

From: Louise Staples [mailto:Louise.Staples@nfu.org.uk]
Sent: 08 February 2019 20:22
To: Hornsea Project Three
Cc: Jane Kenny
Subject: NFU and LIG submissions to the hearings on 30th and 31st January 2019
Importance: High

Dear Kay

Please find attached the written submissions on behalf of the NFU and LIG in regard to the following hearings:

Issue Specific Hearing – Draft Development Consent Order – Wednesday 30th January 2019

Issue Specific Hearing – Compulsory Acquisition – Thursday 31st January 2019

If you do need anything else please do contact me.

Kind regards

Louise

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**WRITTEN SUBMISSIONS OF NFU AND LIG REGARDING THE HORNSEA PROJECT THREE
OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER 201 [...]**

PLANNING INSPECTORATE REFERENCE NO EN010080

**SUBMISSIONS OF NATIONAL FARMERS UNION AND THE LAND INTEREST GROUP ON THE
COMPULSORY ACQUISITION HEARING – ON 31st JANUARY 2019**

DATE 8th FEBRUARY 2019

1.0 Introduction

- 1.1 Submissions on behalf of the National Farmers Union (“NFU”) and the Land Interest Group (LIG) in respect of the application for a Development Consent Order (DCO) by Orsted Hornsea Project three (UK) Limited for the Hornsea project Three Offshore Wind Farm. The NFU is making a case on behalf of its members and LIG its clients, who are affected by the DCO.

2.0 Articles

- 2.1 **Article 19:** NFU and LIG believe strongly that it is not necessary to extend the time limit of compulsory powers from 5 years to 7 years. This is important to Landowners as it will mean that Orsted have to start the 2nd Phase in year 5. This will help to keep the full length of the project within the 8 years.

- 2.2 **Article 37:** NFU and LIG would like to see the maintenance period extended to 10 years to cover the maintenance and establishment of hedgerows.

- 3.0 **Outline CoCP Communication:** The NFU and LIG stated that it is imperative that landowners and occupiers are informed of land take specific to their land holdings prior to any information regarding land take being sent out in a newsletter as highlighted in Appendix A of Outline CoCP between A1.1.7 and A1.1.8. It states that a newsletter would be sent out four months prior to commencement of onshore works.

- 4.0 **Land at Moor Farm:** Jane Kenny (Savills) as the acting agent for the landowner at Moor Farm confirms the preferred route is the western route as confirmed to Orsted.

- 5.0 **Norwich Road Access:** Christopher Bond (Bidwells) the acting agent has submitted a separate submission to cover this point discussed at the hearing.

- 6.0 **Agricultural Liaison Officer (ALO):** Please see at Appendix A the wording which has been agreed with Orsted following the hearing on Thursday 31st January to be included in the outline CoCP.

- 7.0 **Agricultural Field Drainage:** Please see at Appendix B the wording which has been agreed with Orsted following the hearing on Thursday 31st January to be included in the outline CoCP.

- 8.0 **Soil Storage and Treatment:** NFU and LIG have set out in Appendix C the reasons for the requirements they would like to see carried out for soil storage and reinstatement. Further it states the NFU and LIGs working methodology for reinstatement and we would like this to be included in the outline CoCP. The working methodology that has been stated is important so that the soils can be restored back to agricultural use as soon as possible. It has also been stated at Appendix C the contractors who worked on Hornsea 1 where long term strip and bunding was used are now proposing to use the preferred methodology we have outlined. Please see Appendix C for details.

- 9.0 **Fault on the Cables:** NFU and LIG asked a question as to what was the likelihood of their being a fault on the cable sections during construction. This was not clearly answered by the Applicant but this is being stated as a reason for not being able to restore the top soil in sections over the cable length.

- 10.0 Severed Land:** A question was raised as to what would be the mechanism to initiate the consultation on crossing points to severed land before construction starts. The NFU and LIG believe that this is a role that the ALO should carry out.

11.0 Corridor Widths: The NFU and LIG would like to receive clarification on the corridor widths that will required during construction for the three potential scenarios of installing the cables in two phases as follows:

- AC cables and AC cables
- AC cables and DC cables
- DC cables and DC cables

The NFU and LIG believe that this was not made clear at the hearing and it is essential that this is clarified so that no more land is taken for the development than is necessary.

12.0 Crossing Point Orsted/Vattenfall: The NFU and LIG believe that it has still not been stated clearly how construction of the different cables will take place at the crossing point for the Orsted development in two Phases and the Vanguard and Boreas proposed developments.

