

# Meeting note

<b>Project name</b>	Morecambe Offshore Windfarm Generation Assets
<b>File reference</b>	EN010121
<b>Status</b>	Final
<b>Author</b>	The Planning Inspectorate
<b>Date</b>	24 January 2024
<b>Meeting with</b>	Morecambe Offshore Windfarm Ltd
<b>Venue</b>	Microsoft Teams
<b>Meeting objectives</b>	Project Update Meeting
<b>Circulation</b>	All attendees

## Summary of key points discussed, and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

## General Project Schedule Update

The Applicant was working towards a Q2 2024 Development Consent Order (DCO) application submission. The Inspectorate requested the Applicant to provide a specific submission date as soon as it is able to, in order to ensure resources are deployed effectively.

Geotechnical survey works were conducted within the windfarm site between July and October 2023. The Applicant was planning to undertake a further phase of surveys in Q1/Q2 of 2024, dates of which have yet to be confirmed. Expert Topic Group (ETG) meetings were taking place during January 2024 followed by a steering group meeting planned for 1 February 2024. These ETGs and steering group meeting will be the final meetings prior to application submission.

Analysis work and modelling to inform the Environmental Statement (ES) and Report to Inform Appropriate Assessment (RIAA) was ongoing. The Applicant continued to draft ES chapters, and the RIAA to support the DCO application. It proposed to include a signposting document similar to that supplied for the Net Zero Teesside project, to consolidate the applicable information from the Project ES assessment and the Transmission Assets PEIR.

The Applicant was also asked about consultation responses to this project as well as the connected Morgan and Morecambe Offshore Wind Farms: Transmission Assets project. The majority of responses to the Transmission Assets project shared

concerns about the onshore impacts arising and therefore not directly relevant, as the Proposed Development comprises offshore components only.

## **Draft Documents Feedback**

Following the review of draft documents, the Applicant was advised to prioritise clarity between documents throughout the DCO application in terms of consistent naming of works to help assist with the Examination process. The Inspectorate enquired about the inclusion of Compulsory Acquisition (CA) and Book of Reference (BoR) documents within the submission. It advised of similar advice being issued for the Little Crow Solar Farm and East Northants Resource Management Facility Western Extension projects. The Applicant explained that the project's boundaries are located entirely offshore, outside the 12 Nautical Mile land boundary, therefore requiring neither the CA or BoR information, albeit acknowledging the presence of Crown Land. The Inspectorate advised that this explanation should be clearly displayed within the application and suggested a standalone document to highlight considerations and changes made to the application following draft document feedback.

## **Survey Update**

Additional vessel traffic surveys were undertaken in the summer and winter of 2023 to supplement previous navigational risk assessments.

As part of the geotechnical survey works conducted in 2023, multiple borehole and sampling locations were completed. The next phase of geotechnical surveys were planned to commence in Q1/ Q2 in 2024 to support current findings and project design development.

## **Evidence Plan Process (EPP) overview and update**

The Applicant's next phase of ETG meetings taking place in January 2024 would cover key areas such as the ES and RIAA findings, cumulative/ in-combination assessments, mitigation and monitoring. Discussions surrounding compensation were ongoing alongside the preparation of a 'without-prejudice' derogation case for the Lesser Black-Backed Gull (LBBG) feature of the Morecambe Bay and Duddon Estuary Special Protection Area (SPA) and the Ribble and Alt Estuaries SPA.

## **Next Meeting and AOB**

The Applicant and Inspectorate discussed the recently announced National Policy Statements (NPSs) applicable to the application. The Applicant was advised of the six week judicial review period and confirmed it would be moving forward with consideration of the most recent NPSs from 17 January 2024.

The Applicant was progressing Statements of Common Ground (SOCG) and Principal Areas of Disagreement (PADs) with Statutory Consultees. Natural England have taken the decision not to engage on the SOCG but focus on the PADs. The Inspectorate advised to consider the availability of information in other documents, however it could not anticipate the Examining Authority's request for information in specific formats.

