



# Preliminary Meeting note

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| <b>Project name</b>   | Thanet Extension Offshore Wind Farm                    |
| <b>File reference</b> | EN010084   |
| <b>Status</b>         | <b>Final</b>   |
| <b>Author</b>         | The Planning Inspectorate                              |
| <b>Date and Time</b>  | Tuesday 11 December 2018 at 10.00am                    |
| <b>Venue</b>          | Innovation House, Discovery Park<br>Sandwich, CT13 9FF |

*This meeting note is not a full transcript of the Preliminary Meeting. It is a summary of the key points discussed and responses given. An audio recording of the event is available on the National Infrastructure Planning website*

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## 1. Welcome and Introduction

**Rynd Smith (RS)**, welcomed those present and introduced himself as the lead member of the Panel of Examining Inspectors, the Examining Authority (ExA) to examine the Thanet Extension Offshore Wind Farm application. **RS** explained the appointment included panel members; **Stephen Bradley (SB)** and **Jessica Powis (JP)** and was made by delegation from the Secretary of State (SoS) for the Department of Business, Energy and Industrial Strategy on 2 October 2018.

**RS** and **JP** explained they had both made a declaration of interests responding to the Planning Inspectorate's *Conflict of Interest Policy* and confirmed that they have no declarable interests in relation to this appointment.

**SB** stated that he too had made a declaration of interest and the following matters had been noted: through University College London (UCL) he has been a volunteer writer on environmental and planning matters for Thames Estuary Partnership but ceased this activity and has no current involvement nor personal contact with any other partners in that organization other than UCL. Secondly **SB** has attended joined meetings Civic Voice and APPG on Civic Societies which were chaired by Craig McKinlay MP for Thanet South but **SB** has no personal acquaintance with him and lastly **SB** stated he is a member of RYA but not an active member and takes no party in committee work or governance.

No observations were raised by anyone on the above matters.

**RS** explained that the ExA would be examining the application made by Vattenfall Wind Power Limited ('the Applicant') for an Order granting Development Consent for the proposed Thanet Extension Offshore Wind Farm project, which is a Nationally Significant Infrastructure Project (NSIP) and provided a brief summary of the proposed Thanet Extension Offshore Wind Farm project.

**RS** explained that the purpose of the Preliminary Meeting (PM) was to consider procedural issues only, relating to the way in which the application is to be examined and the timetable for that Examination. He noted that the Examination will commence

after the PM closes. The ExA will then publish a Rule 8 letter and a brief PM note and confirmed that all submissions received and accepted at the discretion of the ExA will be published to the project-specific page of the National Infrastructure Planning website.

**RS** advised that the link to the project page can be found in the letter sent out on 9 November 2018 which invited people to attend the PM and that anyone with an interest in the project should familiarise themselves with the project website. **RS** explained that the ExA will be using the website to communicate with those interested in the project and to provide access to documents throughout the examination.

**RS** explained that those who do not have access to their own computer, can view information about the application and the examination using computers at local Libraries and Information Centres which he then listed, stating that the addresses and opening times of those facilities were set out in Annex D of the letter dated 9 November 2018.

**RS** briefly covered housekeeping matters for the venue, including the evacuation procedure, in the event of a fire alarm.

**RS** referred to the letter of 9 November 2018 and explained that the ExA would be seeking the views of those in attendance at the PM; regarding the arrangements for the examination of the application as described in the letter, to ensure that the ExA examine the application in the most efficient and fair manner possible.

**RS** confirmed that the matters discussed at the PM would provide the ExA with the information needed to make procedural decisions about how the examination should be run and to set a timetable for the examination. **RS** reiterated that the PM is a procedural meeting and not part of the examination, that won't start until after the meeting has finished. It was noted that matters relating to the merits of the application would be examined during the course of the examination, following the close of the PM.

