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Eich cyf . Your ref
Ein cyf . Our ref 22/NM-4825

15 March 2023

Dear Mr Barnes

Awel y Môr Offshore Wind Farm Development Consent Order
Protective Provisions for the Welsh Ministers as Strategic Highway Authority

The attached provisions have been agreed in principle by the Welsh Ministers, as Highway Authority for the Strategic Road Network, to ensure sufficient protection is afforded to the strategic road network in respect of the Awel y Mor Offshore Wind Farm Development Consent Order ("DCO").

The Welsh Government agree in principle to the proposal of directional drilling under the A55 at the proposed location, however the agreement is conditional upon the satisfactory provision of the necessary detailed information required to achieve Geotechnical Certification in accordance with CD 622 of the Design Manual for Roads and Bridges. This information must be provided, agreed and certified prior to the commencement of any of the work associated with the crossing of the A55 trunk road.

Only trenchless techniques are permitted to be used in respect of the directional drill crossing of the A55 and no other methods are to be carried out.

The Welsh Government have agreed to the disapplication of Section 61 of the New Roads and Street Works Act 1991 solely on the basis that the clauses contained within the Schedule of protective provisions are incorporated into the DCO and these provisions must be adhered to by the undertaken in order to ensure the structural integrity of the trunk road and safety to all road users of the A55.

It is assumed that the attached provisions will form part of the Schedule of protective provisions in the DCO (currently Schedule 9 of the draft published on the Planning Inspectorate website dated April 2022).

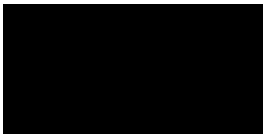


We appreciate that stylistic changes may be necessary for clarity and consistency purposes, however no amendments to the attached provisions should be considered agreed without the prior written consent of the Welsh Ministers.

We note that clause 17 was proposed at a late stage of negotiations and given the limited time in which the Welsh Ministers have been able to consider this, we are happy to continue negotiations regarding its drafting should this be necessary.

In the event that any of the aforementioned assumptions are incorrect or the basis on which this conditional consent is provided is disputed, please contact us as a matter of urgency.

Yours sincerely



Andy Falley

Dirprwy Gyfarwyddwr: Trafnidiaeth-Deputy Director: Transport and Digital Connectivity /
Cysylltedd Trafnidiaeth a Digidol

Signed on behalf of the Welsh Ministers

Attachment: Schedule of Protective Provisions for the Welsh Ministers as Strategic Highway Authority

CC: Planning Inspectorate Case Team awelymor@planninginspectorate.gov.uk

FOR THE PROTECTION OF WELSH MINISTERS AS STRATEGIC HIGHWAY AUTHORITY

Application

1. The provisions of this Part have effect for the protection of the Welsh Ministers (“the WM”) as the Highway Authority for the A55, in addition to all other applicable statutory protections, unless otherwise agreed in writing between the undertaker and the WM.

Interpretation

2. In this Part— ;

“strategic highway” means any part of the highway network including trunk roads or special roads which the WM are responsible for.

“NMWTRA” means the North and Mid Wales Trunk Road Agency, who act as the highway agents of the WM and exercise functions relating to the management and operation of the relevant part of the strategic highway on behalf of the WM pursuant to an agreement between the WM and Gwynedd Council under section 6 of the Highways Act 1980. In practice therefore, the procedural matters contained in this Part will be dealt with by NMWTRA on behalf of the WM.

“works” means (a) that part of Work No. 23 which requires the trenchless installation of the cable under the A55 highway or (b) any other work forming part of the authorised development within or which affects or requires occupation of the strategic highway.

Approvals

3. The crossing of the A55 and its associated assets must only be carried out by trenchless techniques.

4. (1) Prior to the commencement of the works the undertaker must obtain the written approval of the WM to such works.

(2) When requesting approval under subparagraph (1), the undertaker must submit to the WM:

- (a) Copy of location plan to a scale [not less than 1/10,000] showing the location and/or proposed route and siting of the works;
- (b) Details of the methodology of the works;
- (c) Details of the proposed timing of the works;
- (d) Details of any traffic management measures (including signage) proposed in connection with the works; and
- (e) Where approval is sought for works to or within the carriageway of a strategic highway, evidence of NHSS (National Highways Sector Scheme) certification and Street Works Qualifications.

5. No crossing is to take place until a monitoring regime and the Geotechnical Design Report (GDR as defined by the DMRB CD622 Managing Geotechnical Risk) is agreed and certified by the WM.

6. Approval under this Part may be sought in one or more applications.

7. Any approval of the WM under this Part may be given subject to such reasonable requirements or conditions as the WM may determine.

8. The undertaker must contact any owners or operators of apparatus in, on, over, under or near the strategic highway including other statutory undertakers to ascertain whether their existing or proposed apparatus to within or under the strategic highway is likely to be affected by the works. The undertaker must comply with the requirements and conditions imposed by the owners or operators relating to the protection of existing apparatus in, on, over, under or near the strategic highway likely to be affected by the works.

9. The undertaker must pay a fee of £250 to the WM with any application for approval under this Part.

Indemnity

10. The undertaker indemnifies the WM against any and all claims in respect of injury, damage or loss arising out of:-

- (a) the placing or presence in the strategic highway of apparatus as part of the works, or
- (b) the excavation by any person of any works within the strategic highway.

