

Rampion 2 Project
Rampion Extension Development Ltd
Windmill Hill Business Park,
Whitehill Way
Swindon
Wiltshire
SN5 6PB

T: [REDACTED]
E: [REDACTED]@rwe.com

REF: EN010117

5 August 2024

The Square
Temple Quay
Room 3
O/P, Temple Quay House, 2,
Bristol
BS1 6PN

Dear Sirs

Proposed Cable Route in respect of the Rampion 2 Project

We are writing further to the letter submitted to the Examination from TC OFTO dated 1st August 2024 relating to its land adjacent to the Rampion 1 substation. TC OFTO have only substantively engaged in the Examination at this latest Deadline 6 stage. The relevant representation RR-384 submitted by TC OFTO in October 2023 was a holding objection only, and TC OFTO submitted no further representations to the Examination until Deadline 6, in which it now raises new matters to which the Applicant has not previously had an opportunity to respond. We therefore request that the Examining Authority exercises its discretion to accept this response from the Applicant prior to the close of the Examination.

Should the Secretary of State wish to hear further on the matters raised by TC OFTO the Applicant respectfully requests that the Secretary of State issues questions to both parties and permits the Applicant to have a right of reply to TC OFTO's submissions.

Landownership Position

The Book of Reference correctly records TC OFTO as the freehold owner of Plot 34/24 and as the lessee of Plots 34/20, 34/21 and 34/22.

The Applicant understands that TC OFTO may have buried apparatus in Plot 34/29, 34/39, 34/24, 34/25, 34/22, 34/20 and 34/21. It's Deadline 6 representations assert that it has an easement over Plot 34/25 (which is owned by NGET) in respect of buried apparatus, and it should be noted as a Category 2 interest in the Book of Reference. The NGET title does not note a registered easement for the benefit of TC OFTO over this land parcel therefore it is not currently recorded as a Category 2 interest in the Book of Reference. The Applicant will seek to confirm the precise location of the buried cables

and if required update and maintain a post Examination book of reference and change log.

The Applicant has no record of a TC OFTO interest in Plot 34/23 and will seek further information from TC OFTO in this regard.

TC Rampion 1 OFTO land status

Plot 34/24 comprises grassland and hedgerow adjacent to the Rampion 1 substation but outside of the operational fenced area, save for a small slither which the Applicant has agreed not to encroach into as explained below. The land required for use by the Applicant is not used by TC OFTO for operational purposes.

Plots 34/20, 34/21 and 34/22 are situated to the north of the substation and comprise grassland, hedgerow and scrub. These parcels are outside of the fenced operational substation area and are not used for operational purposes.

TC OFTO has not demonstrated that its freehold and leasehold interests in the above land are impacted for the purposes of its undertaking (section 127(1)(c)(i) of the Planning Act 2008), and the Applicant submits that they are not. TC OFTO has also not demonstrated that any land interests such as easements that it may own in relation to its buried cables will be detrimentally impacted and again the Applicant submits there will be no detrimental impact due to the protections that are outlined below.

TC OFTO's Deadline 6 submissions assert that its land needs to 'accommodate future operational flexibility and potentially support other cable crossings', and that the land is of 'strategic importance to the OFTO'. No details are provided as to what these plans are,

The Applicant has also requested details of any 3rd party development proposals, given TC OFTO's land value comparables that it has presented to support its land valuation (see further below regarding valuation matters) are based on a range of uses, for example, open storage and light industrial. The Applicant notes that the land is "landlocked" for 3rd party users and would require access through either the Rampion1 substation, the One Planet/ Ancleggan land, a residential property or NGET land. No information has been provided by TC Rampion OFTO to demonstrate the strategic importance of the land to the operation of the Rampion 1 OFTO substation.

Furthermore, given the purpose of the TC OFTO is to operate the Rampion 1 Wind Farm, any such desire to retain the land for future operations or development would not relate to its Rampion 1 operational purposes. In this respect it is notable that the development proposals to which it is referring appear to be those of Ancleggan/ One Planet, who are promoting a battery energy storage scheme, which has no relationship to TC OFTO's statutory undertaking. TC OFTO has not therefore demonstrated that the above interests in land are held by it for the purposes of the carrying on of its statutory undertaking (section 127(1)(c)(ii)).

