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Our ref: 497726  
Your ref: EN010125



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**VIA WEBSITE ONLY**

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Dear Jo Dowling

**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 Project – Rule 6 Letter**

Thank you for your consultation dated 17 December 2024. The following constitutes Natural England's formal statutory response to the Rule 6 Letter. Natural England is an Interested Party (IP) within the Examination of the Dogger Bank South (East and West) Offshore Wind Farm Project.

Please accept this letter as Natural England's comments in relation to the contents of the Rule 6 letter and an overview of how Natural England proposes to provide our statutory advice to the Examining Authority (ExA) during the examination phase of the project.

**1. Overview of Natural England's engagement with the Examination**

Natural England recognises the significant contribution offshore wind NSIPs make to delivering the Government's green energy ambitions and net zero target, and the importance of our advice in securing positive environmental outcomes. Over the next 12 – 15 months, Natural England will be engaging with nine offshore wind NSIPs that have the potential to result in overlapping examinations and/or pre-determination consultations. This is likely to place significant pressure on our resources and our ability to engage with the complex demands of these projects, particularly during examinations.

Whilst Natural England remains committed to engaging in offshore wind NSIP examinations and meeting our statutory obligations, we need to address the workload pressures presented by these overlapping projects. By undertaking a review of previous contributions to offshore wind NSIP examinations, we have identified how we can best focus our advice to ensure we are able to engage efficiently and effectively, and have the greatest likelihood of achieving issue resolution. The approach we will be taking, which we have discussed with the Planning Inspectorate, will involve:

- Only attending Issue Specific Hearings by exception, and focusing our engagement where there is the greatest prospect of significant environmental risks being resolved.
- Having a narrower focus on our engagement in the Statement of Common Ground (SoCG) process, with a focus primarily on Principal Areas of Disagreement Summary Statements (PADSS) and our Risk & Issues Log.

In addition, we are also concerned that if there is submission of substantial new evidence, particularly if occurring late in the Examination process, this will put further pressure on Natural England's staff. Whilst we seek to meet Examination timeframes wherever possible, our concern is that our ability to do this will

be affected if significant additional information is submitted. In these circumstances, Natural England will use its best endeavours but we will provide advice to the Examining Authority on what we consider is achievable in the circumstances.

## **2. Attendance of the Preliminary Meeting**

Thank you for your invitation to the Preliminary Meeting on the 14<sup>th</sup> January 2025. Natural England will not be attending but hope this letter will suffice in providing our input into this meeting.

## **3. Accompanied Site Inspections (ASI)**

Natural England does not plan to attend any site inspections, noting we are not permitted to provide advice during these visits.

## **4. Compulsory Acquisition Hearings (CAH)**

Natural England does not plan to attend any Compulsory Acquisition Hearings, as these fall outside of our remit.

## **5. Issue Specific Hearings (ISH)**

Natural England will only attend hearings by exception, targeting those ISH that have the greatest likelihood of resolving significant environmental risks. In such instances our attendance will be virtual. We highlight that where Natural England does not attend hearings, this should not be construed as a lack of concern on outstanding issues, as opposed to the likelihood of these being resolved.

As regards the first set of hearings, Natural England advised in our previous Rule 6 response [PDA-038] that we would not be attending ISH 1 or 2. We confirm that this remains the case for the revised timetable. Natural England would be pleased to respond to any questions from the ExA that arise from the hearings at a subsequent deadline.

## **6. Engagement with the Applicant**

During the Examination Natural England will, where possible, engage with the Applicant to ensure issues are progressed. Due to the timing implications of multiple OWF examinations, Natural England will focus our engagement on key issues where the proposals are being amended in response to concerns, or where new or updated assessments present an opportunity for issue resolution.

## **7. Statement of Common Ground (SoCG), Principal Areas of Disagreement Summary Statements (PADSS) and other progress tracking documents**

Natural England will submit our own Risk and Issues log at Deadline 1, and updates to the log will be provided at all subsequent Deadlines. This will include any relevant points regarding ongoing engagement with the Applicant. We hope this will be of assistance to the ExA in understanding Natural England's current outstanding issues and on demonstrating progress on issue resolution. We also hope that the log and our PADSS will assist the Applicant in drafting or updating their SoCGs as required by the ExA, as Natural England will only be able to input directly to the final SoCG.

Natural England notes the provision of a SoCG is requested by ExA at Deadlines 1 and 4 with the final SoCG requested at Deadline 8. Natural England has advised the Applicant that we will not engage in the production of a SoCG at Deadlines 1 and 4, in favour of focusing on issue resolution. Our position on the SoCG not being bilateral will be made clear within our corresponding deadline response cover letter. Natural England has advised the Applicant to develop and maintain a draft SoCG based on our R&I log and PADSS, which NE will agree at the final SoCG deadline. We note and welcome that this approach received agreement from the Applicant and the ExA at the Preliminary Meeting [EV2-004].