13.0 Hornsea 4: The NFU and LIG do still not understand how it is possible for Hornsea 4 Orsted project team to be able to confirm that the cables will be installed in one phase but that Hornsea 3 Orsted project team are stating that it is essential that the DCO gives them the flexibility to construct the development in two phases. We would like this issue to be considered further as timings of construction and land not being reinstated over an eight year period will have a big impact on the farming businesses.

14.0 Security of the Haul Road: The NFU and LIG would like for it to clearly stated in the outline CoCP that security of the haul road will have to be maintained during the gap between Phase 1 and Phase 2. It is likely that gates will be needed at every road crossing.

Appendix A: Agricultural Liaison Officer

1.1.1 Agricultural Liaison Officer

- 1.1.1.1 The Agricultural Liaison Officer (ALO) will be appointed by the Applicant prior to the commencement of pre-construction activities and will be the prime contact for ongoing engagement about practical matters with landowners, occupiers and their agents before and during the construction process. There may be more than one ALO if required.
- 1.1.1.2 The ALO will have relevant experience of working with landowners and agricultural businesses and will have knowledge of the compulsory acquisition process (if required) and working on a linear infrastructure project.
- 1.1.1.3 The ALO (or their company) will be contactable from 7am to 7pm during the construction phase to landowners, agents and occupiers and will provide 24-hour team or company contact details for use in the event of emergency.
- 1.1.1.4 Post-construction the ALO will remain in place for up to one year in order to manage remediation issues.
- 1.1.1.5 After that year the Applicant will ensure that ongoing contact details are provided in order for landowners and occupiers to seek consent, if required, in respect of restrictive covenants for the lifetime of the project or to highlight any defects. Information in relation to the process of management of restrictive covenants will be issued to landowners and occupiers upon any change in the person/s responsible for the process on behalf of the Applicant or the OFTO.
- 1.1.1.6 The ALO will have responsibility for liaising with landowners, agents and occupiers in respect of the following:-
- Coordinating drainage surveys and sharing pre and post-construction drainage schemes with landowners or occupiers in advance for their consideration;
 - Discussing the location, grouping and marking of link boxes, including why they are subject to overriding constraints (such as cable lengths and environmental constraints), with the landowner/occupier;
 - Coordinating the provision of a detailed pre-construction condition survey to include a soil survey as detailed in paragraph G.3.3.2 in Appendix G as well as a record of condition of the following elements;
 - existing crop regimes;
 - the position and condition of field boundaries;
 - the condition of existing access arrangements;
 - the location of private water supplies (as far as reasonable investigations allow);
 - the type of agricultural use taking place;
 - the yield of crops;
 - the quality of grazing land; and
 - the existing weed burden.

- Advising on risks relating to the translocation of soil diseases and ensuring appropriate protective provisions are implemented;
- Ensuring that landowners and occupiers are consulted in respect of requirements relating to field entrances and accesses across the construction strip and land-locked or severed land parcels;
- Arrange quarterly meetings with agent representatives of landowners;
- Undertake pre-construction and day-to-day discussions with affected parties to minimise disruption, where possible, to existing farming regimes and timings of activities;
- Undertake site inspections during construction to monitor working practices and ensure landowners' and occupiers' reasonable requirements are fulfilled;
- Discussing and agreeing reinstatement measures following completion of the works

Appendix B: Field Drainage

Irrigation

- 6.8.1.7 Details of the irrigation system on each land holding will be gathered during the detailed design stage and irrigation plans will be developed to inform the management of agricultural land drainage during construction. The Agricultural Liaison Officer will be responsible for consulting with each individual landowner to obtain the relevant information and to be a point of contact to report concerns regarding irrigation systems during construction. The plans will include the following information:
- Location of boreholes and water supplies used by each farmer;
 - Irrigation or impoundment licence granted by the EA; and
 - System of irrigation applied and the location of irrigation network for each field.

