

**PLANNING ACT 2008**

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

**DEADLINE 3 COMMENTS ON BEHALF OF RHYL FLATS WIND FARM LIMITED (“RFWFL”) TO DEADLINE 2 SUBMISSIONS BY THE APPLICANT ON WRITTEN REPRESENTATIONS**

Reference	Summary of Written Representation	Applicant’s Response	RFWFL Further Comment
REP1-088-1.1	Introduction Rhyl Flats Wind Farm Limited (“RFWFL”) operate the Rhyl Flats wind farm (“RF”) to the south of the proposed Awel Y Môr wind farm (“AYM”). The location of RF can be seen on sheet 2 of the Works Plans.	This is noted by the Applicant.	No further comment
REP1-088-2.1	Legal and Policy Context 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.	This is noted by the Applicant.	No further comment
REP-088.2.2a- REP088.2.3(a), (c) to (e), 2.4, 5.2 – 5.7	RFWFL set out what RFWFL considers are the relevant parts of NPS EN-3 for the purposes of this application and how they apply to the application.	The Applicant has addressed this matter in response to ExQ1.3.27, document REP1-007.	RFWFL has further commented on the Applicants response to ExQ1.3.27 in its Deadline 2 submissions [REP-056]
REP-088-2.3 (b)	b) Applicants should engage with existing operators with the aim of	The Applicant has engaged with existing operators since inception,	Although there have been discussions between the Applicant

	resolving matters before submission;	and has addressed this matter in response to ExQ1.3.27, document REP1-007.	and RFWFL, the Applicant has not engaged, and continues to refuse to engage with RFWFL on the issue of wake loss.
REP1-088-2.3.f	f) If there are unacceptable safety implications after mitigation is applied then the application should not be consented.	There is no question of the safety of RFWF being affected by the Project. RWE and its partners build and operate to the highest safety standards. RFWFL has not raised safety as an issue.	RFWFL is not suggesting that the safety of RFWFL is compromised by the proposed development. RFWFL is simply setting out the policy context within which impact to existing offshore infrastructure require to be considered.
REP1-088-3.1	Property Impact It initially appeared to RFWL from the Works Plans show that Work No.2 intruded into the area of the sea bed which is leased by the Crown Estate Commissioners to RFWFL for the operation of RF. The Applicant has provided plans which demonstrate that the Work No.2 is in fact outwith the area leased to RFWL.	he Applicant accepts that Work No.2 intrudes into the restricted zone for RFWF and provided a plan accordingly (REP1-048). The Applicant notes that RFWFL now agrees with this position	This point is agreed between the parties and it is understood that the parties also agree that (1) work No.2 is in the 250m restriction zone for RF; and (2) the consent of RF will be required before the lease can be granted to the Applicant
REP1-088-3.2	However, Work No.2 still intrudes into the 250m restriction zone around the perimeter of the areas leased by the Crown Estate Commissioners to RFWFL for the operation of RF. The restriction zone exists to ensure that other proposed developments do not adversely affect the operation of RF. The Crown Estate Commissioners have covenanted with RF not to	The Applicant has provided draft protective provisions to RFWFL for review. RFWFL has provided comments on this draft and the Applicant has responded to those comments.	Although there are ongoing discussions about the protective provisions there have been no discussions about the granting of consent.

	grant any lease, licence or consent (other than where the lease requires that RF's consent is obtained) for the construction of any works within the restriction zone. Although the Applicant referred at Specific Issue Hearing 1 to commercial discussions taking place with RFWFL, there have been no approach made to resolve this issue. It therefore remains an impediment to delivery of the scheme		
REP1-088-4.1	Impact of Construction Work and Need for Protective Provisions Work No. 2 would permit construction activities in close proximity to the easternmost RF turbine. Although AYM has indicated that best practice will be used during cable laying, this is not currently secured by the draft DCO. There are protective provisions in Part 1 of Schedule 9 for electricity undertakers but these do not apply to the offshore works. It is essential that the DCO provides protective provisions for the benefit of RFWFL.	The Applicant has provided draft protective provisions to RFWFL for review. RFWFL has provided comments on this draft and the Applicant has responded to those comments.	The protective provisions are still under discussion and a further draft has recently been received from the Applicant. This is currently being reviewed.
REP1-088-4.2.a	The Applicant has now accepted that protective provisions are required for the benefit of RF. This acknowledgement is welcome and the Applicant has	The Applicant has provided draft protective provisions to RFWFL for review. RFWFL has provided comments on this draft and the	It is essential that the protective provisions contain a mechanism to ensure that the Applicant's works do not interfere with works which may be planned by RFWFL. RFWFL

