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Mr Lawrence Haas and Ms Faye  
Christensen

Your Ref:

Our Ref: EN010117

Date: 23 April 2021

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Dear Mr Haas and Ms Christensen

## **Planning Act 2008 (as amended)**

### **Proposed application by Rampion Extension Development Limited for an Order Granting Development Consent for the Rampion 2 Offshore Wind Farm**

Thank you for your letter of 20 April 2021 regarding the abovementioned project, which is currently at the pre-application stage of the application process. I address the matters you raised in your letter under the relevant concerns you referred to. For ease of reference I have included links to the legislation and advice as footnotes.

***"(1) The adequacy of local community consultations in the COVID context, and in view of the scale, nature and proximity of this windfarm with large WTGs in inshore waters."***

This project, "Rampion 2 Offshore Wind Farm", has a dedicated project page on the National infrastructure Planning (NIP) website which can be found here:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/rampion-2-offshore-wind-farm/?ipcsection=advice&ipcadvic=5e677c0315>

The Inspectorate's role at the pre-application stage is to provide advice to potential applicants and anyone who is interested in or is seeking to participate in the Planning Act 2008 (PA2008) consenting process, about making an application or making a representation about an application. We have a duty to publish the advice we give under section 51<sup>1</sup> of the PA2008. You can check our advice register and the Rampion 2 project page of the NIP website for any advice we have given in respect of the Rampion 2 project to date. This letter constitutes advice under section 51 of the PA2008 and we will therefore publish it in the same way on the NIP website alongside your letter.

At this stage in the process the Applicant has to undertake statutory pre-application consultation and must comply with duties set down in the PA2008 in relation to

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2008/29/section/51>

consulting with statutory bodies, relevant local authorities and land interests affected by the application (section 42<sup>2</sup>); local communities (section 47<sup>3</sup>), and publicising the application (section 48<sup>4</sup>).

The duty to consult with local communities requires the applicant to prepare and consult relevant local authorities about how they intend to consult with communities in the vicinity of the project, set out in a draft Statement of Community Consultation (SoCC). Therefore, it is for the relevant local authorities to exercise their judgement about the scale and nature of the proposed pre-application consultation. This will include plans by the Applicant to use virtual consultation methods and the appropriateness of doing so, taking into account any national or local restrictions that may be in place at the time.

Pre-application consultation has continued throughout the Pandemic on Nationally Significant Infrastructure Projects (NSIP). This approach accords with the Government's policy on the continued operation of the planning system during the Pandemic, as expressed through the Ministerial Statement by the Secretary of State for the Ministry of Housing, Communities and Local Government, issued on 13 May 2020<sup>5</sup>. This states that, *"It is important that the system continues to operate effectively, ensuring that all those involved, including local authorities, the Planning Inspectorate, developers, statutory consultees, local communities and others can engage in the process while adhering to the Government's guidance on social distancing."* More recently the Inspectorate has advised applicants that they should provide flexibility in their SoCC so that physical events could replace or supplement any virtual consultation that is planned if local and national restrictions allow, and it is deemed safe to do so.

Any views you have about the project should be directed to the applicant's pre-application consultation at the appropriate time. The Applicant must have regard to the views you and other consultees put to them about the project, including comments on the Preliminary Environmental Information Report, which is a required consultation document. The views of consultees and the Applicant's response to them will be captured in a Consultation Report, which is a required part of any application for development consent.

The Inspectorate will not comment on the merits of an applicant's consultation in advance of submission because we have a statutory duty to assess the application at that point and make a determination about whether or not it can be accepted for examination. As part of that statutory decision making process we will invite relevant local authorities to comment on whether or not the Applicant has complied with its statutory duties at the pre-application stage, including whether or not it has complied with the commitments set out in the SoCC.

The Inspectorate, therefore, respectfully declines your request to ask the Applicant to pause its pre-application consultation.

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<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2008/29/section/42>

<sup>3</sup> <https://www.legislation.gov.uk/ukpga/2008/29/section/47>

<sup>4</sup> <https://www.legislation.gov.uk/ukpga/2008/29/section/48>

<sup>5</sup> <https://questions-statements.parliament.uk/written-statements/detail/2020-05-13/HCWS235>

If you have concerns about the pre-application consultation then you should direct them to the Applicant in the first instance to provide them with an opportunity to respond. You may also send any views you have on the consultation to the relevant local authorities who may take them into account in their adequacy of consultation representation that we will invite the relevant local authorities to submit following receipt of the application. I note you have offered to contribute to the Councils' consideration of the Rampion 2 draft SoCC.

***"(2) The apparent absence of an Alternatives Assessment in the EIA now underway to consider "reasonable alternatives", as indicated by the EIA Scoping, and noted by Natural England in the EIA Scoping Opinion."***

Under the Infrastructure Planning (Environmental Impact Assessment Regulations) 2017<sup>6</sup> (the EIA Regulations), a request for a scoping opinion is required to include the information in Regulation 10(3):

*"A request under paragraph (1) must include—*

- a) a plan sufficient to identify the land;*
- b) a description of the proposed development, including its location and technical capacity;*
- c) an explanation of the likely significant effects of the development on the environment; and*
- d) such other information or representations as the person making the request may wish to provide or make."*

This means that there is no requirement for the Applicant to provide an assessment of alternatives within the scoping report itself. However, Schedule 4 of the EIA Regulations requires an Environmental Statement (ES) to consider, *"2. A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects."*

The ES submitted with the Application will need to include information on reasonable alternatives and should include commentary on responses to the Inspectorate's Scoping Opinion, explaining how the Applicant has taken into account the matters raised.

***"(3) The need to observe requirements on the authorised development for the extension as already provided in the DCO approval for the existing Rampion scheme in 2014."***

It is not appropriate for the Inspectorate to comment on the merits of a proposed project in advance of it being submitted as an application for a development consent order. If an application is submitted and if it is accepted for examination, an Examining Authority will be appointed to examine it. This will include consideration of the views put forward by interested parties about the application, at the appropriate time.

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<sup>6</sup> <https://www.legislation.gov.uk/ukxi/2017/572/contents/made>

However, as a general observation on the principles around what can be included in an application for a Development Consent Order (DCO), an applicant can submit an application based on whatever wind turbine generators it wishes to use if they have been environmentally assessed and reported in the ES, submitted as part of the application. Also, a DCO for an offshore wind farm extension can amend an extant DCO for the original offshore wind farm and include all or part of the original DCO order limits within the proposed order limits of the extension application. However, the visual impact of the wind turbine generators would be part of the applicant's assessment of landscape and visual impacts, so should be addressed in the ES for the offshore wind farm extension.

I understand you were hoping that the Inspectorate could provide you with opinions on the matters you have raised but I hope, in turn, that you understand that our role in the process means that the Inspectorate must remain impartial so that any subsequent examination of the application will not be prejudiced, and all interested parties, including the communities affected and the Applicant, are treated fairly. I hope you find that the procedural information provided useful and informative to assist your participation in the consenting process.

Please contact us again if you would like advice about the PA2008 process and how to participate effectively in it via our helpline or the National Infrastructure Enquiries email address set out at the head of this letter. Further advice about participating in the consenting process is contained in our Advice Note 8<sup>7</sup> series, in particular Advice Note 8.1 – Responding to the developer's pre-application consultation<sup>8</sup>.

Yours sincerely

*Mark Wilson*

**Mark Wilson**  
**Operations Manager - Energy**

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<sup>7</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2013/04/Advice-note-8.0.pdf>

<sup>8</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2013/04/Advice-note-8-1v4.pdf>