



FIVE ESTUARIES OFFSHORE WIND FARM

5.8 DETAILS OF OTHER CONSENTS AND LICENCES

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DEFINITION OF ACRONYMS

TERM	DEFINITION
DCO	Development Consent Order
DESNZ	Department for Energy Security and Net Zero
VE	Five Estuaries Offshore Wind Farm
Galloper	Galloper Wind Farm
LLFA	Lead Local Flood Authority
MW	Megawatts
MMO	Marine Management Organisation
NSIP	Nationally Significant Infrastructure Project
RIAA	Report to Inform Appropriate Assessment
Secretary of State	Secretary of State for Energy Security and Net Zero
SoCG	Statements of Common Ground
TTRO	Temporary Traffic Regulation Orders



1. OVERVIEW

1.1 PROJECT DETAILS

- 1.1.1 Five Estuaries Offshore Wind Farm Limited (the Applicant) has submitted an application to the Planning Inspectorate on behalf of the Secretary of State, for a Development Consent Order for the Five Estuaries Offshore Wind Farm (herein referred to as VE) under section 37 of the Planning Act 2008.
- 1.1.2 VE is the proposed extension to the operational Galloper Offshore Wind Farm. The project includes provision for the construction, operation, maintenance and decommissioning of an offshore wind farm located approximately 37 kilometres off the coast of Suffolk at its closest point in the southern North Sea; including up to 79 wind turbine generators and associated infrastructure making landfall at Sandy Point between Frinton-on-Sea and Holland-on-Sea, the installation of underground cables, and the construction of an electrical substation and associated infrastructure near to the existing Lawford Substation to the west of Little Bromley in order to connect the development to National Grid's proposed East Anglia Connection Node substation, which would be located nearby. All onshore connection infrastructure would be located in the administrative area of Tendring District Council, within Essex County Council. VE will have an overall capacity of greater than 100 Megawatts (MW) and therefore constitutes a Nationally Significant Infrastructure Project (NSIP) under the Section 15 (3) of the Planning Act 2008.
- 1.1.3 This document sets out the Applicant's strategy for obtaining any consents, licences, permits or other agreements that may be necessary to construct, operate, maintain and decommission the Project. Although not a prescribed document it is submitted in support of the Applicant's application for development consent for the Project, in accordance with regulation 5(2)(q) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures Regulations) 2009 (as amended).
- 1.1.4 This document is intended to provide assurance to the Planning Inspectorate and examining authority that there are no consenting matters which are likely to become an impediment to the implementation of the Project.
- 1.1.5 This document identifies the relevant consents that are likely to be required and sets out the Applicant's strategy for addressing them. It explains how the draft development consent order (DCO) has been drafted to disapply certain legislative provisions, including disapplying a number of consents that would otherwise be required under a variety of different statutory regimes. It also seeks to provide assurances on the other consents and licences that will or may need to be obtained separately from the DCO process, including consents for which the Secretary of State is not the consenting body.



- 1.1.6 As required by the MHCLG Application Form Guidance, published in June 2013¹ (paragraphs 45 and 46), this document summarises the Applicant's understanding as to the likelihood of the relevant consents being granted.
- 1.1.7 The Applicant has engaged with the relevant consenting bodies early in the pre-application stages of the Project and has followed the principles contained in the Planning Inspectorate's Advice Note 11 'Working with Public Bodies' about twin-tracking some consents in parallel with the DCO application where feasible.
- 1.1.8 This document may be updated during the examination to demonstrate progress made on obtaining any other necessary consents, licences or permits.

