

TC RAMPION OFTO LTD

Planning Inspectorate

PINS ref: EN010117

Date: 01st August 2024

Our Ref: 20045146

Reference to Application: Rampion Extension Development Limited Order Granting Development Consent for the Rampion 2 Offshore Wind Farm Project. Crossing of TC Rampion OFTO export cables and land by the Rampion 2 project local to the Twineham (OFTO) and Bolney (National Grid) substations.

Dear Sirs

TC Rampion OFTO Limited ('the OFTO') owns and operates the offshore transmission system associated with the Rampion offshore wind farm. This includes the offshore substation, onshore and offshore cables, the Twineham substation, and connecting infrastructure to NGET's Bolney Substation. The OFTO holds a Transmission Licence under section 6(1)(b) of the Electricity Act 1989 and as such is a statutory undertaker. The onshore export cable forming part of the Rampion 2 development is proposed to be constructed through land in which the OFTO has an interest (plots 34/19, 34/20, 34/21, 34/22, 34/23 and 34/25 on the land plans (document reference AS-025)) and land which is owned by the OFTO (plot 34/24 on the land plans (document reference AS-025)). This land has been acquired by the OFTO for the purpose of their undertaking and is currently used for that purpose. It should be noted that in the Book of Reference (AS-040) TC Rampion OFTO Limited is not noted as having a Category 2 interest in plot 34/25. This is inaccurate as the OFTO has operational assets in this plot and also benefits from an easement for the same and the Book of Reference should be updated accordingly.

We previously submitted a written representation on the 31st October 2023 (RR-384) lodging our objection to the Rampion 2 project on the basis that it was imperative that our assets and operational activities were protected from any adverse impacts as a result of the Rampion 2 project. We highlighted our expectation to be able to remove the objection pending the satisfactory outcome of negotiations with Rampion Extension Development Limited.

Since our written representation in October 2023, engagement from Rampion Extension Development Limited has been limited and we have had difficulty contacting the project. The OFTO representatives have met five times with Rampion Extension Development Limited since October 2023 and documents have been shared in an attempt to achieve voluntary agreements, however as of July 2024 the terms provided have meant that we have not been in a position to agree basic Heads of Terms which we believe is unacceptable. The key issues that remain are:

1. There is a lack of rationale or justification why Rampion Extension Development Limited is including such a large portion of the OFTO's land within the proposed DCO order limits. No accurate design has been provided, nor any explanation of how this will impact other projects potentially crossing the OFTO's land. The option area needs to reflect 'almost' final position and a wide option area is not acceptable as we need our landholdings to accommodate future operational flexibility and potentially support other cable crossings. We do not believe Rampion Extension Development Limited is providing suitable justification to support and demonstrate a needs case. The land is of strategic importance to the OFTO and Rampion Extension Development Limited should optimise its proposed cable corridor to ensure their impacts are minimised, that only land necessary for the project is included in the order limits, and to ensure the OFTO retains operational flexibility. The current proposed DCO limits effectively sterilise the land for any future projects connecting to the substation in this location.

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2. At present Rampion Extension Development Limited will not enter into collaborative discussions with the OFTO and an adjacent developer, who plans to also utilise the OFTO's land within plot 34/24 for a utility scale energy project, which may result in significant quantifiable losses being incurred by the OFTO. It is considered this is not in the spirit of the principles of co-ordination of the transmission network as set out in National Policy Statement for Electricity Networks Infrastructure (EN-5).
3. Rampion Extension Development Limited has made reference to a valuation during discussions but have not furnished the OFTO with the details or contents of that document.
4. The OFTO has provided comparables from other similar negotiations, as well as details of their land which transacted in 2015 for significantly more than currently offered.
5. We do not consider that Rampion Extension Development Limited has met the test of entering into meaningful negotiations, given that voluntary offers are significantly below market evidence, does not result in equivalence to the OFTO and are not in line with the compensation code.

We note that the proposed Compulsory Acquisition Hearing 2 set for 22 and 23 June was cancelled. The OFTO did not register to participate in the Compulsory Acquisition hearings on the basis that we were reassured that a voluntary deal was forthcoming from Rampion Extension Development Limited. Unfortunately, it has become apparent late on in this Examination that this is not likely to be the case before the close of the Examination. The OFTO therefore wishes to make the following written representations in respect of the compulsory acquisition powers sought by Rampion Extension Development Limited.

The draft Development Consent Order (AS-031) includes compulsory acquisition powers which would permit Rampion Extension Development Limited to acquire new rights or impose restrictive covenants over those plots in which the OFTO has an interest.

Under section 127(5) of the Planning Act 2008, an order granting development consent may include provision authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land only to the extent that the Secretary of State is satisfied that:

- (a) the right can be purchased without serious detriment to the carrying on of the undertaking, or
- (b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.

As the statutory undertaker and an owner/interested party in the above-mentioned plots, it is our position that if the right over those plots in which the OFTO has an interest is purchased compulsorily, there would be serious detriment to the OFTO's undertaking because, without appropriate voluntary land and crossing agreements, there is insufficient protection in place for the OFTO's assets which are in situ in this location. It is not considered that this detriment can be made good by the use of other land.

In the event that the Secretary of State grants the development consent order and includes a provision authorising compulsory acquisition of a right over those plots in which the OFTO has an interest, and Rampion Extension Development Limited exercises those powers in respect of those plots, we are concerned that due to the engagement from Rampion Extension Development Limited to date, that compensation will not be agreed and that a referral to the Lands Tribunal will be required. Based on our market evidence, industry experience and other similar projects, we believe that the £14.8m, set out in the Compulsory Acquisition Funding Statement, is not sufficient to cover the potential claims arising from the exercise of compulsory acquisition powers. Clause 3.3 of the Compulsory Acquisition Funding Statement estimates the funding required for 'outstanding interests', but Rampion Extension Development Limited is applying for powers relating to the whole project. We therefore raise concerns regarding sufficiency of funds, which could result in an inability to settle claims. We direct you to the Five Estuaries Offshore Wind Farm Funding Statement

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(<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010115/EN010115-000229-4.2%20Funding%20Statement.pdf>) which states a figure of £26.4m for a significantly shorter cable route.

As an OFTO, we manage numerous assets throughout the UK and have managed and successfully concluded various land agreements in relation to similar rights on OFTO owned land and assets. There appears to be little to no intention by the Rampion 2 project to enter into meaningful negotiations in respect of voluntary land and crossing agreements.

We therefore maintain our objection to the Rampion 2 project on the basis that we have no voluntary land or crossing agreements in place with Rampion Extension Development Limited. We reiterate the importance of protecting our assets and operational activities as statutory undertaker to ensure protection from any potential detrimental impacts of the Rampion 2 development. We maintain our objection to the development, pending the satisfactory outcome of negotiations with Rampion 2 in respect of required land or crossing agreements.

The OFTO remains willing to engage to seek voluntary agreements with Rampion Extension Development Limited or to agree a set of protective provisions which could be inserted into the draft Development Consent Order and reduced compulsory acquisition powers to address its concerns and requests that the Secretary of State seeks an update on the status of this consent before considered an award.

We look forward to your response.

Sincerely



Simon Fennell
OFTO Director