**RS** then introduced the members of the Planning Inspectorate Case Team present at the meeting; Mrs Kate Mignano (Case Manager) and Mr Bart Bartkowiak (Case Officer) and advised those present that the Case Team would be happy to answer any questions relating to process or procedure. It was noted that a written note of the proceedings would be taken and published on the website as soon as practicable.

**JP** explained that there was an audio recording of the meeting being taken and by participating in the process it was understood that individuals consented to the retention and publication of any information provided, as it forms the public record. **JP** stated that the ExA would ask for information to be placed on the public record that is important and relevant to a planning decision: it will only be in the rarest of circumstances that the ExA might ask someone to provide personal information of the types that most people would prefer to keep private or confidential. **JP** explained the Planning Inspectorate's duties under General Data Protection Regulation (GDPR) and the Planning Inspectorate's practice to retain and publish the recordings for a period of 5 years from the Secretary of State's decision on the Development Consent Order (DCO).

No objections or comments were made by any of the participants.

**JP** invited those present who wished to speak, to introduce themselves and confirm their interest/ involvement in the application.

The parties listed below introduced themselves:

- Hannah Clement from Kent County Council, (host local authority)
- Ian Livingstone from Thanet District Council (host local authority)
- Lucinda Roach from Dover District Council (host local authority)
- Christopher Pater from Historic England, Statutory Party, primary point of interest is the timetable for examination in comparison with other NSIPs currently going through examination
- David Haines and James Hambling, representing RAMAC Holdings Trading Limited, main interest as major landowner affected by proposed compulsory acquisition
- Christina Relf Senior Marine Advisor from Natural England, Statutory Party, accompanied by Will Hutchinson Case Officer
- Robbie Owen and Matthew Carpenter from Pinsent Masons, representing London Gateway Port Limited and Port of Tilbury London Limited, Statutory Port Operators
- Alexandra Dillistone from Port of London Authority, Harbour Authority
- Helena Paine Estuary Services Limited, Boarding and Landing Service Operators

On behalf of the Applicant:

- Sean Leake and Sammy Mullan (GoBe Consultants)
- Daniel Bates, consent manager for Thanet Extension (Vattenfall Wind Power Limited)
- Jennifer Holgate (Womble Bond Dickinson)
- Scott Lyness (Landmark Chambers)

**RS** reminded those present of the valuable informal function that can flow from a preliminary meeting encouraging those present to communicate with the Applicant and each other in the interests of developing their shared understanding of the issues raised by the examination.

## **2. Examining authority's (ExA) remarks on the examination process**

**RS** outline seven matters on which he would make observations. These included:

- written submissions received following the letter of 9 November 2018;
- remarks on Examination process under the Planning Act 2008 (PA2008) including Interested Parties (IPs) involvement and anyone who is requesting or ought otherwise be involved in the examination;
- explanation of hearings to be held shortly after the close of the PM;
- technical point about leaving the European Union and operational law derived from European law;
- technical point about changes to the European Directive and the UK regulations governing Environmental Impact Assessment (EIA) for this application;

- some observations relating to the application, covering advice that the Planning Inspectorate has provided to the applicant under s51 of the PA2008 and the applicant's responses to this advice;
- separate parallel process dealt by pins but not by this ExA which is an application on behalf of the Applicant to seek access to land in relation to preliminary investigations of that land.

a) **RS** referred to the written submissions received following publication of the letter of 9 November 2018 from various parties raising issues and questions about elements of the examination proposals and particularly the timetable, he acknowledged them and confirmed he would deal with their substance under agenda item 5 and 6. These written submissions also included indicators that certain parties wished to speak at the PM and be involved in the examination process. Submissions were received from the Applicant, Highways England, Natural England, Marine Management Organisation, Pinsent Masons for its clients, Kent and Essex Inshore Fisheries and Conservation authorities (K&EIFCA) and two from the French Government, in which they requested to be involved in the examination and who 10 December 2018 submitted an amplification to their original submission. For the record the ExA considered the position of the French Government and allowed them to participate as an other person. The letter received will be published on the project website and it does bear on the content of the Issue Specific Hearing 1 following the PM. The ExA propose a mechanism to enable responses to these documents at Deadline1.

