



From: [Shaw, Andrew](#)
To: [Thanet Extension](#)
Subject: Thanet Extension Offshore Wind Farm DCO EN010084, notification of Hearing attendance, The National Trust 20012611
Date: 15 January 2019 16:45:03
Attachments: [20190107_TEOWrittenrepsNationalTrust10summary_v3.docx](#)
[20190115_TEOwExAQ1responseNationalTrust_v2.docx](#)
[20190115_TEOWrittenrepsNationalTrust_v4.docx](#)

Dear Sir or Madam, please find attached written representations (with summary) and responses to the EXa Question 1, from the rule 8 letter for the Thanet Extension Offshore Wind Farm Development Consent Order EN010084 on behalf of the The National Trust ref: 20012611.

Thanking you in advance,

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 NATIONAL TRUST

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**National
Trust**

Thanet Extension Offshore Wind Farm
Development Consent Order EN010084

Written representations ref: 20012611
The National Trust

Thanet Extension Offshore Wind Farm (EN010084)

our reference:20012611, The National Trust.

1 Introduction

1.1 These representations relate to the National Trust land ownership at Sandwich and Pegwell Bay and the impacts of and justification for new cables being laid across this site.

1.2 The National Trust is a charity founded in 1895 by three people who saw the importance of our nation's heritage and open spaces and wanted to preserve them for everyone to enjoy. More than 120 years later, these values are still at the heart of everything we do. We look after special places throughout England, Wales and Northern Ireland for ever, for everyone.

1.3 We take care of coastline, forests, woods, fens, beaches, farmland, moorland, islands, archaeological remains, nature reserves, villages, historic houses, gardens, mills and pubs and one of the world's largest art collections. We restore them, protect them and open them up to everyone. For the Trust, conservation has always gone hand-in-hand with public access. We welcome everyone to explore:

- 780 miles of coastline
- Over 248,000 hectares of land
- Over 500 historic houses, castles, ancient monuments gardens and parks and nature reserves.
- Close to one million objects and works of art

1.4 Our concerns and objections relate to;

- Compulsory purchase of National trust land
- Potential impacts of the cable landfall and connection on the seawall
- Impacts on tourism and leisure
- The cable landfall route option (Environmental Statement)

In regard to matters relating to habitat and biodiversity the National Trust is relying on the advice on Natural England and Kent Wildlife Trust.

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2 Our Cause

2.3 The National Trust maintains an in principle objection to the laying of additional cables across land held by us in trust for the nation. The cumulative impact and alteration in character of this land would be negatively impacted by the proposals, against our statutory duty to look after this land for ever for everyone. This is both from the position of cumulative impact on the landscape and habitat but directly from our cause to maintain and hold these assets in Trust for the nation.

2.4 This reinforces our objections to the cable route selection process (see 6 below) as we believe that any disturbance or alteration to this land and its character is contrary to our mission and cause to preserve such historic assets and thus the highest rigour and justification for any impacts on these assets must be demonstrably shown. It is not considered, in relation particularly, to the cable landfall route selection, that this level of rigour has been shown and this is addressed in section 6 below.

3 Compulsory Acquisition and Inalienable Land

Factual background

3.1 In 1981, the land which is within the Order limits and which is owned by the Trust was declared "inalienable". This status enables the Trust to live up to its core charitable objective of preserving places of historic interest and natural beauty for the nation, forever.

3.2 The Trust declares land inalienable because it is land of great beauty, because it is of significant historical importance or because it is of outstanding importance for nature conservation, archaeology or landscape value. Alternatively it can be land which protects other land which is itself of such value.

3.3 The power relied upon to declare this land inalienable is in section 21 of the National Trust Act 1907. Once land has been declared inalienable it cannot be sold and only Parliament can authorise compulsory acquisition of the land or rights over the land in the face of any objection by the Trust to a compulsory acquisition proposal.

The draft DCO

3.4 The draft DCO and supporting documents as drafted are not entirely clear about the extent of land to be acquired so could be capable of being interpreted as enabling Vattenfall to acquire inalienable land and to acquire new permanent and temporary rights over inalienable land, comprising a large area of the mudflats. The temporary possession powers are required for the construction of the works. The land affected is shown in the land plan (onshore) [document 2.3] and described in the book of reference [document 4.3]. Because the land is inalienable, it is also shown in the special category land plans [document 2.4]. The Trust is described in the book of reference as being the freehold owner of Plots 00/05, 00/10, 01/01, 01/02, 01/05 and 01/06.