	<p>provided draft protective provisions which are under discussion between the Applicant and RFWFL. The key areas in which RFWFL consider that further provision is required are:-</p> <p>a) A mechanism is required for RF 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>Applicant has responded to those comments.</p> <p>RFWFL is expected to have a schedule of routine maintenance for its offshore export cable, as is common practice in the industry. The Applicant will provide its own schedule of works for laying the offshore export cable. Coordination of the two schedules will ensure no conflict between works.</p> <p>The draft protective provisions include an obligation on the Applicant and RFWFL to act in good faith and to use reasonable endeavours to cooperate with each other. There is also an obligation on the Applicant to ensure that RFWFL has continued access to its apparatus subject to the agreement of RFWFL or interference with access is required by law or for health and safety reasons.</p> <p>No other protective provisions in consideration for AyM offshore works give approval of works programmes to a third party, therefore the Applicant does not</p>	<p>will consider the latest draft proposed by the Applicant.</p>
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		consider this to be reasonable or necessary.	
REP1-0R88-4.2.b	b) The protective provisions need to make provision for RF to have representatives present when the work is carried out to ensure that work is carried out in accordance with the approved details.	The Applicant has provided draft protective provisions to RFWFL for review. RFWFL has provided comments on this draft and the Applicant has responded to those comments. The Applicant is content to allow RFWFL representatives to be present when work is carried out.	This agreement is welcome and RFWFL will review the detailed wording.
EP1-088-4.2.c	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	he Applicant has provided draft protective provisions to RFWFL for review. RFWFL has provided comments on this draft and the Applicant has responded to those comments. The Applicant is content to reimburse reasonable expenses incurred by RFWFL as a result of the works subject to further amendments on the wording proposed by RFWFL.	This agreement is welcome and RFWFL will review the detailed wording.
REP1-088-4.2.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 RFWF	The Applicant has provided draft protective provisions to RFWFL for review. RFWFL has provided comments on this draft and the Applicant has responded to those comments. The Applicant is content to provide indemnity in respect of its works subject to further amendments on the wording proposed by RFWFL	This agreement is welcome and RFWFL will review the detailed wording.

<p>REP1-088-4.3</p>	<p>As explained below, 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>The Applicant has addressed this matter in response to ExQ1.3.27, document REP1-007.</p> <p>The Applicant has provided draft protective provisions to RFWFL for review. RFWFL has provided comments on this draft and the Applicant has responded to those comments. The Applicant does not consider that the provisions relating to wake loss are necessary or justified</p>	<p>RFWFL has further commented on the Applicants response to ExQ1.3.27 in its Deadline 2 submissions [REP-056].</p> <p>Protective provisions on wake loss are only necessary because the Applicant refuses to engage with RFWFL on this matter and has provided no proposals to deal with it. No proposals have been In the absence of any assessment before the examination, this is the only way to ensure that wake loss is properly assessed and mitigated.</p>
<p>REP1-088-5.1</p>	<p>Operational Impact and Wake Loss</p> <p>There is the potential for further impacts on RF during the operation of AYM such as if maintenance activity is required to the AYM export cable. This can be addressed by adjustment of the draft protective provisions and RFWFL has proposed such revisals</p>	<p>The Applicant has provided draft protective provisions to RFWFL for review. RFWFL has provided comments on this draft and the Applicant has responded to those comments. The Applicant is content with the changes subject further amendments on the wording proposed by RFWF</p>	<p>RFWFL is reviewing the latest iteration of the draft protective provisions. Again, however, there is no agreement on the issue of wake loss and the Applicant refuses to engage with RFWF on this issue.</p>