b) **RS** briefly explained the PA2008 process for the benefit of those who have not been involved in an examination before, covering the purpose of an examination, the recommendation report, the draft Development Consent Order and the government policies, listing particularly relevant National Policy Statements:

- i. NPS EN-1 Overarching Energy
- ii. NPS EN-3 Renewable Energy
- iii. NPS EN-5 Electricity Networks

**RS** asked if anybody observing, considered any other NPSs should be taken into account for the purposes of this examination. **Robbie Owen (RO)** of Pinsent Masons suggested that the NPS for Ports should be considered; **RS** confirmed that the ExA will take it into account. **RS** confirmed that the NPSs provide a clear framework, but the ExA will not be examining the merits of the NPSs as that is a task for Parliament.

**RS** summarised the PA2008 process stating that the ExA task is to enable the Secretary of State to consider and decide upon the application, by identifying relevant policy and examining the application in the light of it.

- i. The ExA must consider the positions of Interested Parties.
- ii. The examination is required to take any Local Impact Report (LIR) (prepared by a local authority) that we are provided with into account.
- iii. We are also required to have regard to prescribed matters and to any other matters which appear to be both relevant and important to the Secretary of State's decision.

**RS** continued with his summary including covering Relevant Representations, Written Representations (WR), the ExA asking written questions and considering responses to them, and if necessary by holding oral hearings. **RS** explained who can be involved in

an examination and the different statuses of those who are, or who request to be involved including other persons. **RS** also explained the duties of the Secretary of State (SoS) when reaching it's decision on the DCO application.

After considering the content of the French Government's submissions, the ExA have made a procedural decision to accept their submissions and to make them an other person for the purpose of this examination. Similarly, the Port of Tilbury has made a request to be involved. The ExA has agreed that the Port of Tilbury represented by Pinsent Masons can participate as an 'Other Person' as well as K&EIFCA. **RS** asked if anyone from K&EIFCA was present, **John Nichols (JN)** chairman of the Thanet Fishermen Association and vice-chairman of K&EIFCA confirmed his presence.

**RS** asked if there were any other parties at the PM who wished to be considered as an other person, no comments were made.

**RS** noted that whilst the examination process is primarily a written process and that he would seek to gather information from IPs and Other Persons as addressed in the draft Examination timetable via means of WRs, Statement of Common Ground (SoCG), LIR and responses to written questions etc. The ExA encouraged IPs to engage fully throughout the written process, rather than wait for further rounds of questions or a particular hearing to influence the proceedings. Any document that any party wishes the ExA to consider must be formally lodged as part of the examination process and available to all parties for Examination.

**RS** noted the importance of LIRs and the fact that local authorities are not required to submit these. However, the SoS must consider them when making the decision on the application. **RS** went on to explain the various types of written submissions including SoCG and the importance of signing SoCG once finalised. It was also explained that if a legal agreement or planning obligation were to be taken into account then these would also need to be finished and properly executed by all parties. The purpose of these various written submissions would be the main means by which the ExA would gather information about the application.

**RS** explained that once the PM had finished and the ExA had decided on a timetable, the ExA's preference will be to stick to it, in the interests of timeliness, efficiency and fairness to people who are participating in written processes but who may not be attending hearings. It was also explained that deadlines within the timetable are statutory and the consequences of making late submissions were confirmed.

