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Our ref: 27347/486665
Your ref: EN010115



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VIA WEBSITE ONLY

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Dear Grahame Gould,

Application by Five Estuaries Offshore Wind Farm Limited for an Order Granting Development Consent for the Morgan Offshore Wind Farm Project – Rule 6 Letter

Thank you for your consultation dated 20 August 2024. The following constitutes Natural England's formal statutory response to the Rule 6 Letter. Natural England is an Interested Party (IP) within the examination of the Five Estuaries Offshore Wind Farm Project.

Please accept this letter as Natural England's comments in relation to the contents of the Rule 6 letter and an overview of how Natural England proposes to provide our statutory advice to the Examining Authority (ExA) during the examination phase of the project.

1. Overview of Natural England's engagement with the Examination

Natural England recognises the significant contribution offshore wind Nationally Significant Infrastructure Projects (NSIPs) make to delivering the Government's green energy ambitions and net zero target, and the importance of our advice in securing positive environmental outcomes. Over the next 12 – 18 months, Natural England will be engaging with nine offshore wind NSIPs that have the potential to result in overlapping examinations and/or pre-determination consultations. This is likely to place significant pressure on our resources and our ability to engage with the complex demands of these projects, particularly during examinations.

Whilst Natural England remains committed to engaging in offshore wind NSIP examinations and meeting our statutory obligations, we need to address the workload pressures presented by these overlapping projects. By undertaking a review of previous contributions to offshore wind NSIP examinations, we have identified how we can best focus our advice to ensure we are able to engage efficiently, effectively, and have the greatest likelihood of achieving issue resolution. The approach we will be taking, which we have discussed with the Planning Inspectorate, will involve:

- Only attending Issue Specific Hearings by exception and focusing our engagement where there is the greatest prospect of significant environmental risks being resolved.
- Having a narrower focus on documents tracking issue resolution, via Principal Areas of Disagreement Summary Statements (PADSS) and our Risk & Issues Log.

In addition, we are also concerned that if there is submission of substantial new evidence, particularly if occurring late in the Examination process, this will put further pressure on Natural England's staff. Whilst we seek to meet Examination timeframes wherever possible, our concern is that our ability to do this will be affected if significant additional information is submitted. In these circumstances, Natural England will

use its best endeavours, but we will provide advice to the Examining Authority on what we consider is achievable in the circumstances.

2. Attendance of the Preliminary Meeting

Thank you for your invitation to the Preliminary Meeting on the 17 September 2024. Natural England will not be attending but hope this letter will suffice in providing our input into this meeting.

3. Accompanied Site Inspections (ASI)

Natural England does not plan to attend any site inspections, noting we are not permitted to provide advice during these visits.

4. Compulsory Acquisition Hearings (CAH)

Natural England does not plan to attend any Compulsory Acquisition Hearings, as these fall outside of our remit.

5. Issue Specific Hearings (ISH)

Natural England will only attend hearings by exception, targeting those ISH that have the greatest likelihood of resolving significant environmental risks. In such instances our attendance will be virtual. We highlight that where Natural England does not attend hearings, this should not be construed as a lack of concern on outstanding issues, as opposed to the likelihood of these being resolved.

Natural England would be pleased to respond to any questions from the ExA that arise from the hearings at a subsequent deadline.

As regards the first set of hearings, to date we are not aware of any significant progression of key issues since the submission of our combined Relevant Representations and Written Representations, and we are not in receipt of any new information from the Applicant that is proposed to be discussed in the initial hearings. Therefore, we do not plan to attend ISHs 1 and 2.

6. Engagement with the Applicant

During the Examination Natural England will, where possible, engage with the Applicant to ensure issues are progressed. Due to the timing and implications of multiple OWF examinations, Natural England will focus our engagement on key issues where the proposals are being amended in response to concerns, or where new or updated assessments present an opportunity for issue resolution.

7. Statement of Common Ground (SoCG), Risk and Issues Log, PADSS and other progress tracking documents

Natural England will submit our Risk and Issues log at Deadline 1, and updates to the log will be provided at all subsequent Deadlines. This will include any relevant points regarding ongoing engagement with the Applicant. We will also provide updates to our PADSS from Deadline 4 onwards. We hope this will be of assistance to the ExA in understanding Natural England's current outstanding issues and on demonstrating progress on issue resolution.

Natural England welcome the ExA's decision (23 July 2024) that Natural England and the Applicant will not be required to enter into a bilateral SoCG and that the ExA has made a procedural decision that Natural England will treat their PADSS as a 'live' document which will be updated during the Examination, indicating any progress made to address areas of disagreement. Accordingly, Natural England will submit its first substantive PADSS update at around the Examination's midpoint (i.e. Deadline 4 on 03 December 2024). and submit a PADSS update at each subsequent Examination deadline.

