

RAMPION 2 OFFSHORE WINDFARM DEVELOPMENT CONSENT ORDER
DEADLINE 5

Deadline 5 submissions made on behalf of Susie and David Fischel of Sweethill Farm

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1. Introduction

1.1. This is a written submission made on behalf of Susie and [REDACTED] Fischel (**Fischels**) in respect of the Applicant's change notification request dated 27 June 2024, the Applicant's submissions at Deadline 4, and an update on engagement between the Fischels and the Applicant following on from the Compulsory Acquisition Hearing (**CAH**).

2. The Applicant's Change Notification Request – Change C, to the Ancient Woodland (Lowerbarn Wood) on Sweethill Farm

2.1. The Fischels received a copy of the Applicant's Change Notification to the Examining Authority on Friday 28 June 2024, and note that change C relates to land south and east of the Ancient Woodland at Sweethill Farm, where the DCO order limits have been reduced so that they no longer cross through the 25m buffer required for Ancient Woodland. The Fischels acknowledge and are in support of this change which reflects the existing Commitment C-216.

2.2. It is however disappointing that this change has only been proposed 6 weeks before the end of the Examination, after the Fischels have expended a significant amount of time and incurred considerable professional fees; and in respect of a matter which should have been unnecessary, as the Applicant's own suite of documents should, to be consistent, have required this minimum 25m buffer to be observed right from the beginning of the process.

3. Applicant's Comments on Deadline 3 submissions Revision A – REP4-070

3.1. At Deadline 4 in REP4-070, the Applicant has provided its response to the Fischels' Deadline 3 submissions, set out in Table 2-30 from page 199, including a catalogue of site visits, meetings, emails and letters. The Fischels refute any suggestion that they have not at all times engaged constructively and pro-actively with the Applicant.

3.2. As a result of the Fischels engaging with the Applicant, the Applicant was able to identify in a timely fashion the clear deficiencies and infeasibility of its original proposed route through Sweethill Farm, that specified in the first round of Statutory Public Consultation in 2021, and change this route, significantly for its own benefit, for the second round of Public Consultation in 2022. It is therefore not right for the Applicant to suggest that changes the Applicant has made to the proposed cable corridor have been solely for the Fischels' benefit.

- 3.3.** The Fischels remain critical of the Applicant for failing to respond to their submission of November 2022 to the second round of Public Consultation until October 2023, notably after the Applicant had already submitted the DCO application. During this 11 month period, the Fischels were repeatedly assured that a response would be forthcoming shortly (and which explains why they deferred a meeting in April 2023).
- 3.4.** The Fischels have suggested a number of options to the Applicant, mostly alternative exit points from Sweethill Farm, largely because they continue to believe that the NE exit point from Sweethill Farm across the B2135 is not well chosen by the Applicant and is likely to cause them problems, which could have been avoided had the Applicant had a will to do so.
- 3.5.** The Fischels have expended considerable time and money in trying to resolve their concerns but are still, from a legal point of view, in the same position as they were in at the beginning of the Examination and, in fact, as they were in several years ago.
- 3.6.** Therefore, while the Applicant appears to consider that its engagement has been extensive, the Fischels' experience, as they have made clear, is that the Applicant's engagement since November 2022 has not enabled the parties to achieve anything of substance.

4. Update on negotiations

- 4.1.** Given the limited opportunities to update the Examining Authority before the close of the Examination, we summarise progress on negotiations here.
- 4.2.** The Examining Authority gave a clear indication to the Applicant at the CAH on 21 May 2024 that further progress needed to be made on negotiations. The Fischels have continued to engage with the Applicant, with further interaction since Deadline 4. There now appears to be a willingness on the part of the Applicant to consider the legal documentation points that the Fischels have consistently made to them both before and during the Examination process. For example, last Friday 5 July 2024, contact was at last instigated by Rampion's lawyers to the Fischels' lawyers: this was however the first time such contact has been made, despite the fact that the Applicant has known for a considerable time that the Fischels had engaged lawyers.

- 4.3. The Fischels are fully prepared to work with the Applicant with a view to progressing legal matters to a satisfactory outcome, however there is of course no certainty on that point until the legal documents are negotiated and concluded.
- 4.4. It is notable that the Applicant left these matters *very* late in the process, and had it shown a greater degree of willingness to engage on legal matters much earlier, there might have been a greater chance of resolution. We do of course welcome progress, but even the most optimistic of Interested Parties working with a committed Applicant might doubt its chances of negotiating and concluding an agreement within 4 weeks. If the Applicant had genuinely wished to reach agreement, it should have carried out the actions now proposed before the Examination or, failing that, once the Examination had started or, even then, as soon as possible after the CAH.
- 4.5. The Fischels welcome the offer to open legal negotiations and will try to progress them as much as possible with the Applicant, not least because the Applicant's statement at the CAH that it would stay to the right-hand side with the redline boundary is not yet recorded in any legally binding commitment. However, there is a real risk that there is now insufficient time to complete an agreement before the close of the Examination.
- 4.6. Given the timing of the Applicant's offer – and bearing in mind that it has still not made any legally binding commitment – the crux of the Fischels' case remains as set out at the CAH and at Deadline 4, namely that the Applicant has not done enough to justify the inclusion of compulsory acquisition powers within the Development Consent Order (**DCO**) and the use of those powers over the Fischels' land.

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