The procedures covering the various types of hearings, Issue Specific, Open Floor and Compulsory Acquisition were explained and also that written questions together with other written procedures are normally used to ensure that all but the most involved of issues are well understood before the oral stages of an examination begin. **RS** went on to say that there were two exceptions to this principle for the Thanet examination being the Issue Specific Hearings on International Issues (ISH1) and on Marine, Shipping, Navigation and Safety Issues (ISH2) and that these two hearings on an expedited basis were being held because they both relate to areas of apparent significant disagreement between the Applicant and IPs / OPs. **RS** asked if anyone had any comments to make or questions regarding making written submissions or hearings. No comments were made by anybody present.

**RS** spoke about the approach to DCO hearings. As the best possible DCO must be submitted to the SoS, it was explained that irrespective of the ExA's recommendation on the application, the ExA must ensure that by the end of the Examination there is a DCO that works as well as possible and enjoys the widest possible support and therefore hearings on the DCO will be held without prejudice.

**RS** explained how IPs and OPs can engage at the various types of hearings and that all participating parties are subject to the ExA's power to control the hearings and that the ExA will probe, test and assess evidence through direct questioning of persons making oral representations at hearings. **RS** stated that the ExA will identify the matters to be considered at each hearing in agendas, which will be published usually a week in advance of any hearing.

**RS** spoke about leaving the European Union and the application of relevant European law. European law identified as applicable in the application documents and the UK law giving effect to it has not yet changed as a consequence of Brexit and will not do so before any withdrawal. **RS** went on to say that should any changes to the operation of relevant European or related UK law be given effect to and commence during the tenure of this examination, the ExA will of course move to carry out the examination on the basis of the law as it is in force at that time. However, for the present time it appears clear that relevant European law remains in force at least until a withdrawal day. **Scott Lyness (SL)** confirmed the Applicant has submitted the application under the Environmental Impact Assessment (EIA) Regulations 2017, and not under the transitional arrangements of the EIA 2009 Regulations.

**RS** asked the Applicant when the ExA could expect to receive documents requested under S51 advice following Acceptance of the application. **SL** confirmed Updated Land Plans were submitted to the examination 10 days prior to the PM. An updated Statement of Reasons, Book of Reference and draft Development Consent Order would be submitted for Deadline 1.

**RS** explained that any updated documents would be subject to consideration of their materiality, prior to a judgement of their acceptance into the examination. Any updated application documents will be subject to comments from IPs. **Jennifer Holgate (JH)** confirmed the documents to be submitted at Deadline 1 are deemed by the Applicant to be non-material, minor updates and appreciated IPs should have a right to comment on these documents.

No further observations were made in relation to the documents requested under section 51 advice.

### **3. Initial Assessment of Principal Issues**

**RS** explained the purpose of its Initial Assessment of Principal Issues. **RS** asked for any observations on the Principal Issues. **Christina Relf (CR)** on behalf of Natural England noted that implications for European sites on issues such as biodiversity, natural environment and ecology had been identified but not specifically the domestic implications such as for SSSIs and marine conservation zones and wanted assurance these would be properly assessed. **RS** confirmed all domestic policies and legislation would be fully taken into account.

#### 4. Examination Timetable

**RS** explained agenda items 4, 5 and 6 would be considered together due to the knock-on effect of changes to any of these items.

**RS** confirmed the Planning Inspectorate had received correspondence from several parties raising concerns in relation to the proposed draft timetable. It was noted that there were other NSIP examinations running in parallel with the Thanet Extension Offshore Wind Farm, including The Norfolk Vanguard and Hornsea Three Offshore Wind Farms. **RS** stated that revised examination timetables taking these concerns into account had been drafted for both the Norfolk Vanguard and the Thanet Extension Offshore Wind Farm. It was confirmed that changes had been made to the first half of the Norfolk Vanguard timetable and to the second half of the Thanet Extension timetable. **RS** proposed to go through the re-drafted Thanet Extension examination timetable.

**RS** addressed the request from the Applicant to move Deadline 1 which was proposed in the draft timetable as 15 January 2019 explaining the reasons why this shouldn't be moved. **SL** agreed with **RS** but requested the Examining Authority's written Questions be published no later than 19 January 2019.