Agricultural Land Drainage

- 6.8.1.8 Particular care will be taken to ensure that the existing land drainage system is not compromised as a result of construction. Land drainage systems will be maintained during construction and reinstated on completion.
- 6.8.1.9 The ALO will coordinate drainage surveys to establish the existing drainage position including any related farm drainage that may be affected by the scheme. The services of a suitably qualified drainage consultant will be employed by the Applicant to act as a drainage expert during the detailed design process and liaise with landowners or occupiers (through the ALO) to consult on the pre and post drainage schemes required. This will include the design of any land drainage works required during construction, and on the design and timing of any land drainage works required for the subsequent restoration of the land. This process will take due regard of any local and site-specific knowledge.
- 6.8.1.10 Subject to the consultation existing agricultural land drains, where encountered during the construction of each phase, will be appropriately marked. The location of drains cut or disturbed by the construction works will be photographed, given a unique number and logged using GPRS coordinates. The actual condition and characteristics (e.g. depth of installation, pipe type and diameter) of the existing drainage will also be recorded upon excavation.
- 6.8.1.11 During the construction works, temporary drainage will be installed either side of the cable trenches, within the onshore cable corridor working width, to intercept existing field drains and ditches in order to maintain the integrity of the existing field-drainage system during construction and ensure existing flow is not channelled by the onshore cable corridor. Such measures will also assist in reducing the potential for wet areas to form during the works, thereby reducing the impact on soil structure and fertility. Drainage systems however will not be installed into areas where they are not currently present, e.g. environmental wetlands.
- 6.8.1.12 Any field drainage intercepted during the cable installation will either be reinstated following the installation of the cable or diverted to a secondary channel. Landowners and occupiers will be informed of the design of drainage works required during construction and following installation of the cables and associated works, including: pipe layout, falls, dimensions and outfalls (if required). The drainage would be reinstated in a condition that is at least as effective as the previous condition and will follow best practice for field drainage installations taking into account site specific conditions.

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- 6.8.1.13 Where it is reasonable for the reinstatement of drainage to involve works outside of the order limits it will be done subject to the agreement of the landowner.
 - 6.8.1.14 Landowners and occupiers will be provided with the opportunity to inspect land drainage works as they progress, subject to health and safety considerations. Furthermore, records of existing and remedial drainage will be maintained by the Applicant with copies provided to the Landowner (and the Occupier, if applicable) following the completion of construction works in each phase.
 - 6.8.1.15 A dispute resolution process will be established including the appointment of a jointly agreed Independent Expert for drainage design and implementation, where required. Where agreement cannot be reached on the appointment of the expert the matter will be referred to the President of the Institution of Civil Engineers.

Appendix C: Soil Storage and Treatment

Reasoning

- When soil is stored in a bund it is hard to stop surface erosion and control weed growth
- Soil takes time to recover its structure and settle into a workable medium with reasonable drainage properties. The sooner it is restored to the working width the sooner the recovery process can start.
- An example to illustrate the areas of concern is given below:
 - 1km between joint bays
 - Working width of 80m
 - Restore topsoil over 70m to allow for haul road and variance
 - Leave 100msq open by joint bay (50m x 2)
 - Area restored = 70m x 900m = 6.3ha (15.58 acres)
 - Even at half the working width this is still a significant area.
- Over the entire length of the route this would be a significant area of land being returned to good condition at earliest opportunity with option to crop, by agreement between the parties, and this avoid business disruption and reduce claims against the Orsted.
- It is understood that contractors who worked on Hornsea 1, where long term strip and bund construction was used, are now proposing to use ongoing topsoil restoration as detailed below under 'preferred working methodology' for the Triton Knoll scheme.
- Cover cropping the restored topsoil with specialist soil structuring cover crops will help draw moisture from the soil, improve structure, reinstate natural drainage channels and retain nutrients.
- Long term exposure of the subsoil to rain can cause damage and smearing of the upper layers and compaction in the lower layers. This element of the soil profile would normally be protected by topsoil and it is not in its nature to be directly exposed to rain.
- Impeded drainage on an exposed subsoil surface can result in ponding of rainwater leading to excessive periods of wetness making the soil more vulnerable to damage.
- The haul road will remain in place and therefore the cable route will not be needed for machinery transit once the ducts are installed.
- If localised sites need repair or modification access can be gained via the haul road and localised excavations can be used, preferably with smaller diggers than required for the main earthworks, to remedy the faults.
- Cables will be pulled in from the joint bays and if they fail they will be pulled out at the joint bays. The only reason for accessing the duct run between the joint bays should be if the cable fails and melts the ducts, or if the cable won't install properly due to a blockage in the duct. The following comments apply:
 - In the event of a heat event resulting in a damaged duct it is accepted that localised repair would be needed using the same working methodology of strip, store, replace, restore, albeit on a smaller scale and using the haul road for access.
 - If the ducts are installed properly there should be no issues with pulling the cables through.
 - If a duct needs to turn a tight bend and there is a risk of installation problems this area can remain open as there would be good technical and engineering reasons for doing so.
 - The topsoil would not be reinstated within 50m of each side of joint bay giving room to work at the point.
- The provision for the topsoil to remain in a bund where there are good technical and engineering reasons allows the Tenant to avoid reinstating where they reasonably believe there could be need to access the ducts during cable installation and testing.