1.2 APPLICANT'S CONSENT STRATEGY

- 1.2.1 As the Project qualifies as a nationally significant infrastructure project (NSIP), the Applicant's consents strategy is to fit within the legislative streamlining intent of the Planning Act 2008 (2008 Act). The basis of the Applicant's approach is therefore that the draft DCO should be the principal consenting mechanism for the Project, including any necessary powers for land acquisition, temporary possession, the creation, suspension and extinguishment of rights over land and the stopping up of highways or other means of access
- 1.2.2 In addition, under section 120(5) of the 2008 Act an order granting development consent may:
 - > apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order; and
 - > make such amendments, repeals or revocations of statutory provisions of local application as appear to the decision-maker to be necessary or expedient in consequence of a provision of the order or in connection with the order.
- 1.2.3 There are however some limitations on the scope of matters that can be provided for in a DCO. Under section 150(1) of the 2008 Act, an order granting development consent may include provisions to remove a requirement for a prescribed consent or authorisation only if the relevant body has consented to the inclusion of the provision. These consents and authorisations are listed in column 2 of the table in Part 1 of Schedule 2 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015.
- 1.2.4 The Applicant's approach towards the flexibility to incorporate a wide range of matters within the scope of the DCO and to responding to the limitations imposed by section 150 of the 2008 Act is set out below.

¹ https://assets.publishing.service.gov.uk/media/5a75ac43ed915d6faf2b4ced/Planning_Act_2008_-_application_form_guidance.pdf



1.2.5 For those consents that cannot be included within the DCO, either because the relevant consenting authority does not agree to their inclusion or because it is not feasible or desirable to incorporate them within the DCO at this stage in the Project, the Applicant's approach is to:

- > engage with the relevant consenting bodies as early as practicable to confirm any consenting requirements and a timetable for obtaining those consents;
- > seek assurances from the relevant consenting bodies on the likelihood of obtaining those consents to provide certainty and confidence to the Examining Authority about there being no impediment to the implementation of the Project once development consent is granted; and
- > collaborate with stakeholders and relevant consenting bodies and (where appropriate) to agree and submit Statements of Common Ground (SoCG) early in the DCO examination process, with a view to confirming the status of negotiations on any relevant consents that are likely to be required.

1.2.6 A number of other consents may need to be obtained later in the development phase of the Project and after the DCO application has been determined. These primarily relate to consents that are typically obtained by a construction contractor, once the final details of the construction arrangements have been determined. They may also relate to particular points of design detail that cannot be confirmed at present. In both cases, they are likely to relate to matters of detail rather than the acceptability of the Project in principle and it therefore follows that the determination of the DCO application does not depend upon their resolution at this stage.

1.3 CONSENTS AND AUTHORISATIONS TO BE INCLUDED WITHIN THE DCO POWERS

1.3.1 In line with the Applicant's consents strategy set out above, the principal consent for the Project will be the DCO itself. The draft DCO makes provision for the following:

- > the authorisation of all permanent and temporary works required (the equivalent of planning permission);
- > power to use and operate the generating station comprised within the Project;
- > powers for compulsory acquisition of land (including subsoil) and of rights over land such as easements and restrictive covenants, and rights to use land temporarily;
- > consent to carry out street works and stop up highways temporarily;
- > powers to temporarily stop up and divert public rights of way;
- > consent to carry out works to trees;
- > consent to carry out works within ordinary watercourses; and
- > consent and powers to remove any apparatus belonging to statutory undertakers and/or carry out utility diversions (subject to protective provisions).



1.3.2 Pursuant to section 120(3) of the 2008 Act, the Order also includes the deemed grant of marine licences pursuant to section 66 of the Marine and Coastal Access Act 2009. Two deemed marine licences are included in the draft Order, one in relation to the generation assets and the second in relation to the transmission assets. The deemed marine licences will also cover operation and maintenance activities for both the generation and transmission assets. A separate marine licence will be required for decommissioning activities.

