



# NORTH FALLS

*Offshore Wind Farm*

## Consents and Licences Statement

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# 1. OVERVIEW

## 1.1 Project Details

- 1.1.1 North Falls Offshore Wind Farm Limited (the Applicant) has submitted an application to the Planning Inspectorate on behalf of the Secretary of State, for a Development Consent Order for the North Falls Offshore Windfarm ('North Falls' or 'the Project') under section 37 of the Planning Act 2008.
- 1.1.2 North Falls is an extension to the existing Greater Gabbard Offshore Wind Farm (GGOW). In February 2017, The Crown Estate launched an opportunity for existing wind farms to apply for project extensions. The Applicant applied for a lease to develop an extension to the western boundary of the existing GGOW. In August 2019, The Crown Estate consulted on and then concluded a plan-level Habitats Regulations Assessment (HRA) for the proposed extension projects and confirmed that Greater Gabbard Extension, now named North Falls Offshore Wind Farm would be among seven projects that would be awarded an Agreement for Lease.
- 1.1.3 This document sets out the Applicant's strategy for obtaining any consents, licences, permits or other agreements that may be necessary to construct, operate, maintain and decommission the Project. Although not a prescribed document, it is submitted in support of the Applicant's application for development consent for the Project, in accordance with regulation 5(2)(q) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures Regulations) 2009 (as amended).
- 1.1.4 This document is intended to provide assurance to the Planning Inspectorate and Examining Authority that there are no consenting matters which are likely to become an impediment to the implementation of the Project.
- 1.1.5 This document identifies the relevant consents that are likely to be required and sets out the Applicant's strategy for addressing them. It explains how the

draft Development Consent Order (DCO) (Document Reference: 6.1) (herein referred to as the 'draft DCO') has been drafted to disapply certain legislative provisions, including disapplying a number of consents that would otherwise be required under a variety of different statutory regimes. It also seeks to provide assurances on the other consents and licences that will or may need to be obtained separately from the DCO process, including consents for which the Secretary of State is not the consenting body.

- 1.1.6 As required by the MHCLG Application Form Guidance, published in June 2013<sup>1</sup> (paragraphs 45 and 46), where relevant the Applicant has set out whether there are any reasons why such relevant consents might not be granted.
- 1.1.7 The Applicant will engage with the relevant consenting bodies early in the application stage of the Project and will follow the principles contained in the Planning Inspectorate's Advice Note 11 'Working with Public Bodies' about twin-tracking some consents in parallel with the DCO application where feasible.
- 1.1.8 This document may be updated during the Examination to demonstrate progress made on obtaining any other necessary consents, licences or permits.

## 1.2 Applicant's consent strategy

- 1.2.1 As the Project qualifies as a nationally significant infrastructure project (NSIP), the Applicant's consents strategy is to fit within the legislative streamlining intent of the Planning Act 2008. The basis of the Applicant's approach is therefore that the draft DCO should be the principal consenting mechanism for the Project, including any necessary powers for land acquisition, temporary

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<sup>1</sup> [Planning Act 2008: Guidance for the examination of applications for development consent \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) [Accessed 17 July 2024]

possession, the creation, suspension and extinguishment of rights over land and the stopping up of highways or other means of access.

1.2.2 In addition, under section 120(5) of the Planning Act 2008 an order granting development consent may:

- apply, modify or exclude a statutory provision which relates to any matters for which provision may be made in the order; and
- make such amendments, repeals or revocations of statutory provisions of local application as appear to the decision-maker to be necessary or expedient in consequence of a provision of the order or in connection with the order.

1.2.3 There are however some limitations on the scope of matters that can be provided for in a DCO. Under section 150(1) of the Planning Act 2008, an order granting development consent may include provisions to remove a requirement for a prescribed consent or authorisation only if the relevant body has consented to the inclusion of the provision. These consents and authorisations are listed in column 2 of the table in Part 1 of Schedule 2 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015.

1.2.4 The Applicant's approach towards the flexibility to incorporate a wide range of matters within the scope of the DCO and to responding to the limitations imposed by section 150 of the 2008 Act is set out below.

