



Meeting note

File reference	EN010027
Status	Final
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Date	24 June 2013
Meeting with	Andrew Prior – DONG Energy (Source Low Carbon) Gareth Phillips – DONG Energy (Watson, Farley & Williams LLP) Sally Holroyd – DONG Energy
Venue	MR 3, Bristol Temple Quay
Attendees	Kathryn Powell – Senior Case Manager Nicholas Coombes – Case Manager Steffan Jones – Case Officer Pat Pikniczka – Assistant Case Officer David Price – EST Manager Sarah Green – Legal Team
Meeting objectives	Meeting to provide the Planning Inspectorate with an update on the proposal prior to submission.
Circulation	All

Summary of key points discussed and advice given:

Overall

The Planning Inspectorate explained the openness policy (that any advice given will be recorded and placed on the planning portal website under s51 of the Planning Act 2008 (as amended by the Localism Act 2011) (PA 2008) and that any advice given does not constitute legal advice upon which applicants (or others) can rely).

The applicant¹ updated the Planning Inspectorate on the project and consultations with statutory undertakers including Natural England and JNCC who have presented to the applicant joint comments on the proposal, which the applicant will include in its Consultation Report. The applicant advised that there are some outstanding Habitats Regulations issues.

The Planning Inspectorate queried whether the new landfall location had resulted in further consultation responses. It was reported that the change in installation methodology to HDD beneath the saltmarsh had ameliorated some ecology concerns without causing significant concerns for local residents, land owners and other consultees.

¹ Where this note refers to 'the applicant' it means DONG Energy Walney Extension (UK) Ltd

The Planning Inspectorate queried whether heads of terms for a section 106 agreement will be included in the application; the applicant confirmed that whilst the local planning authority, Lancaster City Council, had been consulted in this regard, none had been identified.

The applicant advised that there are still ongoing discussions taking place with Lancaster City Council regarding a community benefits package.

The applicant also advised about shipping and related economic issues that arose from two shipping companies who object to the proposals.

The applicant updated the Planning Inspectorate on the status of the application and confirmed that the application is to be submitted on Friday 28 June 2013 including Reg 5(5) Responses to the consultation, it was advised that it is not necessary to submit Reg 5(5) Responses unless they are requested by the Planning Inspectorate. The applicant explained that it did not intend to submit with the application a document showing the differences between the DCO and the Model Provisions. It was agreed with the Planning Inspectorate that the applicant submit 3 sets of the application documents including A4 and A3 folders with plans.

The applicant advised that following the approach taken to other applications for offshore wind farms that have been recently been accepted by the Planning Inspectorate (e.g. East Anglia ONE and Rampion), the offshore plans will be submitted in an alternative scale to that required by the Regulations in order that the offshore aspects of the project can be adequately identified. The Planning Inspectorate reminded the applicant to state the reason behind this clearly in the application. The applicant was advised to ensure that electronic documents match the hard copy of the documents, which should also be reflected in the Index.

The applicant described the potential for over-lapping permissions between the substation provided for in its DCO and a separate substation planned alongside it, for which National Grid is seeking TCPA consent. Both applications provide for the same access road; it is anticipated that National Grid will develop this road, but it is provided for in the DCO as a fall back position.

Development Consent Order

The applicant updated the Planning Inspectorate in respect of changes made to the Order. The preamble was based on that approved in the Galloper Offshore Wind Farm Order 2013 (the Galloper Order), except with the addition of the new test from the Growth & Infrastructure Act 2013 regarding the Compulsory Acquisition of rights over open space land required for the maintenance and operation of the proposed project. The applicant also outlined their definition of 'maintain' with reference to the Galloper Order.

The applicant explained that it is not anticipating that s127 or s138 of the PA 2008 will be triggered as it has been in negotiations with the relevant statutory undertakers and expects to reach agreement with them. Sections 131 and 132 PA 2008 will apply as a result of the open space land and the Statement of Reasons explains how the relevant tests are satisfied.

The Applicant advised the Planning Inspectorate that definitions and drafting of the articles in the DCO are so far as possible consistent with other projects' DCOs including the Galloper Order, East Anglia One; Rampion; and Burbo Bank.

Deemed Marine Licences

The applicant advised that in preparing the DCO it has had regard to the issues raised by the developer and MMO in relation to the “splitting” of deemed marine licences (DMLs) in respect of the Galloper Order, and the corresponding comments of the Examining Authority and Secretary of State.

The applicant advised that its proposed solution to this is to include two DMLs in the DCO. One of these will relate to the generator assets, including the wind turbines and inter-array cable systems, and the other will relate to the transmission assets, including the offshore substations and export cable systems. There is no overlap between the two DMLs, and each would be separately enforceable by the MMO.