1.3.3 In addition, the DCO (in article 8) makes provision to disapply the following legislation and byelaws:

- > the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6, or 6A of Schedule 25 to the Water Resources Act 1991;
- > the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991;
- > section 23 (prohibition of obstructions, etc. in watercourses), 30 (authorisation of drainage works in connection with a ditch) and 32 (variation of awards) of the Land Drainage Act 1991;
- > regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk activity
- > Sections 6 (grass verges etc) and 30 (unauthorised structures on seashores) of the Essex County Council Act 1987 which provide restrictions on the use of verges for access and placing equipment on grass verges, and the placing of any obstruction on the seashore
- > Holland Haven Country Park Local Nature reserve byelaws made by Tendring District Council on 5th July 1995 under sections 20, 21(4) and 106 of the National Parks and Access to the Countryside Act 1949 which restrict various activities and works in the LNR, including using vehicles outside the highway, disturbing living creatures and engaging in any activity that could cause disturbance,
- > the provisions of the Neighbourhood Planning Act 2017) in so far as they relate to the temporary possession of land under articles 30 (temporary use of land for carrying out the authorised development) and 31 (temporary use of land for maintaining the authorised development) of the Order; and
- > Regulation 6 of the Hedgerows Regulations 1997² is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following-
"or for carrying out development which has been authorised by an order granting development consent pursuant to the Planning Act 2008."

1.4 OTHER CONSENTING REQUIREMENTS SUBJECT TO THE LIMITATIONS OF SECTION 150 OF THE PLANNING ACT 2008

1.4.1 The Applicant is seeking to include the disapplication of the need for ordinary watercourse consent under the Land Drainage Act 1991, for which Essex County Council is the relevant consenting body as the lead local flood authority, within the scope of the DCO.

² S.I. 1997/1160



- 1.4.2 The Applicant considers that this consent relates to matters that should be agreed in principle as part of the DCO examination process.
- 1.4.3 Essex County Council is the designated lead local flood authority (LLFA) under the Flood and Water Management Act 2010 and has responsibility for determining flood defence consents for ordinary watercourses under section 23 of the Land Drainage Act 1991. The project has held discussions with the LLFA regarding disapplication of ordinary watercourse consent and the use of protective provisions. The Applicant has included a set of protective provisions at Schedule 9, Part 5 of the draft Development Consent Order (Application Document 3.1) for the benefit of Drainage Authorities.



2. OTHER CONSENTING REQUIREMENTS

2.1 OFFSHORE CONSENTS

Information on the other consents, licences or permits that are, or may be, required in connection with the construction, operation, maintenance or decommissioning of the offshore part of the Project is set out in Table 2.1.

TABLE 2.1: OFFSHORE CONSENTS

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
Electricity generation licence	Electricity Act 1989	Office of Gas and Electricity Markets (Ofgem)	Already obtained.	The Gas and Electricity Markets Authority granted an electricity generation licence under section 6(1)(a) of the Electricity Act 1989 to the Applicant on 20 April 2021.
Appropriate Assessment and Habitat Regulations Assessment (HRA)	The Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and	Secretary of State for Department for Energy Security and Net Zero (DESNZ)	Part of the DCO process – in parallel with the DCO and deemed marine licence.	The Secretary of State is the competent authority for the purposes of the 2017 Regulations. The Applicant has submitted a Report to Inform Appropriate Assessment (RIAA) with the Application (Application Document 5.4).



NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
	Species Regulations 2017			
Crown consent	Section 135(2) of the 2008 Act	Crown Estate Commissioners	Part of the DCO process – in parallel with the DCO and deemed marine licence.	Consent for the application of the DCO provisions (other than provisions authorising the compulsory acquisition of third party interests in Crown land) to offshore Crown land.
Marine licence for site investigation and unexploded ordnance (UXO) clearance works	Marine and Coastal Access Act 2009	Marine Management Organisation	Post DCO (if required)	Site investigation and clearance of UXO (if required) will be subject to a separate marine licence application to the MMO.
Coast Station Radio Licence	Wireless Telegraphy Act 2006	Ofcom	Post-DCO	The principal legislation governing the use of radio in the UK is the Wireless Telegraphy Act 2006. This Act requires the possession of a licence to install or use wireless telegraphy (radio) apparatus unless the equipment has been exempted from this requirement. Coastal Station Radio licences



NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
				are designed to allow coast (base) stations on shore to communicate with vessels. The Applicant does not anticipate any issues with obtaining such a licence, as it is a matter of requesting a channel from the Radiocommunications Agency and paying the appropriate fee.
Decommissioning programme	Energy Act 2004	Secretary of State for Department for Energy Security and Net Zero (DESNZ)	Post-DCO	<p>The Secretary of State will require a decommissioning programme to be submitted prior to commencement of authorised development pursuant to section 105(6) of the Energy Act 2004.</p> <p>A separate marine licence will be required for decommissioning activities.</p>
European Protected Species (EPS) Licence	Conservation of Offshore Marine Habitats and Species Regulations 2017	Marine Management Organisation (MMO)	Post-DCO (if required)	It is an offence to deliberately kill, capture or disturb European protected species, and to damage or destroy their breeding sites or resting places. EPS licenses can be obtained to allow persons to carry out activities that would otherwise be prohibited, without committing an offence.



NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
<p>Safety Zones</p>	<p>Energy Act 2004</p>	<p>Secretary of State for Department for Energy Security and Net Zero (DESNZ)</p>	<p>Post-DCO</p>	<p>Where a safety zone relates to an NSIP, the appropriate decision maker for safety zones is the Secretary of State, who has delegated that function to DESNZ.</p> <p>As set out in the Safety Zone Statement (Application Document 8.2) the safety zone application will therefore be made to DESNZ, which may, if it is considered appropriate to do so, issue a notice declaring that such areas as are specified or described in the notice are to be safety zones.</p> <p>Consultation with DESNZ will commence once the safety zone application has been submitted and DESNZ will then provide comments on the proposed safety zones at this time and following the notice period. The application will be subject to consultation with the MCA along with any relevant shipping interests.</p>



NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
F10 - Notification of Construction Project	Construction (Design and Management) Regulations 2015	Health and Safety Executive (HSE)	Post-DCO	The Construction (Design and Management) Regulations 2015 require particulars of the Project to be notified to the HSE in advance of construction. This notification will be undertaken by the appointed contractor.
The Crown Estate Plan-Level HRA process in respect of request for additional capacity from extension projects				<p>In common with developers of other offshore wind farm extension projects, the Applicant is in discussions with The Crown Estate to unlock additional generating capacity within the area of seabed over which the Applicant holds an Agreement for Lease.</p> <p>Since the Applicant was originally awarded an Agreement for Lease for the Project, offshore wind technology has advanced considerably, meaning that more clean energy can be generated from the same seabed area.</p>



NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
				<p>As part of this process, The Crown Estate is carrying out a plan-level habitats regulations assessment to understand the environmental impacts of the additional capacity which has been requested by developers. The Applicant understands that the plan-level HRA process will conclude by the end of 2024 which would be before the deadline for the Secretary of State to determine the application for development consent. The Crown Estate published a press release in November 2023 which provides further information about the process (https://www.thecrownestate.co.uk/news/the-crown-estate-sets-out-plan-to-unlock-enough-new-offshore-wind-capacity) and demonstrates The Crown Estate's in principle support to unlock the additional capacity that has been requested.</p> <p>The Project has been developed with a maximum design scenario that would accommodate the additional capacity that the Applicant is seeking.</p>



NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
				<p>The Environmental Statement and Report to Inform Appropriate Assessment for the Project reflect the maximum design scenario and accordingly the proposals for additional capacity would not affect any of the environmental assessments that have been carried out.</p> <p>The Project's existing grid connection agreement would also enable the additional capacity sought to be exported to the national electricity transmission system.</p> <p>This process is discrete from the DCO and project level HRA processes and should not be an impediment to the grant of development consent.</p>



2.2 ONSHORE CONSENTS

2.2.1 Information on the other consents, licences or permits that are, or may be, required in connection with the construction, operation, maintenance or decommissioning of the onshore part of the Project is set out in Table 3-2.

TABLE 2.2: ONSHORE CONSENTS

Nature of consent	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
Building Regulations approval (if necessary)	The Building Regulations 2010	Local authorities	Post-DCO (if required)	The onshore substation is anticipated to be unmanned, and therefore covered by the exemption set out in Building Regulations 2010; Regulation 9; Schedule 2; Exempt Buildings and Work – Class II; Buildings not frequented by people. However if Building Regulations approval is required for any operational buildings then this would be sought by the appointed contractor.
Crown consent	Section 135 (1) and (2) of the 2008 Act	Secretary of State for Defence and The Crown Estate Commissioners	Part of the DCO process – in parallel with the DCO and deemed marine licence.	Consent to acquire interests other than the Crown in Crown land.