1.2.5 The Applicant notes that the recent Pre-Application Guidance (DLUCH, 30 April 2024) notes that less use has been made of section 150 than the Government had expected, and that:

*“The presumption should be therefore that where an applicant proposes a provision within their DCO to remove a requirement for a prescribed non-planning consent to be granted by the relevant body, the body that would normally be responsible for granting this consent is expected to make every*

*effort to agree to the proposal. Such a body should only object to the inclusion of such provision with good reason, and after careful consideration of reasonable alternatives...”.*

- 1.2.6 The Applicant is therefore confident that following further engagement, it can secure the necessary consents to disapplication within the draft DCO.
- 1.2.7 For those consents that cannot be included within the draft DCO, either because the relevant consenting authority does not agree to their inclusion or because it is not feasible or desirable to incorporate them within the draft DCO at this stage, the Applicant’s approach is to:
- Engage with the relevant consenting bodies as early as practicable to confirm any consenting requirements and a timetable for obtaining those consents;
  - Seek assurances from the relevant consenting bodies on the likelihood of obtaining those consents to provide certainty and confidence to the Examining Authority about there being no impediment to the implementation of the Project once development consent is granted; and
  - Collaborate with stakeholders and relevant consenting bodies and (where appropriate) to agree and submit Statements of Common Ground (SoCG) early in the DCO examination process, with a view to confirming the status of negotiations on any relevant consents that are likely to be required.
- 1.2.8 A number of other consents may need to be obtained later in the development phase of the Project and after the DCO application has been determined. These primarily relate to consents that are typically obtained by a construction contractor, once the final details of the construction arrangements have been determined. They may also relate to particular points of design detail that cannot be confirmed at present. In both cases, they are likely to relate to matters of detail rather than the acceptability of the Project in principle and it

therefore follows that the determination of the DCO application does not depend upon their resolution at this stage.

### 1.3 Consents and authorisations to be included within the DCO powers

1.3.1 In line with the Applicant's consents strategy set out above, the principal consent for the Project will be the DCO itself. The draft DCO makes provision for the following:

- The authorisation of all permanent and temporary works required (the equivalent of planning permission);
- Power to use and operate the generating station comprised within the project;
- Powers for compulsory acquisition of land (including subsoil) and of rights over land such as easements and restrictive covenants, and rights to use land temporarily;
- Consent to carry out street works, form means of access, and temporarily restrict the use of streets; powers to alter the layout of streets, regulate traffic, and temporarily close and divert public rights of way;
- Consent to carry out works to trees and hedgerows;
- Consent to carry out works within ordinary watercourses; and
- Consent and powers to remove any apparatus belonging to statutory undertakers and/or carry out utility diversions (subject to protective provisions).

1.3.2 Pursuant to section 120(3) of the Planning Act 2008, the Order also includes the deemed grant of marine licences pursuant to section 66 of the Marine and Coastal Access Act 2009. Three deemed marine licences are included in the draft DCO, one in relation to the generation assets, one in relation to the transmission infrastructure including the offshore substation platforms, and one relating to the transmission infrastructure including the offshore converter



platform. The deemed marine licences will also cover operation and maintenance activities for both the generation and transmission assets. A separate marine licence(s) will be required for decommissioning activities.

1.3.3 In addition, the draft DCO (at article 6) makes provision to disapply the following legislation and byelaws:

- Regulation 6 of the Hedgerows Regulations 1997 is modified so as to read for the purposes of the DCO only as if there were inserted after paragraph (1)(j) the following- "or (k) for carrying out development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.";
- The provisions of the Neighbourhood Planning Act 2017 in so far as they relate to the temporary possession of land under articles [310](#) (temporary use of land for carrying out the authorised development) and [324](#) (temporary use of land for maintaining the authorised development) of the DCO;
- Regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk activity;
- The provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6, or 6A of Schedule 25 to the Water Resources Act 1991 that require consent or approval for carrying out the works;
- Section 23 (prohibition of obstructions etc. in watercourses) of the Land Drainage Act 1991;
- Sections 6 (grass verges etc.) and 30 (unauthorised structures on seashore) of the Essex Country Council Act 1987 which provide restrictions on the use of verges for access and placing equipment on grass verges, and the placing of any obstruction on the seashore;

- Holland Haven Country Park Local Nature reserve byelaws made by Tendring District Council on 5th July 1995 under sections 20, 21(4) and 106 of the National Parks and Access to the Countryside Act 1949 which restrict various activities and works in the Local Nature Reserve, including using vehicles outside the highway, disturbing living creatures and engaging in any activity that could cause disturbance; and
- The provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991.