3.5 In paragraph 7.5.1 of its Statement of Reasons [document 4.1], Vattenfall says that The National Trust's interest is excluded from compulsory acquisition as it is believed to be inalienable. However, in an email received by the Trust on the date of these representations, Mr John Hillis (Director of Blackhall and Powis, Chartered Surveyors acting for the applicant) said "I write further to my email of 10 December 2018 to confirm that Vattenfall are intending to amend the DCO submission at the next PINs deadline to bring the National Trust interest into the scope of the application for powers of compulsory acquisition."

3.6 The Trust is now in a position where it is less certain about the effect of the DCO on its land than it was before. It reserves its position on whether the proposed amendment mentioned by Mr Hillis should be treated as a material change to the DCO application.

3.7 Pending sight of those proposed amendments, the Trust's position is that it considers that changes should be made to the DCO and the book of reference and undertakings given to make the position clear.

Objection to compulsory acquisition of land and what the Trust requests

3.8 Because the Trust considers the position to be so unclear, it objects to the acquisition of its inalienable land, and pending the introduction of the amendments mentioned above, its position is as follows.

3.9 The Trust requires an undertaking that no compulsory acquisition of inalienable land (including the acquisition of rights over that land) will take place.

3.10 In addition, the draft DCO and book of reference require amendment in a number of respects, which are described below:

3.10.1 Article 17 of the draft DCO says "The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project or to facilitate, or is incidental, to it." "Order land" is defined in the draft DCO as "the land shown on the land plan which is within **the limits of land to be acquired** and described in the book of reference." There appears to be no definition of "the limits of land to be acquired". This could be remedied by including a definition such as "the land shown coloured blue or pink on the land plans".

3.10.2 In the "Description of Land" column of the Book of Reference, it does not appear to be necessary to include words like "New rights over" or "Permanent acquisition of" at the beginning of each description. Whilst those words might accurately describe the interest which is intended to be acquired, the purpose of the column is to describe the land generally. Restrictions on what interests can be acquired can be found in the Order itself.

3.10.3 So, as an example, with the changes suggested above, the entry for parcel number 15/06 would read:

~~New rights over~~ 23190.18 squares metres of land being sea and marshland to the east of Pegwell Bay, Kent.

Excluding interests held by The National Trust for Places of Historic Interest or Natural Beauty.

Comprised in title K527769.”

4 Siting and detailing of landfall cable connector and rock armoured seawall

4.1 The National Trust inalienable ownership includes an area of onshore land within the Proposed Onshore Development Boundary, adjacent to the rock armoured sea wall. The developers have indicated physical alterations which might affect the area, including installing a Transition Pit and extending/altering the sea wall.

4.2 The National Trust has not been provided with any detail and thus records an objection to any proposed alterations, additions or changes to this land or the sea wall or any acquisition of the Trust's land.

4.3 This relates specifically to the Works No3.B (changes to the seawall) and Works Nos 4 and 4A cable alignment. These works are within the inalienable land held by the National Trust and affected by any potential compulsory purchase or rights over land detailed under 3 above.

4.4 Without additional detail on any works to these features or potential / likely landfall and infrastructure requirements we continue to maintain an in principle objection to any works under the DCO in this regard. This is reinforced by our statutory cause and the need for additional diligence in ensuring that any impacts on land held by the Trust is compatible with that cause.

5 Impacts on tourism and leisure

5.1 The impact of the cable route on Pegwell Bay Country Park varies with the options put forward; the above ground option 2 has the most short and long term impact on the Park, its management and users. The installation of a berm and the resulting changes to ground levels, management practices and access are not compatible with the purpose and vision of the Country Park. An over ground berm is not seen as acceptable, especially in light of the impact and lessons learnt from the previous cable project Nemo that has impacted on the Country Park.

5.2 However IF this were to happen then the need for a complete landscaping design and options to mitigate impact and create a single structure more in keeping with the rest of the park and the surrounding land, would be required.

5.3 The National Trust welcomes Vattenfall’s decision to withdraw the above ground Option 2. If the option to underground the cables across the Park are implemented this will significantly alter the impact of the project on the park, its management and users. It is the preferred option and considered to be the only acceptable way to accommodate the project across the park.