11. The undertaker (or any person carrying out works on its behalf) must have and maintain in force for the duration of any works to or within the strategic highway network, public liability/third party insurance to the sum of £10 million covering its liability under paragraph 10. The undertaker must provide evidence of such insurance to the WM if requested.

Traffic management

12. The undertaker must contact the NMWTRA, the WM RA Control Room, North Wales Traffic Management Centre, Ffordd Sam Parri, Morfa, Conwy, LL32 8HH – Telephone number 01492 564790 before erecting or removal of traffic management measures on the strategic highway on each occasion that erection or removal is required.

13. The undertaker must execute the works in strict accordance with the requirements contained in Chapter 8 of the Traffic Signs Manual (2009) as published by Her Majesty's Stationery Office HMSO and any amendments thereof.

Inspections

14. The WM or any person authorised by them for this purpose is entitled to inspect any works to, within or under the strategic highway while such works are being carried out and following completion of such works.

15. Exercise of the right to inspect under paragraph 14 must be carried out reasonably, in compliance with any requirements of any health and safety requirements in place within the site of any works, and in accordance with the instructions of the undertaker.

16. If required by the WM, the undertaker must provide link boxes (on land outside the limits of the highway) for the purpose of inspecting and maintaining the apparatus under the highway.

17. (1) The undertaker must compensate the WM in respect of any loss, damage, charge, cost or expense suffered or incurred by the WM as a result of the execution, use or maintenance of the works.

(2) Nothing sub-paragraph (1) imposes any liability on the undertaker with respect of any damage to the extent that it is attributable to the act, neglect or default of WM, its officers, employees, contractors or agents.

Reinstatement

18. Any reinstatement of the strategic highway required in connection with or as a consequence of the works must be carried out in strict conformity with the Code of Practice “Specification for the Reinstatement of Openings in Highways”.

19.(1) Where, in the reasonable opinion of the WM, any reinstatement carried out by the undertaker is defective, three defect inspections will be carried out comprising:

- (a) A joint inspection by the WM and the undertaker to determine the nature of the failure and what remedial works need to be carried out;
- (b) Inspection by or on behalf of the WM of remedial works in progress; and
- (c) Inspection by or on behalf of the WM when remedial works have been completed.

(2) The undertaker must pay an inspection fee of [£47.50] for each inspection carried out under this paragraph.

20. Any and all costs associated with the reinstatement work will be met by the undertaker.

Notice of completion of Works

21. The undertaker must notify the WM of the completion of works approved by the WM under this Part within 10 working days of such completion.

22. The undertaker must supply the WM with as built records of any apparatus sited within or under the strategic highway within 10 working days of the completion of works, including, in particular, the location and depth of any electrical cables on a plan to a scale of 1/500 with a longitudinal and vertical accuracy of + or - 100mm.

23. The undertaker must submit a Geotechnical Feedback Report (GFR as defined in the DMRB CD622 Managing Geotechnical Risk) including all monitoring results and as built drawings to the WM no later than six months from the date of completion.

24. After the apparatus has been placed, the undertaker must not carry out any further works or maintenance to the apparatus or works or any other works involving excavation within the boundaries of the strategic highway without the prior written approval of the WM, and any such works must be carried out and completed to the satisfaction of WM.

Arbitration

25. Any difference or dispute arising between the undertaker and the WM under this Part must, unless otherwise agreed in writing between the undertaker and the WM, be determined by arbitration in accordance with article 44 (arbitration).

Notices

26. The plans submitted to the WM by the undertaker pursuant to this Part must be submitted to [North & Mid Wales Trunk Road Agent, Unit 5 Llys Britannia, Parc Menai, Bangor, Gwynedd, LL57 4BN and streetworks@nmwtra.org.uk] or such other address as the WM may from time to time appoint instead for that purpose and notify to the undertaker in writing.

Cease of Use or Abandonment

27. If the undertaker proposes to cease using or abandon the apparatus prior to the decommissioning of the onshore works or to part with his interest in the apparatus, the undertaker must give the WM at least 6 weeks' notice before doing so.

28. If the apparatus is abandoned or the consent is surrendered prior to the decommissioning of the onshore works, the WM may remove the apparatus or alter it in such a manner as they think fit and reinstate the street and may recover from the undertaker the expenses incurred in so doing, except that if the WM is satisfied that the undertaker can within such reasonable time as the WM specify, remove the apparatus or alter it in such manner as the WM require and reinstate the street, the WM may authorise the undertaker to do so at his own expense.

29. If the undertaker proposes to part with his interest in the apparatus, he must before doing so, give notice to the WM stating to whom the benefit of the consent is to be transferred. The consent must be registered against the street in which the apparatus is installed so that the consent and responsibility transfers to the new owner(s) of the apparatus.

Maintenance

30. The undertaker must maintain the apparatus in a good state of repair and condition. The undertaker must if required place and maintain within the limits of the said highway suitable permanent signs of a type and in positions to be approved by the WM for the purpose of indicating as nearly as possible the exact position under the highway in which the said apparatus is laid.