

Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

Application by Awel y Môr Offshore Wind Farm Limited (“the Applicant”) for an Order granting Development Consent for the proposed Awel y Môr Offshore Wind

Submissions on Behalf of Rhyl Flats Wind Farm limited (“RFWFL”)

Introduction

These submissions are made on behalf of RFWFL in response to the Secretary of State’s letter of 14 August 2023 requesting submissions from interested parties on the Applicant’s updated environmental assessment. The Applicant’s letter to the Secretary of State of 11 July 2023 attached two documents. First, a review of cumulative and in-combination effects. Second, a Revised Draft National Policy Statement Tracker. RFWFL has no comments on the first document. However, RFWFL does wish to comment on the second document.

Comments on Revised Draft National Policy Statement Tracker

The interpretation of the extant NPS-EN3 is a central part of the dispute between the Applicant and RFWFL in relation to the potential impact of the proposed development on the existing Rhyl Flats offshore wind farm. The dispute relates primarily to paragraphs 2.6.176 to 2.6.188 of the extant EN-3. RFWFL submit that these paragraphs of EN-3 require the Applicant to assess the impact of their proposed development on existing offshore wind farms (including Rhyl Flats) This includes a requirement to assess and minimise the wake loss impact of the proposed development on Rhyl Flats. The Applicant maintains that the wording of the extant EN-3 means that they are only required to assess the impact of their development on the specific types of existing offshore infrastructure named in paragraph 2.7.176 of the extant EN-3 which, they point out, does not include a reference to existing offshore wind farms.

The changes which the March 2023 version of the draft EN-3 proposes to the parts of the extant EN-3 which set out proposed policy on how proposed renewable energy developments should deal with potential impacts on existing offshore infrastructure are primarily a re-ordering of the text. However, there are a number of more substantive changes which impact on the central dispute between the Applicant and RFWFL and which RFWFL consider are not properly reflected in the Applicant’s submission of 11 July. These are summarised in the table below. To assist, we have used the same colour coding as the Applicant to identify new or amended text.

Section/Topic in NPS-EN-3 March 2023	Paragraph Ref	NPS Requirement	Comment on Accordance with NPS
Applicant assessment - Factors influencing site selection and design	3.8.56	There may be constraints imposed on the siting or design of offshore wind farms because of the presence of other offshore infrastructure, such as co-existence/co-location, oil and gas, Carbon Capture, Usage and Storage (CCUS), co-location of electrolyzers for hydrogen production, marine aggregate dredging, telecommunications, or activities, such as aviation and recreation.	Although the Applicant has referred to the additional text in paragraphs 3.8.57- 3.8.69 (see below), they have not acknowledged the additional text in paragraph 3.8.56 compared to paragraph 2.6.35 of the extant EN-3. This new text acknowledges that constraints on offshore windfarms can arise as a result of the co-existence of other offshore infrastructure (which, it is submitted, includes existing offshore wind farms).
	3.8.60	Applicants are encouraged to work collaboratively with those other developers and sea users on co-existence/co-location opportunities, shared mitigation, compensation and monitoring where appropriate. Where applicable, the creation of statements of common ground between developers is recommended. Work is ongoing between government and industry to support effective collaboration and find solutions to facilitate to greater co-existence/co-location	Although the Applicant has referred to this new text, RFWFL disputes the Applicant's submission that they have <i>"sought to minimise the effect of its proposal on other offshore infrastructure and where interaction is unavoidable to ensure that measures will be in appropriately place through the DCO to manage such interactions."</i> The Applicant has not demonstrated that they have sought to minimise wake loss impact on Rhyl Flats and they have rejected the need for measures in the DCO to deal with such impacts. The Applicant has not sought to work collaboratively with RFWFL to reduce the impact of wake loss on Rhyl Flats as recommended by paragraph 3.8.60.
Applicant assessment - Technical considerations	Sub heading on page 56	Offshore Wind Farm Impacts – Oil, gas and other offshore infrastructure and activities	In their submissions to the examination, the Applicant sought to place weight on the heading to paragraphs 2.6.176 to 2.6.188 of extant EN-3. In particular, they placed weight on the reference to oil and gas infrastructure and maintained that this indicated that the type of existing infrastructure to which

			<p>paragraphs 2.6.176 to 2.6.188 was intended to apply was limited in nature. Although RFWFL consider that the Applicant’s interpretation was incorrect, it is significant that that the heading which the Applicant sought to rely on has been changed so that the following text is clearly meant to be of more general application.</p>
	3.8.212	<p>The scale and location of future offshore wind development around England and Wales means that development has occurred, and will continue to occur, in or close to areas where there is other offshore infrastructure. raises the likelihood of development being proposed in or close to areas where other offshore infrastructure, such as telecommunication cables or oil and gas pipelines, are located or other activities, including oil and gas exploration/drilling or marine aggregate dredging, take place.</p>	<p>Again, the Applicant placed weight on the wording of the equivalent paragraph 2.6.176 in extant EN-3 by suggesting that the requirement to consider the impact of a proposed development of an offshore wind farm on existing offshore infrastructure was limited to the specific types of infrastructure listed in paragraph 2.6.176 of extant EN-3 (which is the equivalent of paragraph 3.8.212 in the March 2023 draft).</p> <p>The Applicant has not acknowledged the revised wording in paragraph 3.8.212 of the March 2023 draft. Again, although RFWFL submits that the Applicant’s interpretation of the extant paragraph 2.6.176 is incorrect, it is significant that the Secretary of State has chosen to revise this wording to remove the specific list of infrastructure which is in paragraph 2.6.176. Read with the changes to the heading immediately prior to this text, it is clear that the intention is that an applicant is to consider impacts on all types of offshore infrastructure, not the impacts on an arbitrary list of specific types of existing infrastructure. This point then applies to the consideration of the requirement for mitigation in paragraphs 3.8.278-3.8.279 and consideration of impacts in paragraphs 3.8.359-3.8.366 (which wording is essentially unchanged from the extant wording).</p>