#### **1.4 Other Consenting requirements subject to the limitations of section 150 of the Planning Act 2008**

- 1.4.1 The Applicant is seeking to include the disapplication of the need for ordinary watercourse consent under the Land Drainage Act 1991, for which Essex County Council is the relevant consenting body as the lead local flood authority, within the scope of the draft DCO.
- 1.4.2 The Applicant considers that this consent relates to matters that should be agreed in principle as part of the DCO examination process.
- 1.4.3 Essex County Council is the designated lead local flood authority (LLFA) under the Flood and Water Management Act 2010 and has responsibility for determining flood defence consents for ordinary watercourses under section 23 of the Land Drainage Act 1991. North Falls has engaged with the LLFA regarding disapplication of ordinary watercourse consent and the use of protective provisions. The Applicant has included a set of protective provisions at Schedule [14, Part 4] of the draft DCO for the benefit of Drainage Authorities.

## 2. OTHER CONSENTING REQUIREMENTS

### 2.1 Offshore Consents

- 2.1.1 Information on the other consents, licences or permits that are, or may be, required in connection with the construction, operation, maintenance or decommissioning of the offshore part of the Project is set out in **Table 2.1**.

**Table 2.1: Offshore Consents**

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
Electricity generation licence	Electricity Act 1989	Office of Gas and Electricity Markets (Ofgem)	Already obtained	Ofgem granted an electricity generation licence under section 6(1)(a) of the Electricity Act 1989 to the Applicant on 3 August 2021.
Appropriate Assessment and Habitats Regulations Assessment (HRA)	The Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017	Secretary of State for Department of Energy Security and Net Zero (DESNZ)	Part of the DCO process – in parallel with the DCO and deemed marine licences.	The Secretary of State is the competent authority for the purposes of the 2017 Regulations. The Applicant has submitted a Report to Inform Appropriate Assessment (RIAA) with the Application (Document Reference: 7.1.1 – 7.1.6).
Decommissioning programme	Energy Act 2004	Secretary of State for Department of Energy Security and Net Zero (DESNZ)	Post-DCO	The Secretary of State will require a decommissioning programme to be submitted prior to commencement of authorised development pursuant to section 105(6) of the Energy Act 2004. A separate marine licence(s) will be

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
				required for decommissioning activities.
Crown consent	Section 135(2) of the Planning Act 2008	Crown Estate Commissioners	Part of the DCO process – in parallel with the DCO and deemed marine licences	Consent for the application of the DCO provisions (other than provisions authorising the compulsory acquisition of third party interests in Crown land) to Crown land.
Marine licence for site investigation and unexploded ordnance (UXO) clearance works	Marine and Coastal Access Act 2009	Marine Management Organisation (MMO)	Post DCO (if required)	Site investigation and clearance of UXO (if required) will be subject to a separate marine licence application to the MMO.
Coast Station Radio Licence	Wireless Telegraphy Act 2006	Ofcom	Post DCO	<p>The principal legislation governing the use of radio in the UK is the Wireless Telegraphy Act 2006.</p> <p>This Act requires the possession of a licence to install or use wireless telegraphy (radio)</p>

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
				<p>apparatus unless the equipment has been exempted from this requirement. Coastal Station Radio licences are designed to allow coast (base) stations on shore to communicate with vessels. The Applicant does not anticipate any issues with obtaining such a licence, as it is a matter of requesting a channel from the Radiocommunications Agency and paying the appropriate fee.</p>
<p>European Protected Species (EPS) Licence</p>	<p>Conservation of Offshore Marine Habitats and Species Regulations 2017</p>	<p>MMO</p>	<p>Post DCO</p>	<p>It is an offence to deliberately kill, capture or disturb European protected species, and to damage or destroy their breeding sites or resting places. EPS licenses can be obtained to allow persons to carry out activities that would otherwise be prohibited, without committing an offence.</p>

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
Safety Zones	Energy Act 2004	Secretary of State for Department for Energy Security and Net Zero (DESNZ)	Post DCO	<p>Where a safety zone relates to an NSIP, the appropriate decision maker for safety zones is the Secretary of State, who has delegated that function to DESNZ.</p> <p>As set out in the Safety Zone Statement (Document Reference: 7.23) ) the safety zone application will therefore be made to DESNZ, which may, if it is considered appropriate to do so, issue a notice declaring that such areas as are specified or described in the notice are to be safety zones.</p> <p>Consultation with DESNZ will commence once the safety zone application has been submitted and DESNZ will then provide comments on the proposed safety zones at this time and following the notice period. The application will be subject to</p>

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
				consultation with the MCA along with any relevant shipping interests.
F10 – Notification of Construction Project	Construction (Design and Management) Regulations 2015	Health and Safety Executive (HSE)	Post DCO	The Construction (Design and Management) Regulations 2015 require particulars of the Project to be notified to the HSE in advance of construction. This notification will be undertaken by the appointed contractor.



## 2.2 Onshore Consents

- 2.2.1 Information on the other consents, licences or permits that are, or may be, required in connection with the construction, operation, maintenance and decommission of the onshore part of the Project is set out in **Table 2.2**.

