

PLANNING ACT 2008

DEVELOPMENT CONSENT ORDER – AWEL Y MOR OFFSHORE WINDFARM

WRITTEN REPRESENTATION ON BEHALF OF NORTH HOYLE WIND FARM LIMITED

1. Introduction

- 1.1 North Hoyle Wind Farm Limited (“NHWFL”) operate the North Hoyle wind farm (“NH”) to the south of the proposed Awel Y Mor wind farm (“AYM”). The location of NH can be seen on sheet 2 of the Works Plans.

2. Cable Route

- 2.1 The Works Plans shows that Work No.2 crosses the export cable of NH. Whilst an optioneering exercise was conducted in relation to the preferred cable route, there are alternative routes which would avoid the need to cross the North Hoyle cable. The Promoter has not satisfactorily explained why the two shortlisted cable routes (out of three) were rejected since at least one of these does not affect North Hoyle, whilst not affecting Constable Bank. It is noted that ExQ1 question 3.27 requests the Applicant to comment on the alternative route which avoids Constable Bank and the North Hoyle Cable. NHWFL reserves its position on this point pending receipt of the Applicant’s response to question 3.27.

3. Property Impacts

- 3.1 Work No.2 intrudes into the “Designated Area” for the NH export cable identified in the lease of the NH by the Crown Estate Commissioners to NH for the operation of NH. Within the Designated Area, there is provision in the Crown Estate lease which protects the position of NH. The Crown Estate Commissioners have covenanted with NH not to grant any lease, licence or consent (other than where the lease requires that NH’s consent is obtained) for the construction of any works within the restriction zone without NH’s consent (not to be unreasonably withheld). There is provision in the lease for the Crown Estate Commissioners giving consent for the laying of conduits in the Designated Area but this is subject to agreement with NH on protection for the NH export cable both in relation to the original installation and future inspection, maintenance, repair or renewal work.
- 3.2 The Applicant has proposes that NH consent can be covered in the cable crossing agreement which is being discussed between the parties. In principle, that would be an appropriate mechanism to deal with the need for consent. At present, however, a cable crossing agreement has not been concluded and the consent of NH has nor been granted. This represents an impediment to delivery of the scheme.

4 Protective Provisions

- 4.1 Provisions are required to ensure that the construction of the development, including its cable connection, does not interfere with NH or any planned works which might be required to NH, together with an indemnity for any impacts which are caused. Whilst there are protective provisions in Part 1 of Schedule 9 for electricity undertakers, these do not apply to the offshore works. Appropriate provision must be included for the offshore works which may impact on NH.

4.2 The Applicant has proposed a cable crossing agreement to regulate the impacts of cable installation. Whilst this is an acceptable approach in principle, the terms of the agreement have yet to be agreed. The three principle issues that require to be resolved are:-

- a) NHWFL requires control over the timing of the AyM cable installation to ensure that this does not conflict with any work which may be planned for NH;
- b) The draft agreement has been prepared on a reciprocal basis with NHWFL being placed under new obligations (including the need for insurance and indemnities) if NH intend to carry out works to their cable connection. NHWFL is not currently subject to any such restrictions and the imposition of these is not acceptable.
- c) Appropriate indemnities are required from the Applicant in relation to any losses suffered by NHWFL as a result of works carried out under the DCO. The Applicant has proposed an indemnity but this is limited to the cable installation works. NHWFL is concerned on the basis of previous experience that works elsewhere in the scheme could lead to temporary loss of their export connection and a consequent interruption to the service which they provide. It is noted that protective provisions for other electricity undertakers provide an indemnity for loss caused by interruption to service provision. A similar indemnity is required for any such impacts caused to NHWFL.

4.3 It is noted that the Applicant has sought to make a distinction between matters which require protective provisions to be included in the Order and other matters where a crossing agreement is required. NHWFL does not accept this distinction. They are both examples of where the potential negative impacts of the proposed development on existing apparatus require to be addressed by a legal mechanism to protect the position of the existing undertaker. It may be that the most appropriate mechanism to deal with the potential impact on NHWFL is through a cable crossing agreement. However, if such an agreement cannot be concluded by the end of the examination then it may be necessary for the obligations to be recast in the form of protective provisions.

4.4 NHWFL will continue to engage with the Promoter with a view to reaching agreement on the cable crossing agreement. However, pending resolution of such matters, development consent should not be granted.