**SL** requested that all deadlines for the examination be moved from the proposed 12noon to 11.59pm. There was general agreement from all Interested Parties present. The ExA agreed and a procedural decision was made to change the time of all deadlines to 11.59pm.

**Christopher Pater (CP)** on behalf of Historic England noted the relation between the Norfolk Vanguard, Hornsea 3 and Thanet Extension timetables and asked for the ExA to consider accepting holding responses from Natural England in circumstances where it was unable to meet the deadlines as set in the timetable.

**David Haines (DH)** on behalf of RAMAC requested Deadline 1 be moved to 29 January 2019 to enable full engagement in the Statement of Common Ground (SoCG) process. **RS** noted this request for consideration. After open discussion with **SL** acting for the Applicant who confirmed it's position, **RS** suggested that as the issues regarding this request were to do with the acquisition of land and that RAMAC intended to attend the Compulsory Acquisition Hearing which was proposed to be held in February 2019, progress should be made immediately in relation to the respective positions through formal discussions enabling immediate progress on the SoCG and to enable RAMAC to make other meaningful submissions at Deadline 1. A short break took place in which RAMAC and the Applicant discussed their positions. Following the break, both RAMAC and the Applicant agreed to this suggestion and RAMAC confirmed that it would now be able to meet Deadline 1 on the 15 January 2019 in relation to the SoCG and all other submissions.

**CR** on behalf of Natural England reiterated comments made by Historic England that any delay to Deadline 1 would be appreciated due to the other NSIP examinations currently underway. **CR** stated that Natural England's focus would be on its Written Representation and that other submissions including any SoCG may not be as progressed as it would like. **RS** noted Natural England's and other statutory bodies position in relation to the deadlines of this and other NSIP examinations and explained the importance of meeting these deadlines in relation to the rest of the timetable.

With this in mind, **RS** asked all those concerned to endeavour to meet each deadline, stating that outstanding issues could also be explored orally through hearings.

**RS** asked for any comments from other Interested parties whom this may affect. **CP** of Historic England noted the comments and confirmed Historic England would endeavour to meet the proposed deadlines. **JP** explained that cross-referencing to other submissions, wherever possible would be an acceptable approach to be taken when forming written responses.

**RO** on behalf of PoTLL suggested that those afforded other person status since the issue of the Rule 6 may also benefit from a SoCG. **SL** agreed.

**SL** stated that the Applicant will produce a document setting out the progress of the various SoCG for Deadline 1 and went on to discuss the various statutory and non-statutory bodies and topics for each SoCG, clarifying the rationale for these with the ExA and explaining deviations from the list. **SL** stated any divergence from the list of SoCG requested by the ExA will be fully explained in the document setting out the progress of the various SoCG to be submitted at Deadline 1.

**RS** asked for Historic England to clarify its position in relation to war graves and wrecks, essentially referring to the possibility that the Commonwealth War Graves Commission may also have jurisdiction. **CP** confirmed the Ministry of Defence would be the appropriate body to deal with licensing and other matters.

**RS** asked if anyone present wished to make any other observations on the SoCG. No comments were made.

**RS** made brief comments in relation to the involvement of the French Government in this examination.

**RS** noted that the Applicant had made a request for a reserve date to be added to the timetable for an Accompanied Site Inspection (ASI) and confirmed this would be added to the examination timetable as well as reserve dates for additional hearings. It was also noted that two unaccompanied site inspections had taken place and notes of those will be published on the website. **RS** stated that the ExA did not intend to carry out an offshore ASI. Any requests for this should be made at Deadline 1 as well as suggested itineraries.

**RS** asked if anyone present wished to make any observations on the proposed Deadline 2. No comments were made.

**RS** asked if anyone present wished to make any observations on the proposed hearings scheduled to be held during February 2019. **SL** requested ISH3 on Environmental Issues to be extended into the afternoon, moving ISH4 into the afternoon of the 20 February 2019. **RS** asked if anyone present wished to make any observations on this suggestion. No comments were made. **RS** agreed to this request and confirmed the timetable would be altered accordingly.

