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All Interested Parties, Statutory  
Parties and Other Parties invited to the  
Preliminary Meeting

Your Ref:

Our Ref: EN010125

Date: 22 October 2024

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Dear Sir / Madam,

**Planning Act 2008 (as amended) Section 89 and The Infrastructure Planning  
(Examination Procedure) Rules 2010 (as amended) – Rule 9 and Rule 17**

**Application by RWE Renewables UK Dogger Bank South (West) Ltd and RWE  
Renewables UK Dogger Bank South (East) Ltd for an Order granting Development  
Consent for the Dogger Bank South Offshore Wind Farms**

I write to inform you that the Examining Authority (ExA) has made the Procedural Decision to adjourn the Preliminary Meeting (PM) that opened on 22 October 2024 to delay the start of the Examination.

This decision has been made following consideration of written submissions made at the Pre-Examination deadline, in response to the ExA's two Rule 17 letters [PD-003] and [PD-004] and the oral representations made at the PM (Day 1) by the Applicant in response to a number of matters considered under agenda item 6.3.

Under agenda item 6.3, the ExA raised concerns about the maturity of some fundamental elements of the application documentation, and the Applicant's proposed schedule for progressing these.

In relation to matter 1, following discussions and assurances from the Applicants, the ExA was content that the proposed change request that had been notified could be dealt with fairly in the Examination period.

In relation to matter 2, offshore ornithology and the Habitat Regulations Assessment (HRA) compensation proposals, the ExA took careful note of written submissions, including some provided in lieu of attendance at the Preliminary Meeting. These included:

- those from the Applicants in application documents as well as their response to the ExA's request for further information under Rule 17 [AS-006] and their response to Relevant Representations [PDA-013];
- Natural England [RR-039] and [PDA-038];

- the RSPB [RR-049] and [PDA-041]; and
- the National Trust [RR-038].

In particular, the ExA noted Natural England's general concerns in Appendix H of its Relevant Representation [RR-039] that the HRA compensation information in the application documents generally lacked detail, especially in relation to sites, scale, quantum and deliverability, and also its advice that:

*“Natural England consider that overall, the Applicant’s engagement with the EPP [Evidence Plan Process] was insufficient to meaningfully progress or resolve issues prior to application. ETGs [Expert Topic Groups] were few (e.g. only one ornithology impacts ETG post-PEIR) and often took the form of update calls with limited briefing materials provided. This means that the submitted application has been the first opportunity to review the assessments in full for the majority of thematic areas.”*

These submissions were considered by the ExA alongside the discussions held with the Applicants at the PM. Whilst the Applicants provided some useful information and explanation, the ExA was of the view that this did not counter its perceived likely timescale to achieve a fair and accurate understanding of offshore ornithological information and assessment and a sufficiently detailed HRA compensation case should the Examination proceed. This could mean that detailed examination of that information might not commence until after draft Deadline 4, which would be 15 weeks into the Examination, more than half-way through.

The ExA also took into account that the Secretary of State had provided direction in earlier decision letters for offshore wind farms (for example in the Norfolk Boreas decision letter of 10 December 2022) that the development consent process for Nationally Significant Infrastructure Projects is not designed for consultation on complex issues, such as HRA, to take place after the conclusion of the Examination.

While understanding the Applicants' position that HRA derogation and compensation is a rapidly changing practice and process, the ExA does not believe this changes the basic principle that the HRA compensation proposals should be developed to a reasonable level of detail prior to the completion of the Examination to give all parties the necessary level of comfort that a site or sites have been identified, that the proposed measures are reasonable and sufficient, and that they could be adequately secured and delivered.

The ExA also noted the Applicants' contention that their application HRA compensation information was comparable to that accepted for the examination of the Hornsea Four Offshore Wind Farm, but it is also aware that the Secretary of State needed to undertake eight rounds of additional consultation after the close of that Examination due, in part, to the immaturity of the HRA compensation proposals at its close.

In conclusion on this matter, when considered alongside other Examination commitments that would fall on all parties, the ExA has concluded that the likely programme for a major update of the offshore ornithology information and adequate progression of the HRA compensation proposals would, with the current draft timetable, most likely provide insufficient Examination time for all parties to reach a fair, informed and reasoned position. An effective Examination is critical to ensure that the ExA's recommendations to the Secretary of State are fully informed.

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/>



The ExA will endeavour to ensure that the delay to the commencement of the Examination is minimised. To enable the ExA to do this, the ExA requested at the PM that the Applicant and Interested Parties submit a written response to the PM with opinions about when sufficient information on the outstanding matters would be available such that the ExA can re-open the PM, redraft the Examination timetable and commence the Examination.

Any responses need to be made in writing by 29 October 2024. The Applicants' response could usefully include any update to the submission of the relevant information that they provided in their Pre-Examination response and today.

Please contact us if you have any further queries.

Yours faithfully

*Jo Dowling*

**Jo Dowling**  
**Lead Member of the Examining Authority**

This communication does not constitute legal advice.

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