Even were that to be the case, the new rights and restrictive covenants sought by the Applicant over those land parcels can be purchased without causing serious detriment to that undertaking.

The Applicant acknowledges that TC OFTO has claimed it has an easement and apparatus in land outside of its operational substation in Plot 34/25 and that Apparatus is present in Plot 34/29, 34/39, 34/24, 34/25, 34/22, 34/20 and 34/21 as referred to above under "Landownership Position". TC OFTO's apparatus within these Plots and

claimed easement in respect of Plot 34/25 are relevant apparatus and relevant rights respectively for the purposes of section 138(1) of the Planning Act 2008. The Applicant's cables will need to cross the TC OFTO's buried cables and the protection available for these is explained further below.

Project Requirements- DCO Limits and Refinement to the Working Corridor

TC OFTO assert that there is a lack of rationale or justification for the area of its land in Order Limits. As explained in LR 1.9 of Deadline 3 Submission – Applicant's Responses to Examining Authority's First Written Questions (ExQ1) [REP3- 051] there is flexibility within the proposed DCO Order Limits as to where the cable construction corridor may be located so as to account for detailed design after ground investigation surveys, with the potential to identify as yet unknown constraints and features. The Applicant's response to CA Actions Agenda item 2 (1) sets out how refinement to the 40m working corridor will be implemented as controlled by the stage specific Construction Method Statement (CMS). The project will comply with the Agricultural and Land Liaison section of the CoCP (Paragraph 2.6 of the Outline Code of Construction Practice [REP5-064]) which states. *"The ALLO will work with stakeholders to enable the construction project to be conducted in a manner that respects and accommodates the needs of the agricultural and landowner community while meeting project objectives and DCO requirements. Liaison will take place with the landowner community prior to the finalisation of the Construction Method Statement and where practicable and subject to engineering and environmental requirements, Rampion 2 will take into consideration farming impacts and considerations prior to that finalisation and submission to discharge authorities."* The ALLO role will not be limited to dealing with uses such as farming and will include liaison with all land owners.

There is a complex array of constraints and features in the vicinity of Bolney NGET substation, which includes the TC OFTO land. Construction works will need to be carried out through an area occupied by a complex and intensively located network of buried services and other environmental constraints such as ecological features.

As noted in the Land Engagement Reports (LER's) for Ancleggan (Deadline 6 - 4.6.11) Ltd and NGET (Deadline 6 - 4.6.3) the Applicant has commissioned an interim cable design study to confirm the engineering requirements for the Rampion 2 cable in this location between Bolney NGET substation and Wineham Lane. This work will provide the basis for the alignment of the cable construction corridor design and therefore should provide further information regarding the works required. It is expected that this work will be completed in September 2024. Further refinement at this stage cannot be done without substantial risk to the Rampion 2 project.

Mitigation of impacts

The Applicant has committed to remove the slither of land within the Rampion 1 substation fence line (the operational area) and provided an updated option plan to be incorporated into the voluntary agreement in April 2024. A discussion was held on 2nd August 2024 with TC OFTO to discuss a further commitment from the Applicant to keep as far west as possible (subject to engineering requirements) as shown on the draft option plan (see the blue line on the attached plan). However, the Applicant noted that due to the likely specific engineering requirements, this may not be feasible.

Adjacent developer

The Applicant understands that the adjacent developer referred to in numbered paragraph 2 of the TC OFTO Deadline 6 submission is One Planet (Ancleggan) with whom the Applicant is already engaging with. The Planning Application (DM/23/0769) for Battery Storage and associated infrastructure, in its current form, does not require the use of Plot 34/24 to connect to the grid location. The proposals show part of Plot 34/25 being required for their export cable. In the Ancleggan LER (doc ref 4.6.11, the Applicant confirmed the latest position as follows:

“The cable design work brief has included a requirement to reduce impacts on the One Planet scheme where practicable and subject to the requirements of the Rampion 2 project. Rampion 2 has committed to share the key design work outputs with Ancleggan and hold a detailed interface meeting with engineers and designers within 3 weeks of completion of the work.” It is not clear what a tri-partite meeting would achieve at this stage in light of this further work being undertaken and the Applicant will revisit the suggestion once the design work has been carried out.