No other comments were made on the proposed February 2019 hearings.

**RS** asked if anyone present wished to make any observations on the proposed Deadline 3. No comments were made.



**RS** asked if anyone present wished to make any observations on the new dates for further written questions or on the proposed changes to Deadline 4, 5 and 6 whilst displaying the newly revised timetable on the screen. It was noted that Deadline 7 was to remain as previously proposed, a week before the close of examination.

**SL** confirmed the Applicant was content with the proposed changes. **RS** asked for a show of hands of those present who were broadly content. A break then took place to allow those present to discuss the changes to the timetable. Following the break **Alexandra Dillistone (AD)** on behalf of the Port of London Authority raised the timing of Deadline 5 and requested the original date was kept, however noted this may not be possible. **RO** stated PoTLL and LG were broadly content. **Will Hutchinson (WH)** on behalf of Natural England stated they were broadly content due to the space created between the Norfolk Vanguard and Thanet Extension timetables as now proposed. **CP** stated Historic England were also broadly content.

**RS** asked if there were any issues with the proposed date for the submission of Local Impact Reports (LIR) and who of the local authorities present were intending to submit LIRs. **Hannah Clement (HC)** on behalf of Kent County Council (KCC) confirmed they would be submitting an LIR and had no issues with the date proposed in the timetable. **Ian Livingstone (IL)** on behalf of Thanet District Council and **Lucinda Roach (LR)** from Dover District Council also confirmed they would be submitting an LIR. **LR** noted the date would be difficult to meet but understood the importance of complying with the timetable. All LIRs will be submitted separately.

In relation to SoCG it was noted that the Applicant would keep the ExA informed of any communication with the Royal Yachting Association and the Civil Aviation Authority and would create a SoCG if necessary'

## 7. Any other matters

**RS** asked the Applicant at Deadline 1 to provide the document '*Marine Guidance 543*'.

**RS** asked if there were any other procedural matters that anybody wished to be discussed. **SL** suggested that **Daniel Bates (DB)** of Vattenfall could clarify the position of the Applicant in relation to the current section 53 application. **RS** agreed.

**DB** gave a brief account of the s53 application currently being processed by the Planning Inspectorate on behalf of the Secretary of State. This application which was submitted 17 September 2018 is in relation to one land owner, where agreement has not been reached to access the land. This application was subsequently put on hold whilst negotiations continued. On 27 November 2018 the land owner confirmed that access would not be allowed and therefore on 7 December 2018 Vattenfall requested the Planning Inspectorate on behalf of the Secretary of State to continue processing the s53 application.

**RS** explained the procedural process and the reason for a s53 application and clarified the fact that this is not determined by the ExA. **RS** stated that despite the s53 process, the Applicant should still continue negotiation with the land owner. **JP** explained that the documents relating to the s53 application are not published on the website until the s53 application is decided and stressed that the s53 application is distinctly separate to the examination of the Development Consent Order application.

**SL** brought to the attention of the ExA the fact that the Applicant had found some discrepancies on the Land Plans, which were identified as minor red line boundary changes which would reduce the overall boundary. **SL** stated the Applicant would provide the amended plans for Deadline 1. **SB** asked the Applicant to confirm if these changes affected the cable route. **SL** stated this would be confirmed at Deadline 1.

**WH** on behalf of Natural England stated that it they may make the ExA aware of any issues that arise at a later date in relation to meeting the deadlines. **RS** advised that anyone who was unable to meet the deadlines should make the Applicant and others aware as soon as practicable.

**RS** briefly discussed the venue for hearings going forward in the examination and it was agreed that the current venue was a suitable hearing venue going forward.

**RS** closed the Preliminary Meeting and thanked everyone present for their participation.