8. Response to Deadlines

Throughout the examination it is anticipated that many documents will be submitted and published on the Planning Inspectorate (PINS) website. Natural England will screen all documents; however, we will only conduct detailed review and provide feedback on documents deemed relevant to our statutory function and the issues we have raised. We will advise the ExA in writing at each Deadline of which documents we have reviewed. If there is a document Natural England has not reviewed that the ExA wishes to have our advice on, then please inform us as soon as possible and we will endeavour to review

ahead of the next Deadline or advise at which Deadline comments can be expected. Any documents not listed within our Deadline responses should be assumed to have not undergone detailed review by Natural England.

9. Submission of Additional Information

Provision of large amounts of new or updated information during the Examination presents major challenges for consultees, particularly when engaged with multiple overlapping cases. Whilst Natural England will always make best endeavours to respond to submissions in a timely fashion, it cannot be guaranteed that all documents submitted will be reviewed by the following Deadline. Regularly updated information from the Applicant regarding the predicted submissions and arrival times can help manage this to some extent and we encourage the ExA to seek this.

Furthermore, Natural England will not provide a response to documents allowed to be submitted into Examination 'between' Deadlines. Should there be documents submitted between Deadlines, we suggest these are issued at the next appropriate Deadline, and we will respond at the following Deadline, or if time does not allow the subsequent Deadline.

10. Submissions of other parties

We highlight that Natural England does not intend to comment on any direct responses by the Applicant or other IPs on our representations unless new technical information is included.

More generally, Natural England will not respond on the submissions of other parties unless we become aware of a fundamental point of clarity which is required. Our focus will be on providing advice under our remit on nature conservation concerns, rather than advising on the merits of the submissions of others.

11. Report on the Implications for European Sites (RIES)

Natural England notes that only submissions up to Deadline 7 on 27 February 2025 will be considered in the RIES. As a result, the RIES will not take account of any updated advice on various Habitats Regulations Assessments (HRA) aspects beyond that point. Natural England recommends that the RIES is updated before it is included alongside the ExA report to the Secretary of State (SoS), so that a full account of the Examination's consideration of HRA matters is presented in one place.

Nevertheless, as previously advised to PINS and BEIS, Natural England does not consider consultation on the RIES adequately discharges the statutory requirement to consult Natural England on Appropriate Assessments.

12. Draft Examination Timetable

Whilst Natural England is largely in agreement with the Five Estuaries OWF Examination Timetable in isolation, we note several deadlines overlap with, or are close to, those of the Morgan OWF Generation Assets and Outer Dowsing OWF Examinations, as shown below:

- Deadlines 1-3 are the same (i.e. 03 October 2024, 22 October 2024, and 12 November 2024).
- Outer Dowsing OWF Deadline 1 is two days after the Five Estuaries and Morgan Deadline 2, which equates to three Examination deadlines in one week.
- Five Estuaries and Morgan Deadlines 5 are two days apart (i.e. 07 & 09 January 2025).
- Five Estuaries Deadline 5 is Tuesday 07 January 2025 which allows little time following the Christmas break and school holiday (likely to extend to Monday 06 January 2025). We would like to suggest Friday 10 January 2025, as an alternative for this deadline.
- Morgan Deadline 6 (25 February 2025) and Five Estuaries Deadline 7 (27 February 2025) are two days apart.
- Morgan Deadline 6 and Five Estuaries Deadline 7 (including RIES comments) are two days apart (i.e. 25 & 27 February 2025) and closely follow the February Half-Term holiday 17-21 February 2025.
- Deadline 8 for Five Estuaries is on Monday 10 March 2025 and Deadline 5 for Outer Dowsing is the 11 March.

These timetabling clashes present a resourcing challenge to Natural England, particularly given other OWF examination deadlines will arise during this time, and we kindly request the ExA considers offsetting overlapping OWF Project Examination deadlines by at least 3 days and liaises with the Morgan and Outer Dowsing case teams to coordinate this.

13. Other Nearby NSIPs

Natural England notes that a number of other NSIP applications are being made within the vicinity of the Five Estuaries OWF project, including:

- North Falls OWF (accepted for Examination on 22 August 2024),
- Norwich to Tilbury network reinforcement (currently at the pre-application stage),
- Sea Link transmission proposal (currently at the pre-application stage).

Both the North Falls and Five Estuaries OWFs schemes intend to make landfall at the same location on the Essex coast and to share an onshore cable corridor and co-locate their onshore substations. Whilst offshore their export cable corridors are located adjacent to one another. The two projects are therefore closely linked. The staggered timings have the potential to introduce complexity in the consideration of cumulative impacts, and we are also mindful that decisions may be made on the Five Estuaries application ahead of, and in the absence of, decisions made on the North Falls application. We, therefore, feel that the decision-making process for both projects should take into consideration the potential outcome of Examination for the other project. Further we would recommend, where possible and appropriate, the eventual North Falls examination timetable should be made with a consideration of the potential for overlap with Five Estuaries, and we recommend the North Falls team are made aware of this concern. We note in your Authority's Rule 6 letter (20 August 2024), that in making a recommendation to the SoS, the ExA will consider the cumulative and in-combination effects of this NSIP with other projects, which we welcome.

We hope these comments assist the ExA at the Preliminary Hearing. For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely,

[Yolanda Foote](#)

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