As noted above there has been no information provided to indicate if and how much land might be required for the OFTO’s own future operational purposes from a s127 perspective and how this would interact with the Proposed Development. Insofar as TC OFTO is concerned to preserve land for future opportunities, these appear to be commercial aspirations rather than operational ones. The Applicant understands that the potential losses alleged by TC Rampion OFTO are therefore related to potential commercial ‘hope value’ losses and not related to increased operational costs.

The technical and environmental constraints and features in the vicinity of Bolney NGET substation, together with construction and engineering challenges are outlined above. The new rights and restrictive covenants sought by the Applicant in the draft Order do not wholly prevent other apparatus from being installed, but instead include a consent mechanism, not to be unreasonably withheld or delayed, so that the Applicant can ensure that its development will not be put at risk or damaged by other parties’ proposals. The Applicant would be willing to discuss template crossing agreements to facilitate 3rd party infrastructure provided that this can be delivered without substantial risk to the Rampion 2 project. Further discussions will continue surrounding Rampion 2’s ability to facilitate 3rd parties where appropriate and practicable, and such wording has been proposed by the Applicant to be included in the heads of terms to reflect this principle.

Status of discussions on valuation,

TC OFTO’s Deadline 6 Submissions raise points regarding detailed valuation discussions relating to the quantum of compensation which are not matters for the Examination. Notwithstanding, the Applicant responds to these below.

A series of meetings are ongoing to progress and hopefully close out the voluntary agreement commercial terms. Rampion 2’s preference is very much to work under voluntary agreements wherever possible. However, any voluntary agreement must be based on appropriate and justified commercial terms. Under the regulatory regime for the construction and operation of offshore transmission assets Ofgem’s role is to ensure the development of an economic and efficient national network in order to ensure that end consumers do not pay excessive bills. This requirement passes through to Rampion 2 (see further details in OFGEM’s OFTO guidance for Cost Estimates 2022).

The Rampion 2 team and its expert valuation advisors have fully explored TC OFTO's commercial proposal, but it does not consider that there is any evidenced justification for the value per acre which the OFTO's advisors have allocated to the OFTO land affected by the Proposed Development. TC OFTO's valuation is above open market freehold land values, despite the Applicant only requiring the acquisition of rights, and it diverts substantially from 1) the Applicant's expert advisor's valuation of the land and 2) the commercial terms being offered to and agreed with other parties. A counteroffer was made on 2nd July 2024 by Rampion 2, which was an uplift to the first offer and is above what would be payable if the land rights were acquired compulsorily. The offer therefore had regard to the Applicant's desire to reach voluntary agreement and the benefits of the same.

In its current use, Plot 33/34 is a field laid to grass situated to the west of, and external to the fenced operational area of the Rampion 1 substation. The grass plot extends to 1.67 acres within the DCO Order Limits, however, only a proportion of the field (c.15%) is proposed to be used for the Rampion 2 easement. The reference to the valuation referred to at numbered Point 3 of the TC OFTO submissions was a discussion around the rationale for the Applicant's offer. The Applicant has explained verbally on a call dated 18th July 2024 that the offer is higher than that offered for other similar projects in the Southeast, North and West of the UK. TC OFTO has not contested this. A detailed explanation will be provided in writing.

PCE

The Applicant remains confident that the estimated compensation liability provided in the Funding Statement, which includes contingency, remains valid and up to date. It is based on expert valuation advice from Carter Jonas LLP, and it assesses the compensation that would be payable under the compensation code. It has been reviewed regularly and given the lack of substantiation by TC OFTO for their excessive land valuation, the Applicant's expert valuers have not taken account of those inflated figures, and nor is it appropriate to do so. The Applicant's Funding Statement is robust and the assertions by TC OFTO, based on their experience, are insufficient to undermine the same.

It is inappropriate to seek to compare the Applicant's estimated compensation liability with another project, because no two projects are the same. The land rights sought, the nature of the land over which they are sought, the land uses and the values in that location, will all differ. The Applicant submits that the comparison to Five Estuaries is irrelevant.

