfied that there is no obvious reason why a grid connection would not be possible*".

The Inspectorate queried when the planning application had been submitted to the Local Planning Authority for the onshore works. DE confirmed that it had been submitted on 25 March 2013 and that Planning Authority anticipated that it would make a decision within the normal timescale of 16 weeks. DE clarified that it was in effect a "hybrid application" where the level of detail in relation to the cable route was similar to that normally included in full planning applications whilst the substation had effectively been submitted in outline.

The Inspectorate pointed out that DE should have regard to our advice note on the 'Rochdale Envelope' (Advice Note 9, April 2012) which sets out categories to consider for the assessment of cumulative effects.

DE queried whether they could send a template Table with headings in order for the Inspectorate to comment. It was confirmed that this would be acceptable, but that no comments could be provided on the content of the proposed table.

### Transboundary Notification

The Inspectorate confirmed that screening for transboundary effects had taken place at the scoping stage, which concluded no likely significant effect on the environment in another EEA State. In accordance with Advice Note 12 (Transboundary Impacts Consultation), the Inspectorate is currently re-screening the proposed development for transboundary effects, following acceptance of the proposed development for examination.

DE stated that effects on the Republic of Ireland had been identified in regard to migratory marine mammals, which are features of a proposed European site on the west coast of Ireland. DE has undertaken consultation with the Republic of Ireland, which has indicated that they are unlikely to raise any issues regarding the proposed development. However, this has not yet been confirmed. The Inspectorate explained that the duties on the Secretary of State under Regulation 24 are ongoing and information provided during examination may result in further re-screening for transboundary effects.

### Statements of Common Ground and Submission of Further Documents

The Inspectorate queried whether work had commenced on SoCGs. DE confirmed that it had. They are in the process of progressing SoCGs with various parties such as the SNCBs and Local Authorities and other few consultees on matters including aviation and navigation. The Inspectorate said that in relation to any SoCG which specifically cover matters dealt with in the ES and HRA Report, it would be helpful if the following aspects of these assessments could be covered: clarifying whether any data is accepted / not accepted; whether the assessment methodology and baseline have been agreed; whether the list of projects included within the cumulative and in-combination assessment have been agreed; whether the identified residual effects are agreed and whether the proposed mitigation and DCO requirements have been agreed.

DE confirmed that they were seeking commercial agreements with various parties and were advanced in concluding SoCG with such parties. In regard to commercial agreements, the Examining Authority would wish to seek comfort that the agreement exists and is acceptable, and the Examining Authority may wish to see copies of such agreements.

DE asked the Inspectorate when it would be appropriate to submit any SoCG or tables providing clarification of the HRA and ES. The Inspectorate suggested that they could be submitted at the preliminary meeting and the Examining Authority would take a decision whether to exercise their discretion to accept the documents. Although no SoCG can be submitted and formally brought into the examination process during the pre-examination period, it is acceptable to keep the Inspectorate updated on progress.

### Welsh Language

DE enquired about the Inspectorate's Welsh language policy. Given the small number of responses to their consultation that had been received in Welsh, DE had only made a very limited number of documents available in that language. For example, the non-technical summary of the ES. The Inspectorate's Welsh language policy is still in development but it was thought that letters and documents issued by the Inspectorate would only be made available in Welsh if responses suggested that it would be appropriate.

### Potential locations for the Preliminary Meeting (PM)

In regard to the venue of the PM, DE were of the view that the Wirral, Sefton, or Liverpool may be the best locations. It was thought that as the onshore planning consents are located in Denbighshire that the local population may confuse the two processes. In addition it was thought by DE that the majority of the local interest would be from persons living and/or working in the Wirral. The Inspectorate noted this and confirmed that it was also considering the Wirral as a possible PM location. The decision had not yet been made as the geographical spread of relevant representations would need to be taken into account.

The logistics of the meeting were discussed, and it was pointed out by the Inspectorate that although the applicant is largely responsible for logistical matters such as booking a venue, the Inspectorate does have a Programme Officer team that can assist. DE will be happy to provide the Planning Inspectorate with some information on a number of potential venues in the area, based on their experience with the community consultation events in the past years, and will be in regular contact over the next months to exchange information.

The Inspectorate made DE aware that the number of copies of examination documents that may need to be requested would in part depend on whether a single Inspector is appointed or a panel of 3 or more. It would also depend on how many deposit locations are chosen. DE confirmed that they would leave the application documents in their deposit locations listed on the s56 notice.

#### Other Matters

DE pointed out that their engagement with Natural England and the MMO had been very positive and useful. DE asked what could be done about certain bodies that would not engage with them. The Inspectorate suggested that DE should continue making attempts at engagement and that this should be recorded. DE confirmed they will be continuing with this practice that was established in the past years during pre-application.

DE queried whether the Inspectorate had any engagement with Natural Resources Wales, it was confirmed that there had been engagement with a view to improving and coordinating working practices. These talks had been held at a strategic level and had not been in regard to any specific project.

The Inspectorate queried whether DE had sought and if so obtained Crown authority consent under s135(2) of the Act. DE confirmed that they will be asking for a letter of comfort from the Crown Estate, and they had included the standard provisions in the DCO following consultation with the Crown Estate in August 2012. The Inspectorate pointed out that the Examining Authority may wish to seek evidence of this consent having been obtained during the examination.

The Inspectorate asked whether there had been any recent changes to the project. DE confirmed that no changes had been made since the submission of the application. DE suggested however that there may be some amendments proposed to the draft deemed Marine License. DE confirmed that discussions are continuing and that this would be raised with the Examining Authority during the Examination.

DE discussed their approach to dredging. There will be an unknown quantity of sediment transported to a currently unknown site, therefore it is proposed that assessment of the effects will be delayed until greater detail is known. DE is considering submitted a separate Marine License at a later date to consent this. Talks

have taken place with several statutory bodies, such as the MMO and Cefas, and it has been documented that they are content with this approach.

**Specific decisions / follow up required?**

The Inspectorate to send contact details of programme officers to DE and also agreed to send advice and information on the organisation of events and hearings.