6 Cable landfall

6.1 The National trust maintains its in principle objection to the cable landfall route selection process as outlined in the Environmental Statement (ES). It is our conclusion that the ES fails to meet the regulatory requirements to provide the “adequate provision of information to draw detailed consultation responses” as it does not provide the detail required to understand the landfall site selection and options, and with what judgements or supporting evidence. Without this evidence of the exclusions, omissions, scoring system used, we consider that the order regarding the landfall site selection is flawed.

6.2 The ES does not provide a level of detail or background evidence base sufficient to allow us to clearly understand the criteria, reasoning and weighting behind the various exclusion of options. The level of comparison and weight given to various factors is of particular concern and that ultimately the ES simply states the conclusion reached by the applicant without explaining how or giving the relevant information to help inform that process. The table below provides examples of sections from the ES where we have concerns and why.

6. Environmental Statement Chapter 4	
Para 4.2.4	Under the Habitats Directive, when considering granting consent for a development that may adversely impacts on European sites, there must be sufficient evidence that ‘there are no feasible alternative solutions to the plan or project which are less damaging’ which includes using different routes. Ecological surveys were focused on one onshore cable route (Pegwell Bay) resulting in a lack of comparable ecological data. Without comparable ecological data for other proposed onshore cable routes and landfall options, we cannot accept that the route chosen is the least environmentally damaging.
Para 4.5.1	It is not considered that the ‘avoidance of key sensitive features’ has been followed sufficiently. We believe that alternative routes which have not been pursued would result in less disturbance to key sensitive features and have yet to see ecological evidence suggesting otherwise.
4.7.4	A series of factors are used in the desk based assessment of options for the

	landfall appraisal. Of principal concern are the inconsistencies between the weighting and emphasis of the various criteria. This particularly relates to the used of the qualifying term 'minimise' and 'avoid' where avoidance is clearly given a higher significance. This effectively demotes the environmental criteria to a lesser standing. The qualifiers are not applied equally across a topic, so that ancient woodland habitat is marked to avoid, while designated nature conservation is only to minimise, though the two are of course synonymous. The set of 'constraints' is inconsistent and illogical and mixes major policy matters with minor engineering and design considerations, creating an imbalanced and badly weighted assessment.
4.7.7	This merely states that three landfall choices were identified at stage 2. Without the detail and information lacking in para 4.7.4, it is not possible to understand or assess how this decision has been reached. It is not known what areas had been examined, which were excluded, and why. The constraints presented are biased towards allocating more weigh to socio-economic impacts than environmental impacts. For instance, the constraints include ' avoid land used for defence purposes' and ' avoid residential property' but the wording is much weaker for environmental considerations, where the constraint is 'minimise where practicable land designated for nature conservation'. Environmental considerations should have been given more weight, for instance this should have stated ' avoid land designated for nature conservation'.
4.8.1	This only sets out a set of conclusions of assessment work without providing any detail, mapping or scoring to indicate how the set of Options in Table 4-2 was arrived at. By exclusion it is not known by us as a consultee what options or area where examined and excluded and why. It is obviously not possible for us to follow either the logic or methodology used to make these selections.
4.8.6	This strongly suggests that these routes are feasible, which is inconsistent with other claims that these routes were not pursued due to not being feasible. Given that Route 6 was considered preferable in terms of space for construction, we would like to request further information about why this route option was not pursued or ultimately chosen. The results of the intertidal surveys show that fewer intertidal habitats and species would be affected by this route/landfall option, and the route would not directly impact the NNR.
4.8.7	'Indicative routes 1, 2 and 7... were considered likely to have major restrictions on construction because their onshore routes are longer than the other options' The argument that the route 7 onshore route is longer than the other options is weak and irrelevant. Option 6 is a longer overall route length, but impacts fewer environmentally designated sites than the chosen route. It would help to see clear and robust evidence behind any claims made by the applicant that the alternative routes, namely routes 6 and 7, are not feasible.

4.8.9	It is premature to say that 'HDD may not be feasible'. HDD is the best method to avoid environmental features such as saltmarsh5, therefore if the application is accepted, HDD should be the only cable installation method considered
4.9.8 – 4.9.14	The summary provided makes some simplistic and unsubstantiated. It does not present any understanding of the character of the landscape, does not use any character appraisal or characterisation techniques to assess the likely impacts of cabling on the landscape, its cultural or heritage assets. This section is considered to be wholly inadequate to inform potential impacts.