

**PLANNING ACT 2008**

**DEVELOPMENT CONSENT ORDER – AWEL Y MOR OFFSHORE WINDFARM**

**ISSUE SPECIFIC HEARING 1**

**WRITTEN SUMMARY OF ORAL SUBMISSIONS ON BEHALF OF RHYL FLATS WIND FARM LIMITED (“RFWFL”)**

Agenda Item	Issue	
2.	The ExA requested clarification of the Offshore design parameters in Requirement 2.	Depending on the outcome of discussions between the Applicant and RFWFL there may be a requirement for adjustment of the design parameters in Requirement 2.
3.	Update on progress regarding protective provisions between the Applicant and RFWFL	<p>The Applicant has now accepted that protective provisions are required for the benefit of RF. The Applicant has provided draft protective provisions which are under discussion between the Applicant and RFWFL. Since the hearing, the draft provisions have been returned to the Applicant. The key areas in which RFWFL consider that further provision is required are:-</p> <p>a) A mechanism is required for RFWFL to approve the details of how works are to be carried out (including timing) out as well as details of the works themselves. This is necessary to ensure that the works are carried out in accordance with good practice and that the method and timing of the works do not prejudice the operation of RFWFL or any works which may be planned to RFWFL.</p> <p>b)The protective provisions need to make provision for RFWFL to have representatives present when the work is carried out to ensure that work is carried out in accordance with the approved details.</p> <p>c) Provision is required for the Applicant to reimburse the reasonable expenses incurred by RFWFL as a result of the works carried out by the Applicant. The principle of this point is established in the draft produced by the Applicant but further detail is required.</p>

		<p>d) An indemnity is required in relation to any damage or loss caused to the RFWFL as a result of the Applicant's works, including where there is any interruption or reduction in any electricity generated by RF. The Applicant has included such wording in the DCO for various onshore electricity undertakers and similar provision is required in relation to RFWFL.</p> <p>e) There is currently a dispute between the parties on wake loss. RFWFL is seeking further discussion with the Applicant to establish whether this is a matter which is capable of being resolved between the parties. Provision for wake loss has therefore not currently been made in the draft protective provisions. However, in the event that satisfactory progress is not made then RFWFL would intent to provide additional protective provision to address wake loss at Deadline 2.</p> <p>In relation to the last point, during Issue Specific Hearing 1, the Applicant suggested that the issue of wake loss was a commercial matter between the parties and stated that commercial discussions were ongoing on this matter between the parties. Dealing first with the issue of discussions, although there communications between the parties in relation to the proposed development there have been no commercial discussions on wake loss. No proposals have been made by the Applicant on how to address this issue.</p> <p>In relation to the relevance of the issue of wake loss, RFWFL understand the Applicant to be arguing that the issue of wake loss is a private commercial matter which is not relevant to the examination. It is noted that the Applicant provided no authority for their submission and RFWFL consider this position to flawed as a matter of law.</p> <p>Section 104(3) of the Planning Act 2008 requires the Secretary of State, subject to certain exceptions, to determine a DCO application in accordance with any relevant national policy statement. The key provisions for current purposes are in paragraphs 2.6.176 – 2.6.188 of EN-3. These set out policy on how potential impacts of proposed offshore wind farms on oil, gas and other offshore infrastructure and activities should be considered. EN-3 recognises that offshore wind development may be</p>
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		<p>proposed in locations where existing offshore activities may be taking place and provides guidance on how potential conflict should be managed.</p> <p>The most relevant sections of EN-3 are:-</p> <p>a) “Where a potential offshore wind farm is proposed close to existing operational offshore infrastructure, or has the potential to affect activities for which a licence has been issued by Government, the applicant should undertake an assessment of the potential effect of the proposed development on such existing or permitted infrastructure or activities. The assessment should be undertaken for all stages of the lifespan of the proposed wind farm in accordance with the appropriate policy for offshore wind farm EIAs.” (2.6.179)</p> <p>b) “Applicants should engage with interested parties in the potentially affected offshore sectors early in the development phase of the proposed offshore wind farm, with an aim to resolve as many issues as possible prior to the submission of an application to the IPC.” (2.180)</p> <p>c) “Where a proposed offshore wind farm potentially affects other offshore infrastructure or activity, a pragmatic approach should be employed by the IPC. Much of this infrastructure is important to other offshore industries as is its contribution to the UK economy. In such circumstances the IPC should expect the applicant to minimise negative impacts and reduce risks to as low as reasonably practicable.” (2.6.183).</p> <p>d) “...the IPC should be satisfied that the site selection and site design of the proposed offshore wind farm has been made with a view to avoiding or minimising disruption or economic loss or any adverse effect on safety to other offshore industries. The IPC should not consent applications which pose unacceptable risks to safety after mitigation measures have been considered.”(2.6.184)</p>
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