**Table 2.2: Onshore Consents**

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
Building Regulations approval (if necessary)	The Building Regulations 2010	Local authorities	Post DCO	<p>The onshore substation is anticipated to be unmanned, and therefore covered by the exemption set out in Building Regulations 2010; Regulation 9; Schedule 2; Exempt Buildings and Work – Class II; Buildings not frequented by people.</p> <p>However if Building Regulations approval is required for any operational buildings then this would be sought by the appointed contractor</p>
Crown consent	Section 135(1) & (2) of the Planning Act 2008	Crown Estate Commissioners	Part of the DCO process – in parallel with the DCO and deemed marine licence.	Consent to acquire interests other than the Crown in Crown land and consent for the application of the DCO provisions.
European Protected Species (EPS) Licence	The Conservation of Habitats and Species Regulations 2017	Natural England	Post DCO	It is an offence to deliberately kill, capture or disturb European protected species, and to damage or destroy their breeding sites or resting

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
				places. EPS Licenses can be obtained to allow persons to carry out activities that would otherwise be prohibited, without committing an offence.
Licence for work affecting badgers	Protection of Badgers Act 1992	Natural England	Post DCO	<p>Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to kill, injure or take badgers or to interfere with a badger sett.</p> <p>Preconstruction walkover surveys will allow any newly excavated setts to be identified.</p> <p>Licences allowing works to proceed close to active badger setts, as works that would cause disturbance as defined by Natural England, will be acquired where necessary.</p>
Notice of Street Works	Traffic Management Act 2004	Highway authority	Post DCO	Permit schemes under the Traffic Management Act 2004 provide that the Applicant would need to book time on the highway through a permit.

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
				<p>The Essex Permit Scheme applies in relation to any relevant street in the county of Essex. The Applicant would have to comply with that scheme.</p>
<p>Permit for transport of abnormal loads</p>	<p>Road Vehicles (Authorisation of Special Types) (General) Order 2003/Road Traffic Act 1988/Road Vehicles (Construction and Use) Regulations 1989</p>	<p>National Highways, Highway authority</p>	<p>Post DCO</p>	<p>The Construction and Use Regulations are the primary legislation for the construction and maximum dimensions for all vehicles.</p> <p>The Road Vehicles (Authorisation of Special Type) General Order permits the use of vehicles and/or loads, which cannot comply with the maximum permitted weight, either gross or axle weight, for the class of vehicle being used for transporting a load.</p> <p>It also contains the regulations for loads, which exceed the maximum width permitted by Construction and Use Regulations, agricultural vehicles and many other miscellaneous vehicles.</p>

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
				<p>The legislation is in the most part permissive in that (with some exceptions) providing the haulier complies with the requirements of notification procedures, an abnormal load can be moved without the need for any permit or authorisation.</p>
<p>Temporary Traffic Regulation Orders (if construction phase requires closure of any public highway)</p>	<p>Road Traffic Regulations Act 1984</p>	<p>Highway authority</p>	<p>Post DCO</p>	<p>The Applicant has the power under the DCO (article 14) to temporarily close, alter or diver any street within the Order limits.</p> <p>However Temporary Traffic Regulation Orders (TTRO) can be sought where construction requires closure of any public highway, which includes those outside the Order limits. Therefore, if construction requires closure of any public highway not included in the proposed DCO, additional TTROs will be discussed with the highway authority after the DCO is granted and before works commence</p>

NATURE OF CONSENT	LEGISLATION	CONSENTING AUTHORITY	ANTICIPATED APPLICATION DATE	DETAILS OF CONSENT/LICENCE
Environmental permit Water discharge/ groundwater activity Waste operations/ registration of exempt waste operations	Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	Post DCO	The Environmental Permitting (England and Wales) Regulations 2016 require most waste management activities and discharges to surface or groundwater to have a permit. However, there are some exceptions to this, being activities that do not need a permit but do need to be registered.
Section 16 Wildlife and Countryside Act Licence	Wildlife and Countryside Act 1981	Secretary of State, MMO or Natural England	Post DCO	A licence may be required if construction activities are to interfere with designated species.
Water abstraction licence (if required)	Water Resources Act 1991	Environment Agency	Post DCO	A water abstraction licence may be required from the Environment Agency if required by the contractor for the abstraction of water during construction of the construction works.



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## **HARNESSING THE POWER OF NORTH SEA WIND**

*North Falls Offshore Wind Farm Ltd*

*A joint venture company owned equally by SSE Renewables and RWE.*

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