The Applicant queried the use of design approach documents. These have been trialled by the Outer Dowsing Offshore Wind (Generating Station) project which was due to be submitted in Q1 2024.

The Inspectorate highlighted the issue of venue choice for Examination and availability which may be limited given the location of the site. It also advised the Applicant to begin consideration of Audio Visual companies for events.



**Morecambe Offshore Windfarm Generation Assets – EN010121**

**Section 51 advice regarding draft application documents submitted by Morecambe Offshore Windfarm Ltd**

On 23 November 2023 Morecambe Offshore Windfarm Ltd submitted the following draft documents for review by the Planning Inspectorate as part of its Pre-application Service<sup>1</sup>:

1. Draft Environmental Statement (ES) Project Description Chapter
2. Draft Technical ES Chapter
3. Draft Development Consent Order (dDCO)
4. Draft Explanatory Memorandum (EM)

The advice recorded in the table below relates solely to matters raised upon the Planning Inspectorate's review of the draft application documents listed above. The advice is limited by the maturity of the documentation provided by the Applicant and the time available for consideration and is raised without prejudice to the acceptance decision or the final decision about whether development consent should be granted.

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<sup>1</sup> See <https://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-applicants/>



<b>Draft Environmental Statement (ES) Project Description Chapter</b>		
<b>Ref No.</b>	<b>Paragraph/ Section</b>	<b>Comment/Question</b>
<b>1.</b>	<b>General</b>	The Applicant should consider whether the information provided in the dDCO in terms of describing works is sufficient. At present the ES Project Description includes parameters such as limits of capacity, lengths of cabling and scour protection, Part 1 of the dDCO is limited on information requiring the ES Project Description to be read alongside. Whilst it is acknowledged that the Proposed Development parameters are limited by that assessed in the Environmental Impact Assessment, the dDCO should provide a clear project description.
<b>2.</b>	<b>General</b>	The Applicant should consider whether the ancillary works listed in the dDCO are clearly described in the ES Project Description. At present it is not clear where works such as temporary moorings are described in the project description.
<b>3.</b>	<b>General</b>	The ES Project Description would be assisted by a table showing the types of foundations likely to be required and the characteristics of these in one table to enable a clear and succinct comparison to assist the reader.

<b>Draft Technical ES Chapter</b>		
<b>Ref No.</b>	<b>Paragraph/ Section</b>	<b>Comment/Question</b>
<b>4.</b>	<b>General</b>	The technical chapter clearly sets out and justifies a realistic worst- case scenario for that assessment, the Project Description sets out that this methodology will be applied throughout the ES. The Inspectorate advises that the ES is required to ensure that all worst-case scenarios are assessed. All unpopulated provisions of the dDCO will need to be populated prior to submission of the application (e.g. Schedule 3 - Protective Provisions & Schedule 6 – Documents to be certified).



Draft Technical ES Chapter		
Ref No.	Paragraph/ Section	Comment/Question
5.	General	In relation to the Cumulative Impact Assessment (CIA), it would assist understanding if a figure could be provided to show the relationship between the Proposed Development, Mona, Morgan and the Transmission Assets projects along with another figure showing the relationship of the Proposed Development with projects scoped into the CIA and a further figure depicting all of these projects to show a full picture. This have not been provided at draft document review stage but may be in production.
6.	General	The Inspectorate is unable at draft document review stage to confirm if an approach is suitable in terms of methodology. The CIA recognises the potential for effects between the Proposed Development and its transmission assets (being consented through a separate Development Consent Order (DCO)) and then the potential cumulative effects between these and other plans and projects. Tables assist the understanding of the assessments. This approach appears to provide a clear methodological approach to the assessment, noting the particular relationships between projects.

Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
7.	General	Unpopulated provisions in the dDCO (e.g. some Schedules are currently blank) and in the draft EM will need to be populated prior to submission of the application.  Page numbering should be checked for completeness.  All unpopulated provisions of the dDCO will need to be populated prior to submission of the application (e.g. Schedule 3 - Protective Provisions & Schedule 6 – Documents to be certified).



Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
		At the top right corner of each Schedule to the dDCO, the relevant correct article number should appear. It does not in some cases in the current draft.
8.	Drafting	<p>The DCO should be:</p> <ul style="list-style-type: none"> <li>• in the Statutory Instrument (SI) template.</li> <li>• follow guidance and best practice for SI drafting (for example avoiding “shall/should”) in accordance with the latest version of guidance from the Office of the Parliamentary Counsel.</li> <li>• follow best practice drafting guidance from the Planning Inspectorate and the Departments in <a href="#">Advice Note 15</a> – <i>Drafting development consent orders</i> (and see specific references to Advice Note 15 below).</li> <li>• fully audited to ensure that that there are no inconsistencies within the DCO and its constituent parts such as definitions or expressions in the articles, requirements, protective provisions, other schedules and any book of reference and/or any deemed marine licence (including scope of works permitted – deemed marine licence should not permit works outside the scope of those permitted by the DCO itself), that all legislative references in the DCO are to extant provisions and all schedules refer to the correct articles. Also, definitions should be precise, accurate and relatively easily understandable. (e.g. if a definition is drafted in a way that obliges the reader to cross refer to wording in multiple other documents in order to understand the definition, then it is not easily understandable). Where any registered company is referred to in the DCO (or any deemed marine licence) it should be defined by using its full and precise company name and company registration number (as those appear on the register held by Companies House).</li> <li>• Kept under constant review by the applicant throughout any examination so that definitions are kept up to date by them as matters evolve – e.g. : any definition of ‘environmental statement’ in the context of how/the purposes for which it is referred to in the DCO; or how plans and drawings are defined (and where possible include drawing/revision numbers).</li> </ul>



Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
		<p>In addition, where the Explanatory Note at the end of a dDCO states that documents will be available for inspection at a third party location the Applicant should confirm in writing that the stated third party has agreed to that.</p> <p>In the preamble on page 2:</p> <p>(a) reference is made to s104(2) PA 2008. It may be more appropriate for it to refer simply to s104 (i.e. as a whole, rather than only subsection (2));</p> <p>(b) reference is made to s132, but there does not then seem to be a statement complying with s132(2)(b). Such a statement, where applicable, would usually appear in the preamble.</p>
9.	<b>Precedents</b>	<p>If the proposed application is ultimately accepted for examination, the Examining Authority (ExA) may wish to examine whether the deeming provision in sub-paragraph 9(3) of Schedule 2 is appropriate.</p> <p>Notwithstanding that drafting precedent has been set by previous DCOs or similar orders, full justification should be provided for each power/provision taking account of the facts of this particular DCO application.</p> <p>Where drafting precedents in previous made DCOs have been relied on, these should be checked to identify whether they have been subsequently refined or developed in the most recent DCOs so that the DCO provisions reflect the Secretary of State’s current policy preferences. If any general provisions (other than works descriptions and other drafting bespoke to the facts of this particular application and DCO) actually differ in any way from corresponding provisions in the Secretary of State’s most recent made DCOs, it would be preferable for an explanation to be provided as to how and why they differ (including but not limited to changes to statutory provisions made by or related to the Housing and Planning Act 2016).</p>
10.	<b>Novel drafting</b>	<p>See row 14 below in relation to the current versions of the dDCO and draft EM making no reference to “statutory undertakers”.</p> <p>The purpose of and necessity for any provision which uses novel drafting and which does not have precedent in a made DCO or similar statutory order should be explained in the EM. The Planning Act 2008 power on which any such provision is based should also be identified in the EM. The drafting should:</p>





Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
		<ul style="list-style-type: none"> <li>• be unambiguous.</li> <li>• be precise.</li> <li>• achieve what the Applicant wants it to achieve.</li> <li>• be consistent with any definitions or expressions in other provisions of the DCO.</li> <li>• follow guidance and best practice for SI drafting referred to above.</li> </ul>
11.	2(1) Requirement 7 Schedule 1 Works	<p>The extent of any flexibility provided by the DCO should be fully explained, such as the scope of maintenance works and ancillary works, limits of deviation and any proposed ability (through tailpieces) of discharging authorities to authorise subsequent amendments. The current version of the dDCO does not appear to refer to any “limits of deviation”.</p> <p>The preferred approach to limiting this flexibility is to limit the works (or amendments) to those that would not give rise to any <u>materially new or materially different</u> environmental effects to those identified in the environmental statement. Also, further as to tailpieces, see section 17 of <a href="#">Advice Note 15</a>.</p> <p>The drafting which gives rise to an element of flexibility (or alternatives) should provide clearly for unforeseen circumstances and define the scope of what is being authorised with sufficient precision. For example, the Secretary of State had to amend article 6 (Benefit of Order) of the National Grid (Richborough Connection Project) Development Consent Order 2017 at decision stage to remove ambiguity (as later corrected by the National Grid (Richborough Connection Project) (Correction) Order 2018).</p> <p>In relation to the flexibility to carry out advance works, any “carve out” from the definition of “commencement” should be fully justified and it should be demonstrated that such works are de minimis and do not have environmental impacts which would need to be controlled by requirement. See section 21 of <a href="#">Advice Note 15</a>. Pre-commencement requirements should also be assessed to ensure that the “carve out” from the definition of “commencement” does not allow works which defeat the purpose of the requirement.</p> <p>It is noted that Schedule 1 Part 1 includes reference to “further associated development” and definition of ‘authorised development’ in Article 2(1). Also Schedule 1 Part 2 lists “ancillary works”, which are also defined in</p>



Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
		Article 2(1). It is also noted in Article 2(1) the “authorised project” is defined to comprise both the authorised development and the ancillary works.
12.	<b>Compulsory acquisition, extinguishment of rights and Temporary Possession</b>	<p>It is noted that Temporary Possession is not itself Compulsory Acquisition.</p> <p>There appear to be no provisions at all in relation to any such matters in this version of the dDCO. It may be advisable for the Applicant to clearly explain why they are not required.</p> <p>It is also important to note that a lack of any request for powers of Compulsory Acquisition does not of itself negate the need to include a book of reference (BoR) with the application. A BoR will be needed if <b>any</b> of the provisions of Regulation 7 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 apply (including, but not limited to, Part 4 of a BoR, specifying the owner of any Crown interest in land proposed to be used, which could include land covered by water).</p> <p>It is also the case that the current version of the dDCO contains no requests for powers of Compulsory Acquisition or Temporary Possession. If no such powers are to be requested in the application, it would be advisable for the Applicant to clearly explain:</p> <p>(a) what land ownership and/or other rights over land (including land covered by water) they already have which negate the need for such requests; or</p> <p>(b) if they do not already have sufficient land ownership and/or other rights over land, to confirm by what other method/route they intend to obtain sufficient land ownership and/or other rights over land (including land covered by water) and the current status of any such process.</p> <p>In all respects (including in relation to the book of reference), the Applicant should follow <a href="#">Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land</a> published by the Department for Levelling Up, Housing and Communities (DCLG) (now the Ministry of Housing, Communities and Local Government (MHCLG)) in September 2013.</p>



Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
13.	<b>Special category land</b>	<p>The preamble refers to s132 PA2008, but it is noted that the current dDCO or draft EM does not suggest that special category land is affected.</p> <p>If it is argued that special parliamentary procedure should not apply (before authorising Compulsory Acquisition of land or rights in land being special category land) full details should be provided to support the application of the relevant subsections in Section 130, 131 or 132, for example (in relation to common, open space or fuel or field garden allotment):</p> <ul style="list-style-type: none"> <li>• where it is argued that land will be no less advantageous when burdened with the order right, identifying specifically the persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and clarifying the extent of public use of the land.</li> <li>• where it is argued that any suitable open space land to be given in exchange is available only at prohibitive cost, identifying specifically those costs.</li> </ul>
14.	<b>Statutory Undertakers and apparatus</b>	<p>The applicability of Statutory Undertakers and apparatus cannot be known prior to a formal application being accepted for Examination.</p> <p>Unusually, however, the current versions of the dDCO and draft EM appear to make no references at all to “statutory undertakers” of any kind or to their apparatus. The Applicant may wish to consider whether provisions relating to statutory undertakers need to be added and if they conclude that there is no such need to clearly explain why.</p> <p>Please note though, in relation to other purposes (namely transferring or leasing the benefit of the Order), that “the holder of a licence under section 6” of the Electricity Act 1989 referred to in article 7(5) could be a Statutory Undertaker.</p> <p>Where a representation is made by a Statutory Undertaker (or some other person) that engages section 127(1) of the Planning Act 2008 and has not been withdrawn, the Secretary of State will be unable to authorise compulsory acquisition powers relating to that Statutory Undertaker land unless satisfied of specified matters set out in section 127. If the representation is not withdrawn by the end of the examination, the ExA will need</p>



Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
		<p>to reach a conclusion as to whether or not to recommend that the relevant statutory test has been met in accordance with s.127.</p> <p>The Secretary of State will be unable to authorise removal or repositioning of apparatus (or extinguishment of a right for it) unless satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates in accordance with section 138 of the Planning Act 2008. Justification will be needed to show that extinguishment or removal is necessary.</p>
15.	<b>Disapplication or amendment of legislation/ statutory provisions</b>	<p>There does not appear to be such a provision in this version of the dDCO, other than the one mentioned in Article 7(10) relating to a transfer or grant of the benefit of the provisions of the Deemed Marine Licence to another person (and the partial disapplication mentioned in paragraph 7 of Schedule 5 – Deemed Marine Licence – so that the subsections mentioned there do not apply to a transfer of benefit made under Article 7 of the draft DCO).</p> <p>The guidance in section 25 of <a href="#">Advice Note 15</a> should be followed and, if not already provided, additional information sought such as:</p> <ul style="list-style-type: none"> <li>• the purpose of the legislation/statutory provision.</li> <li>• the persons/body having the power being disapplied.</li> <li>• an explanation as to the effect of disapplication and whether any protective provisions or requirements are required to prevent any adverse impact arising as a result of disapplying the legislative controls.</li> <li>• (by reference to section 120 of and Schedule 5 to the Planning Act 2008) how each disapplied provision constitutes a matter for which provision may be made in the DCO.</li> </ul> <p>Where the consent falls within a schedule to the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 evidence will be required that the regulator has consented to removing the need for the consent in accordance with s.150 PA2008.</p>



Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
16.	Article 10	<p>The Applicant may wish to consider whether it is the most recent form of such an article being preferred by the relevant Secretary of State. See, for example, the East Anglia ONE North Offshore Wind Farm Order 2022 (although despite the word “take” appearing in that previous Order it may be superfluous).</p> <p>Consent under s.135 (1) and (2) should also be obtained from the Crown Authority.</p>
17.	Article 14 (& Part 2 of Schedule 2)	<p><a href="#">Advice Note 15</a> provides standard drafting for articles dealing with discharge of requirements. If this guidance has not been followed justification should be provided as to why this is the case.</p> <p>In the South Humber Energy Bank Centre (South Humber) DCO the Secretary of State for Business, Energy and Industrial Strategy (BEIS) removed an article which sought to apply the s.78 and s.79 Town and Country Planning Act (TCPA) 1990 appeal provisions to the discharge of requirements and replaced it with a specific appeal procedure in the article itself. The Secretary of State for BEIS explained in its decision letter that the specific appeal procedure was the “<i>preferred approach for appeals</i>”.</p> <p><a href="#">Advice Note 15</a> suggests that the specific appeal procedure should be included in a schedule to the DCO rather than in the article itself. In the case of South Humber, although the Secretary of State for BEIS did include the specific procedure in the article itself, the decision letter refers to the specific appeal procedure being the preferred approach rather than the inclusion of it in the article. It is therefore considered acceptable for the specific appeal procedure to be set out in a schedule to the DCO as set out in the Advice Note.</p> <p>It is also worth noting that the South Humber decision is from Secretary of State for BEIS and does not necessarily reflect the views of any other Secretary of State.</p> <p>Also, as mentioned above, if the proposed application is ultimately accepted for examination, the ExA may wish to examine whether the deeming provision in sub-paragraph 9(3) of Schedule 2 is appropriate.</p>
18.	Article 7	<p>There appear to be some typing errors in 7(2)(b) = “included” versus “including” and “licences” versus “licence”.</p> <p>If any part of this article is drafted so as to allow any transfer of benefit by the applicant (undertaker) to any other named person or category of person without the need for the Secretary of State’s consent, then the</p>



Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
		Applicant should provide full justification as to why a transfer to such person is appropriate. Where the purpose of the provision is to enable such person(s) to undertake specific works authorised by the DCO the transfer of benefit should be restricted to those works. If the provision seeks to permit transfer of Compulsory Acquisition powers the applicant should provide evidence to satisfy the Secretary of State that such person has sufficient funds to meet the compensation costs of the acquisition.
19.	Article 15 (& Schedule 4)	<p>It is unlikely that a consenting Secretary of State will allow arbitration provision wording to apply arbitration to decisions he/she, or, if relevant the Marine Management Organisation ('MMO') may have to make on future consents or approvals within their remit.</p> <p>By way of example:</p> <p>The Secretary of State for BEIS included the following drafting in the arbitration article in the Norfolk Vanguard Offshore Windfarm DCO and the draft Hornsea Three Offshore Windfarm DCO (published with a minded to approve decision) to remove any doubt about the application of arbitration to decisions of the Secretary of State and the MMO under the DCO:</p> <p><i>“Any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.”</i></p> <p>The Secretary of State for BEIS also agreed with the ExA recommendation to remove reference to arbitration in the transfer of the benefit article and the deemed marine licences (DMLs) in the Hornsea and Norfolk Vanguard DCOs. The Hornsea ExA recommendation report at 20.5.9 details the reasons for removal from the transfer of benefit article, and at 20.5.17 – 20.5.24 regarding removal from the DMLs.</p> <p>It should also be noted that the Secretary of State removed the following from the arbitration clause in both DCOs:</p> <p><i>“Should the Secretary of State fail to make an appointment under paragraph within 14 days 42 of a referral, the referring party may refer to the Centre for Effective Dispute Resolution for appointment of an arbitrator.”</i></p>



Draft Development Consent Order (dDCO)		
Ref No.	Article/ Requirement/ Schedule	Comment/Question
20.	Article 5 (& Schedule 5)	<p>Deemed Marine Licences (DMLs)</p> <p>It is unlikely that a consenting Secretary of State will allow bespoke appeal procedures to apply to the MMO decisions on discharge of conditions in a DML.</p> <p>By way of example:</p> <p>The Secretary of State for BEIS removed drafting in the Norfolk Vanguard Offshore Windfarm DCO and the Hornsea Three Offshore Wind Farm DMLs creating a bespoke appeal procedure against MMO decisions on discharge of conditions. The <a href="#">ExA Recommendation Report for Hornsea Three</a> provides reasons at 20.5.25 – 20.5.29.</p> <p>The following are some general points applicable to DMLs:</p> <p>Do the draft licences repeat as many of the definitions from the dDCO as are necessary? Such licences are meant to be a stand-alone documents after DCO been consented, (if it is).</p> <p>DMLs should not authorise works or design parameters not authorised by the DCO. The ExA should ensure it does not if the proposed application is accepted for examination in due course.</p> <p>Any DML definition of “maintain” should tie in with that definition in the dDCO (so far as that relates to the works permitted in the DML). The ExA is to consider and, if necessary, examine this point, if the proposed application is accepted for examination in due course.</p>