Nature of consent	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
European Protected Species (EPS) Licence	The Conservation of Habitats and Species Regulations 2017	Natural England	Post-DCO (if required)	It is an offence to deliberately kill, capture or disturb European protected species, and to damage or destroy their breeding sites or resting places. EPS Licences can be obtained to allow persons to carry out activities that would otherwise be prohibited, without committing an offence.
Licence for work affecting badgers	Protection of Badgers Act 1992	Natural England	Post-DCO (if required)	<p>Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to kill, injure or take badgers or to interfere with a badger sett.</p> <p>Preconstruction walkover surveys will allow any newly excavated setts to be identified.</p> <p>Licences allowing works to proceed close to active badger setts, as works that would cause disturbance as defined by Natural England, will be acquired where necessary.</p>
Notice of Street Works	Traffic Management Act 2004	Highway authority	Post-DCO	The Essex Permit Scheme applies in relation to any relevant street in the county of Essex. The Applicant would have to comply with that scheme as necessary including e.g. booking time on the street.



Nature of consent	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
<p>Permit for transport of abnormal loads</p>	<p>Road Vehicles (Authorisation of Special Types) (General) Order 2003/Road Traffic Act 1988/Road Vehicles (Construction and Use) Regulations 1989</p>	<p>National Highways, Highway authority</p>	<p>Post-DCO</p>	<p>The Construction and Use Regulations are the primary legislation for the construction and maximum dimensions for all vehicles.</p> <p>The Road Vehicles (Authorisation of Special Type) General Order permits the use of vehicles and/or loads, which cannot comply with the maximum permitted weight, either gross or axle weight, for the class of vehicle being used for transporting a load.</p> <p>It also contains the regulations for loads, which exceed the maximum width permitted by Construction and Use Regulations, agricultural vehicles and many other miscellaneous vehicles.</p> <p>The legislation is in the most part permissive in that (with some exceptions) providing the haulier complies with the requirements of notification procedures, an abnormal load can be moved without the need for any permit or authorisation.</p>
<p>Temporary Traffic Regulation Orders (if construction phase</p>	<p>Road Traffic Regulation Act 1984</p>	<p>Highway authority</p>	<p>Post-DCO (if required)</p>	<p>The Applicant has the power under the DCO (article 13) to temporarily close, alter or divert any street within the Order limits.</p>



Nature of consent	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
<p>requires closure of any public highway and/ to agree temporary speed limits)</p>				<p>However Temporary Traffic Regulation Orders (TTRO) can be sought where construction requires closure of any public highway, which includes those outside the Order limits. Therefore, if construction requires closure of any public highway not included in the proposed DCO, additional TTROs will be discussed with the highway authority after the DCO is granted and before works commence.</p>
<p>Environmental permit</p> <p>Water discharge/ groundwater activity</p> <p>Waste operations/ registration of exempt waste operations</p>	<p>Environmental Permitting (England and Wales) Regulations 2016</p>	<p>Environment Agency</p>	<p>Post-DCO (if required)</p>	<p>The Environmental Permitting (England and Wales) Regulations 2016 require most waste management activities and discharges to surface or groundwater to have a permit. However, there are some exceptions to this, being activities that do not need a permit but do need to be registered.</p>
<p>Section 16 Wildlife and Countryside Act Licence</p>	<p>Wildlife and Countryside Act 1981</p>	<p>Secretary of State, MMO or Natural England</p>	<p>Post-DCO (if required)</p>	<p>A licence may be required if construction activities are to interfere with designated species.</p>



Nature of consent	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
Water abstraction licence (if required)	Water Resources Act 1991	Environment Agency	Post-DCO (if required)	A water abstraction licence may be required from the Environment Agency by the contractor the abstraction of water for construction works.






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