

## Planning Act 2008 – section 91

**Application by Awel y Môr Offshore Wind Farm Limited (the Applicant) for an Order Granting Development Consent for the Awel y Môr Offshore Wind Farm project (Ref EN010112)**

**Agenda for Issue Specific Hearing 4 (ISH4) dealing with matters relating to offshore environmental effects and the draft Development Consent Order (dDCO)**

**Wednesday 1 March 2023 at 9:30am.**

Notification of the date, time, location and attendance instructions for ISH4 was provided in the Examining Authority's (ExA's) [letter](#) dated 7 February 2023.

### Agenda

#### **1. Welcome, introductions and arrangements for the hearing**

#### **2. Offshore environmental effects**

The Applicant will be asked to summarise:

- The Proposed Development approach to environmental net gain (offshore);
- Opportunities considered to leave the natural environment (offshore) in a measurably better state than beforehand;
- Its underwater noise monitoring approach during piling for marine mammals and measures to mitigate; and
- Its template plan approach [REP4-008].

The ExA will then ask questions in respect of each point, seeking responses where appropriate from the Applicant and Interested Parties (IPs).

#### **3. Articles and Schedules (including Requirements) of the dDCO**

- The Applicant will be asked to briefly highlight changes which have been made to the dDCO since ISH1 (21 September 2022); in advance of ISH4 the Applicant is also requested to undertake a general review of the Requirements as a whole, in terms of implementation/timing/retention/maintenance clauses (where required) and update parties at the Hearing.
- The ExA will then ask questions in respect of Articles, Schedules and Requirements of the dDCO, seeking responses where appropriate from the Applicant and IPs. In this respect, amongst other items, the ExA would wish to ask questions on the following:

- **Article 2** “onshore works” and **Article 3(2)** - confirmation of offshore and onshore works definition and any overlapping with the Marine Licence;
  - **Article 7(c)** - Application and modification of legislative provisions: Progress between the Applicant and Natural Resources Wales (NRW) on the wording of this article and potential new requirement ([REP5-004] ExQ2.7.2 and [REP5-039] refers);
  - **Article 10** - Summary and update of discussions between the Applicant and the Welsh Government concerning s61 of the New Roads and Street Works Act 1991 and its inclusion within Article 10 (2) or (4) in relation to the A55;
  - **Article 35** - Abatement of works abandoned or decayed;
  - Review of plans to be certified etc in **Article 40** and **Schedule 13** and to seek views if the list is complete;
  - Whether the maximum height of hub and meteorological mast be added to **Requirement 2, Table 3**;
  - **Requirement 4** - Offshore noise as referred to in part 3.3 of [REP4-013], including the position of Conwy County Borough Council (CCBC) and the definition of ‘T’ within the dDCO;
  - **Requirement 7, Table 4** – Inclusion of maximum buildings heights for the AIS OnSS option (as indicated in [REP4-003]
  - **Requirement 9(2)** - Replacement of landscaping;
  - **Requirement 12** - Archaeology – implementation clause and minor details;
  - **Requirement 15** - Construction Hours, particularly relating to works on a Saturday and works away from the landfall area;
  - **Requirement 16** - Addition of pre commencement works;
  - **Requirement 20** - Skills and Employment Strategy – the need for and implementation clause;
  - Potential new requirement regarding aviation radar (See **Annex A**);
  - Potential new requirement concerning the ‘Design Guide’ referred to in Chapter 4 of the Design Principles Document ([REP5-020], [REP5-021]); and
  - **Schedule 11** - Approval of matters specified in requirements (Fees).
- IPs will be invited to ask questions of clarification in relation to dDCO Articles, Schedules and Requirements.

#### 4. Schedule 9 – Protective Provisions

To obtain an update on progress between parties regarding protective provisions and an explanation of any important differences of view and a timescale for resolution. This agenda item will cover any issues not already covered or discussed within the Compulsory Acquisition Hearing (CAH) from the 28 February 2023 but will not duplicate such discussions.

## 5. Consents, licences and other agreements

The Applicant will be asked to provide an update of progress and timescales for completion. The ExA will then ask questions, including discussing whether any legal agreements are proposed and if there is an indicative timescale for finalising them. In particular the ExA will ask questions about the:

- Marine Licence principles and update;
- Landscape Enhancement s106 or potential requirement; and
- the Tourism Fund.

## 6. Statements of Common Ground

The ExA will ask the Applicant to provide an update on Statements of Common Ground relevant to the dDCO.

## 7. Review of issues and actions arising

The ExA will address how any actions placed on the Applicant are to be met and consider the approaches to be taken to the examination of the dDCO and any changes to it, in the light of issues raised.

## 8. Any other matters

## 9. Closure of the hearing

### Notes on participation, conduct and management of the hearing

All IPs are invited to attend issue specific hearings. The event will also be livestreamed and a link for watching the livestream will be posted on the [project page](#) of the National Infrastructure Planning website closer to the event date.

Each IP is entitled to make oral representations at the Hearing. However, this is subject to the ExA's power to control the Hearing.