Provisions for Long Term Strip and Bund

- Dudgeon Offshore Wind and East Anglian One have shown that long term storage of topsoil can lead to loss of topsoil via surface runoff into the working area and surrounding land.
- Weed infestation of the bunds has also been a problem that requires use of non-selective herbicides to control and mechanical weeding.
- Stabilisation of the bund with a green cover is a good way to stabilise the soil surface and create a dominant green cover to suppress weeds.
- Establishing a green cover is difficult due to the recently disturbed nature of the soil, the profile of the bunds (high risk of seed wash off) and increased vulnerability to climatic conditions.
- Hydroseeding has been shown to effectively combat the problems noted above, particularly when used in conjunction with biodegradable hessian type erosion control blankets.
- Ensuring the green cover is topped regularly and not allowed to see can achieve stabilisation of the bund cover and avoids problems with weed inundation to valuable arable land.
- Vertically entrenched silt fences protect the bund from surface runoff onto the exposed subsoil working area, the surrounding farmland and surrounding watercourses.

Soil Specialist

- Provision of a soil specialist to act as a 3rd party referee between contractors and the landowner ensures work can proceed in a timely way whilst long term soil damage can be minimised.
- The landowner and contractors will at times have directly competing interests and each party is liable to take an entrenched point of view. The soil specialist can give an independent view so the landowner knows that if the soil is damaged he will have a valid and justified claim, and the contractor can avoid situations where they are interrupted because the landowner perceives the conditions to be unsuitable to work.

Preferred Working Methodology

NFU and LIG's preferred working methodology is as follows:

- Topsoil stripped and stored in a bund
- Subsoil trenched and stored in separate bund to topsoil
- Plastic ducts installed
- Subsoil replaced
- Topsoil replaced within 3 months of stripping where following conditions are met:
 - Subsoil is dry and in a suitable condition to take topsoil reinstatement
 - Landowner does not reasonably object to reinstatement
- Restored working width will be seeded with a cover crop of an agreed species mix for the soil type, land use and time of year.
- Orsted will not be obliged to restore the working area within an area 50m either side of a joining bay, HDD launch area, or any other area where for good technical and engineering reasons it is not appropriate to do so. [Such as where cables go around a bend, or archology, or cross existing/proposed infrastructure].

Following partial restoration of the working width Orsted will not:

- Be obliged to install the post scheme drainage works until such time as programmed on the wider scheme
- Be obliged to hand back possession of the working area if they do not reasonably consider it appropriate to do so.
- Be obliged to pay crop loss or any other loss arising from the farmer choosing to commercially crop the partially restored working area.

- The restoration of the topsoil will not be full restoration and the conditions associated with full restoration do not have to be met until the appropriate time as agreed.

In the event that the decision is taken to strip all of the topsoil and store it in a bund to be reinstated at the completion of the installation of underground electrical apparatus, which for the avoidance of doubt does not mean the completion of joint bay construction as that could reasonably be expected to continue after testing of the cable route, NFU and LIG would like the following conditions to be included:

- Topsoil and subsoil are kept separate
 - Entrenched vertical entrapment fences (Silt Fences) to be installed around the bund as per EA/SEPA Pollution Prevention Guidelines.
 - Hydroseeding of bunds with an agreed/appropriate grass mix at soonest opportunity recommended by specialist contractors.
 - Installation of biodegradable Geo-Jute Erosion Control Blanket to stabilise the surface and give a 'key' for the Hydroseeding growing medium.
 - Assessment to be carried out of where water may pond on subsoil in the stripped working area and, where appropriate, means to drain this water away installed through the bund if necessary.
 - Dewatering pits to be located on the haul road side of the working area.
- Orsted has confirmed that a soil specialist would be appointed to work alongside the ALO to monitor soil handling as stated in Appendix G G2.1.3 of the CoCP. NFU and LIG request that the Drainage Consultant is also party to this monitoring during the works to have an input into the preparation, installation and reinstatement of the option area with a brief as follows:
 - To agree when conditions in the option area are suitable for operation of the works specifically required at the time of assessment.
 - To assess when work can recommence in the following situation:
 - There has been more than 12mm of rain falling on the corridor in any preceding 24 hour period.
 - There has been more than 20mm of rain falling on the corridor in any preceding 96 hour period.
 - Where the thresholds specified above have not been met but long term adverse weather conditions have lead to cumulative wetting of the option area.
 - Where the Grantor considers the conditions to be unsuitable for working without unavoidable long term soil damage.
 - The advice of the soil specialist will be binding on both parties.