TC OFTO Land Engagement

Further details of engagement are set out in the TC OFTO LER (doc ref 4.6.18). Detailed negotiations have been ongoing since October 2023 with adjustments made to the key terms reflecting the less typical requirements of the Landowner due to it being also an asset owner. The submission of method statements, risk assessments and notice periods required for their production and approval have been agreed. The Applicant hopes to secure the required land rights by way of voluntary agreement; however a number of key commercial points remain to be agreed as noted above, and the OFTO's excessive land valuation is currently a significant barrier to moving forwards.

Protective Measures

The Applicant agreed in principle with TC OFTO that a draft crossing agreement would be incorporated into the land agreement in order to protect the existing Rampion 1 cables. Requirements for construction method statements and risk assessments together with appropriate notice periods have been agreed with TC OFTO. The Applicant has previously directed TC OFTO to the standard protective provisions and has not received any communications outlining additional requirements beyond those either in the standard Protective Provisions or as agreed to be included in the land agreement. The Applicant submits that the protective provisions for the benefit of electricity undertakers in Part 1 of Schedule 10 to the draft Order provide appropriate protection for TC OFTO's buried cables but confirms that it remains willing to conclude a crossing agreement as proposed.

Moving forwards

The Rampion 2 project team has put forward an updated offer in the revised HOTs and will proceed with discussions through the series of meetings set up by the Applicant to conclude the voluntary agreement. In the event that the land valuation continues to be the main barrier to reaching agreement, the Applicant will discuss with TC OFTO whether alternative dispute resolution would be appropriate to resolve the valuation dispute.

Yours faithfully

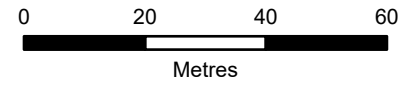


Vicky Portwain
Land Transaction Manager, Rampion 2

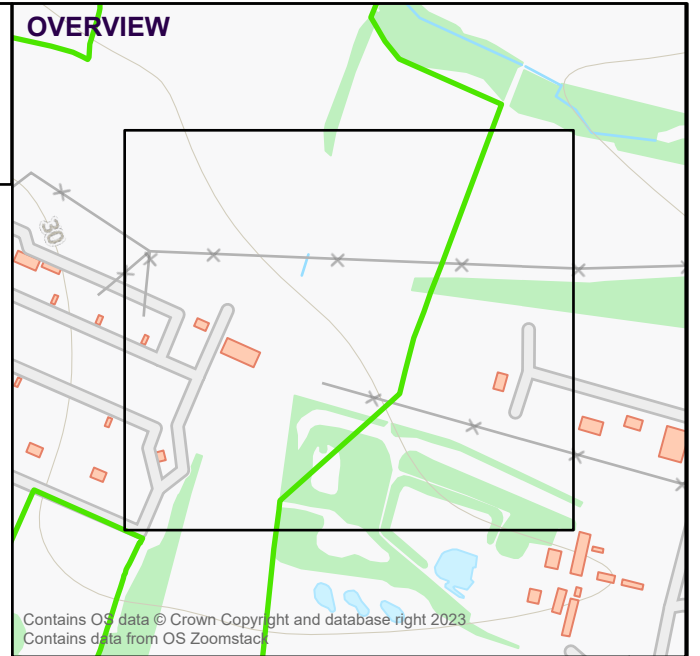
Enclosures:

Key Terms Plan Rampion 2

Map Centre 524327E 121037N






OVERVIEW



Contains OS data © Crown Copyright and database right 2023
Contains data from OS Zoomstack

Legend

-  DCO boundary
-  Grantors Property
-  Indicative Centre Line of Cable

LANDOWNER:
TC Rampion OFTO

TITLE NUMBER:
WSX374905

INDICATIVE CABLE LENGTH:
65 m

Carter Jonas Two Snow Hill, Birmingham, B4 6GA
T: 0121 794 6250
carterjonas.co.uk

Client: **Rampion Extension Development Ltd**

Project: **Rampion 2 Offshore Windfarm**

Title: **Key Terms Plan**

Scale: 1:1,250 @A3 Date: 05/04/2024

Drawn by: SS Dwg no: **J0039831-24-37**