Draft Explanatory Memorandum		
Ref No.	Paragraph/Section	Comment/Question
21.	General	<p>Unpopulated sections will need to be populated prior to submission of the application (for example Schedule 3, Article 11)</p> <p>Page numbering should be checked for accuracy.</p> <p>References to Sections of the PA2008 (the “<b>2008 Act</b>”) should be checked for accuracy and fullness (for example paragraphs 2.8, 5.6).</p> <p>References to Advice Notes should be checked for accuracy (for example 3.2 references a 2012 version of <a href="#">2019 Advice Note 13</a>).</p>
22.	2.5	The Applicant may wish to refer to the provisions of the PA2008 that allow a DML to be included in a DCO.
23.	2.8	s15(4)(b) relates only to offshore generating stations and the Applicant may wish to make that clear here. The wording of the first line of paragraph 2.8 would benefit from refinement.
24.	2.17 & 2.18	<p>Statements made in this paragraph are very definite regarding other order being made and authorising other development or imposing restrictions. The Applicant may wish to reflect on this and consider amending the wording of such statements.</p> <p>The definition of "Transmission Assets Order" should be provided.</p>
25.	5.1	It is unclear as to whether s115(1) covers the ancillary works referred to in article 3(1)(b), so the final sentence of 5.1 could be misleading in that respect.
26.	6.1	As currently drafted the wording of the final sentence of Article 8 limits restoration to the site of Work 1 only. If the application is accepted for examination, the ExA should examine if this needs to be extended to the other works as well.





Draft Explanatory Memorandum		
Ref No.	Paragraph/Section	Comment/Question
27.	<b>Wording, terminology and consistency</b>	<p>2.10 – Does “by virtue of Schedule 1, part 1” mean is that the associated development is provided for in Part 1 of Schedule 1 to the Order? Clarification should be provided.</p> <p>2.14 - Schedules are not Schedules "of" an Order or an Act, but are Schedules "to" an Order or an Act. This will be the case whenever a Schedule is referred to.</p> <p>2.15 – "include" should be amended to "comprise" to mirror the relevant wording in the draft DCO and as the two words mean different things.</p> <p>5.16 - Consider whether the word "signed" in article 7(9) as currently drafted makes sense if it is referring to a "date". The Applicant may wish to revisit the wording of 7(9).</p> <p>6.3 – Can “harbour model clauses” be clarified?</p> <p>6.3 – Is this referencing Transport and Works Act Orders? If so, it would be advisable to refer to the relevant Act here too.</p> <p>6.7 – would "among other things" would be more appropriate here than "in particular"?</p> <p>7.6 – should it mean “dispute between parties”?</p> <p>7.7 - Wording should be reviewed to clarify any agreement with the MMO.</p> <p>7.16 - The use of the word "Condition" rather than "Paragraph" from 7.16 should be reviewed, further explanation of the discrepancy may be required.</p> <p>7.25.6 – Should “archaeological” be inserted?</p>



## General

1. Where references are provided to other draft application documents it would be beneficial to provide the full title thereof inclusive of document reference number. Should further draft documents be provided for review, the Applicant may wish to consider providing a full list of known application documents (for purpose of signposting) as well as their respective reference number.
2. [\[MHCLG\] Application form guidance](#), paragraph 3, states: “*The application must be of a standard which the Secretary of State considers satisfactory: Section 37(3) of the Planning Act requires the application to specify the development to which it relates, be made in the prescribed form, be accompanied by the consultation report, and be accompanied by documents and information of a prescribed description. The Applications Regulations set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6.*”