The rationale behind this solution is that upon the transmission assets transferring to an OFTO in the future, the benefit of the DCO (in part) and the transmission assets DML (in whole) would also transfer to the OFTO. Article 5 (transfer of benefit) and Article 37 of the DCO have been drafted to provide for this. The applicant explained that this would avoid the need for the “splitting” of a DML examined in respect of the Galloper Order, and should address the concerns raised by the MMO in respect of other projects in relation to Sections 71 and 72 of the MCAA 2009. This approach is explained in the Explanatory Memorandum.

The applicant advised that the MMO has been consulted on this approach and that whilst a substantive response has not been received, the MMO has not objected to it.

Regarding European Protected Species (EPS), the applicant is aware that licences are needed and would be obtained from Natural England, but it has not yet applied for one. The applicant explained that as licences are time limited they would apply at the appropriate stage in the process; an EPS licence granted now would expire before any DCO would be granted. However, documentation would be provided in 12.7 of the application demonstrating the terms on which such a licence would be applied for.

The applicant considered that its new approach to HDD at landfall, reducing impact on the salt marsh, would be agreeable to Natural England.

The applicant confirmed that the LPA, Lancaster City Council, was involved and prepared for administering the approvals under the Requirements included in the DCO.

In relation to Street works, the applicant informed the Planning Inspectorate that public highways would be affected, but no permanent stopping up would need to take place.

The applicant intends to facilitate access to public open space during the works. An Outline Public Access strategy (OPAS) has been prepared in consultation with landowners in the vicinity of the proposal. This document explains the principles on which access to public open space and other land, including public rights of way and private access, will be facilitated during the works. The OPAS will be submitted with the DCO for approval and secured by Requirement.

The applicant has also had contact from Sport England. Under Sport England’s policies land adjacent to a football pitch near Middleton would be categorised as a “playing

field". However, the applicant advised that from consultation it is clear that the land in question is not laid out as a football pitch, nor is it used for that purpose. Rather, it is used for public access to the football pitch, which lies to the east of it, and is infrequently used for other forms of public recreation. The applicant informed the Planning Inspectorate that the land in question would be reinstated to a condition at least the same as its original state once the works have been done.-

The applicant advised that it is considering two methods for laying cable systems across the A683 and Middleton Road: HDD and open cut trench. The applicant stated that Lancashire County Council Highways Department has been consulted on this and has not objected to either method.

The applicant confirmed to the Planning Inspectorate that there are 5 parts to their Book of Reference (BoR) and a Schedule; for clarification the Schedule will include a list of Statutory Undertakers that are included in the other parts of the BoR.

The applicant has discussed with Environment Agency (EA) the proposals for drilling under the EA's sea defence. EA prefers this approach compared to the previous option of open cut through the sea defence, and has advised that this should be consented via a separate consent from EA under the Water Resources Act.

One area within the onshore cable corridor affected by a Tree Preservation Order (TPO) has been identified by the applicant. However, on further investigation the applicant identified that the protect trees had been felled previously and no longer exist; powers are reserved in the DCO to override TPOs made after submission of the application.

The applicant stated that they have gone into further detail within the application on explaining different foundation types in particular the distinction between foundation types and steel jacket support structures; the applicant informed the Planning Inspectorate that it deems a jacket not to be a 'foundation' as a jacket sits on a foundation, namely suction caissons, steel piles or gravity base.

The Planning Inspectorate asked the applicant whether there was a minimum number of turbines proposed, the applicant confirmed that, in accordance with the approach taken to other similar applications accepted by the Planning Inspectorate, there is not; all turbines considered within the ES are from 3.6 MW to 8 MW. The applicant also confirmed to the Planning Inspectorate that all cabling will be laid underground or buried using rock placement.

The applicant confirmed that Requirements 3 – 23 deal with the offshore elements of the scheme, and Requirements 24 onwards deal with the onshore elements of the scheme. All cables are AC, meaning that there are no requirements for offshore/onshore converter stations.

The Planning Inspectorate was informed by the applicant that the Ecological Plan is covered by both the Code of Construction Practice (CoCP) and Construction Environmental Management Plan (CEMP). The Planning Inspectorate highlighted the need to ensure that as a minimum the mitigation relied upon within the Environmental Statement (ES) will need to be clearly secured via requirements within the DCO.

Specific decisions / follow up required?

The Applicant to submit application to the Planning Inspectorate on Friday 28 June 2013.

The Planning Inspectorate advised that it can request Reg 5(5) responses after the application is submitted. It has been agreed that responses will not be submitted with the application on 28 June 2013.