The ExA would find it helpful for the following attendees to participate in ISH4:

- The **Applicant** - including representatives who are in a position to discuss the matters on the agenda;
- **DCC**;
- **CCBC**;
- **Isle of Anglesey County Council (IACC)**;
- **NRW**;
- **Welsh Government (Highways)**
- **NATS**

- **Other Statutory Undertakers with an interest in protective provisions and whose interest was not covered in the CAH** - including Network Rail Infrastructure Limited, National Grid Electricity Transmission plc, Dŵr Cymru / Welsh Water, North Hoyle Wind Farm Ltd, Rhyl Flats Wind Farm Ltd and SP Manweb plc; and
- **Any other Interested Parties (IPs)** – with an interest in the drafting of the dDCO, the implementation or discharge of proposed articles, requirements or other provisions.

Participants may be legally represented if they wish, but the hearing will be conducted to ensure that legal representation is not required. Guidance under the Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that it is the ExA that will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearing will be led by the ExA.

Every effort will be made to ensure that the issues will be discussed on the day that they are scheduled for. The hearing will finish as soon as the ExA deems that all those present have had their say and that all matters have been covered. If there are additional matters to be dealt with or there are submissions that take a considerable amount of time at any hearing, it may be necessary to prioritise matters and defer others to written questions.

The agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration of them. Any lack of discussion of a particular issue at a hearing does not preclude further examination of this issue, including the asking of further written questions.

All Examination documents are provided with a unique identification number for referencing purposes shown in square brackets [].

The evidence presented orally at ISH4 should be included in post-hearing submissions and submitted by **Wednesday 15 March 2023 (Deadline 8)**.

The ExA will endeavour to hear all participants and cover all relevant questions. If the ISH, or parts of it, is unable to proceed, for example for technical reasons, then the ExA may complete business via a written process.

### **The Purpose of ISH4**

The purpose of ISH4 is twofold:

- To discuss outstanding queries relating to offshore environmental effects
- To undertake an examination of the dDCO Articles and Schedules, considering: the extent of the powers proposed and what requirements and agreements are proposed; any possible issues of prevention, mitigation or compensation which are not covered by the dDCO as

currently drafted; the justification for any changes from established practice; the need for changes to other legislative provisions; the need for protective provisions and their scope; and the views of other IPs as to the appropriateness, proportionality or efficacy of the proposals.

This hearing will not examine the detailed content of provisions relating to the compulsory acquisition of land or rights or temporary possession of land. Such matters will be covered where relevant in CAH1 (Tuesday 28 February 2023)

### **Microsoft Teams**

The ISH will take place in person and virtually using Microsoft Teams. Further information about virtual events in relation to Nationally Significant Infrastructure Projects can be found in the Planning Inspectorate's Advice Note 8.6: Virtual examination events:

<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-8-6-virtual-examination-events/>

Further information, including a short video regarding taking part in a Planning Inspectorate virtual event, can be found on the Planning Inspectorate's website:

<https://www.gov.uk/government/publications/planning-inspectorate-virtual-events-guide-to-participating>

Please contact the Case Team if you have any questions about using Microsoft Teams or if you would like to test your access arrangements:

[awelymor@planninginspectorate.gov.uk](mailto:awelymor@planninginspectorate.gov.uk)

0303 444 5000

## **Annex A.**

Agenda item 3 will include questions to the Applicant around the following matters in relation to aviation safety:

*The Applicant's answer to ExQ2.1.1 is noted [REP5-004]. In the response of NATS Safeguarding [REP1-077] it is stated that "a requirement is necessary to prevent the installation of the turbine blades as this can only be undertaken once the radar mitigation has been implemented."*

Is the wording of this requirement resolved and can it be shared?

In the alternate, if the Radar Mitigation Contract is not signed before the end of the examination, what alternative requirement would suffice?

Suggested wording for such a requirement is below

### **Requirement x: Great Dun Fell and St Anne's Primary Surveillance Radars.**

- (1) No operation of any wind turbine generator forming part of the authorised development may commence until the Secretary of State, having consulted with NATS, has confirmed satisfaction in writing that appropriate mitigation will be implemented and maintained for the required period and that arrangements have been put in place with NATS to ensure that the approved mitigation is implemented and in operation prior to operation of the wind turbine generators.
- (2) The undertaker must thereafter comply with the obligations contained within the approved mitigation for the required period.
- (3) For the purposes of this requirement—
  - (a) "appropriate mitigation" means measures to mitigate any adverse effects which the operation of the authorised development will have on the primary surveillance radar at Great Dun Fell and St Anne's and NATS' associated air traffic (surveillance and control) services/operations during the required period;
  - (b) "approved mitigation" means the detailed Radar Mitigation Scheme/Contract setting out the appropriate mitigation approved by the Secretary of State and confirmed in writing in accordance with paragraph (1);
  - (c) "NATS" means NATS (En-Route) Plc (company number 04129273) or any successor body;
  - (d) "the required period" means the shorter of—
    - (i) the operational life of the authorised development; or
    - (ii) the period ending on the date notified to the Secretary of State by the undertaker and confirmed in writing by NATS being the date on which NATS no longer requires the appropriate mitigation to be in place.