## **8. Response to Deadlines**

Throughout the examination it is anticipated that many documents will be submitted and published on the PINS website. Natural England will screen all documents; however, we will only conduct detailed review and provide feedback on documents deemed relevant to our statutory function and the issues we have raised. We will advise the ExA in writing at each Deadline of which documents we have reviewed. If there is a document Natural England has not reviewed that the ExA wishes to have our advice on, then please inform us as soon as possible and we will endeavour to review ahead of the next Deadline or

advise at which Deadline comments can be expected. Any documents not listed within our Deadline responses should be assumed to have not undergone detailed review by Natural England.

### **9. Submission of Additional Information**

Provision of large amounts of new or updated information during the Examination presents major challenges for consultees, particularly when engaged with multiple overlapping cases. Whilst Natural England will always make best endeavours to respond to submissions in a timely fashion, it cannot be guaranteed that all documents submitted will be reviewed by the following Deadline. Regularly updated information from the Applicant regarding the predicted submissions and arrival times can help manage this to some extent and we encourage the ExA to seek this.

Furthermore, Natural England will not provide a response to documents allowed to be submitted into Examination 'between' Deadlines. Should there be documents submitted between Deadlines, we suggest these are issued at the next appropriate Deadline, and we will respond at the following Deadline, or if time does not allow the subsequent Deadline.

### **10. Comments on our Relevant and Written Representations, Applicant's Commitments and Submissions of other parties**

We highlight that Natural England does not intend to comment on any direct responses by the Applicant or other IPs on our representations unless new technical information is included.

Natural England advises that it is necessary for the Applicant to reflect any additional commitments in updated Named Plans, Technical Notes, DCO/dML conditions etc., and where appropriate Environmental Statement (ES) chapters. These documents provide a clear audit trail of commitments through the Examination that is readily available in the post consent phase and will be the focus of our review and written submissions at each Deadline. Should these documents not be updated, Natural England has concerns that any responses and commitments made by the Applicant are unlikely to be translated effectively into the post consent phases.

More generally, Natural England will not respond on the submissions of other parties unless we become aware of a fundamental point of clarity which is required. Our focus will be on providing advice under our remit on nature conservation concerns, rather than advising on the merits of the submissions of others.

### **11. Report on the Implications for European Sites (RIES)**

Natural England notes that only submissions up to Deadline 5 will be considered in the RIES. As a result the RIES will not take account of updated advice on various Habitats Regulations Assessments (HRA) aspects beyond that point. Natural England recommends that the RIES is updated before it is included alongside the ExA report to the Secretary of State (SoS), so that a full account of the Examination's consideration of HRA matters is presented in one place.

Nevertheless, as previously advised to PINS and BEIS, Natural England does not consider consultation on the RIES adequately discharges the statutory requirement to consult Natural England on Appropriate Assessments.

### **12. Draft Examination Timetable**

#### Deadline 1

Natural England is concerned there will be insufficient time to adequately review and provide a detailed response to the Applicant's updated assessments and additional submissions submitted whilst the Preliminary Meeting was adjourned, the latest of which were published on 7<sup>th</sup> December 2024. We highlight that the additional submissions include a full offshore ornithology assessment, updated compensation plans, new technical documents for benthic, fish and coastal processes as well as updated documents for several other thematic areas. Of greatest concern is the fully revised ornithology assessment, which will require the level of review expected for Relevant and Written Representations.

In addition, Natural England notes that Morgan and Morecambe Offshore Wind Farm Transmission Assets Relevant Representations deadline is 27<sup>th</sup> January 2025. This timetable clash presents a further

resource challenge to Natural England.

Natural England will therefore provide our Risk and Issues (R&I) Log at Deadline 1, however we will need to defer detailed comments to later deadlines. Given the short period between Deadlines 1 and 2 (see below), this would currently mean providing our detailed comments on the offshore ornithology assessment for example at Deadline 3. Acknowledging that this would be a significant delay, we suggest that Deadline 2 is moved towards the end of February, or an additional deadline is created between Deadlines 2 and 3 for IPs including Natural England to submit comments on the additional submissions. Alternatively, Natural England could submit our comments on key topics as soon as we are able following Deadline 2, to be accepted at the Examiner's discretion.

#### Deadline 2

Deadline 2 is currently scheduled for 7<sup>th</sup> February 2025, which only allows 7 working days to review material submitted by the Applicant at Deadline 1. We highlight that if a large volume of updated/additional documents are submitted at Deadline 1, it will be necessary to defer responses for some thematic areas to Deadline 3.

#### Deadline 3

Deadline 3 is currently scheduled for 19<sup>th</sup> March 2025 which is one day after Deadline 3 for North Falls Offshore Wind Farm. Dependent on what is submitted for these projects, we may not be able to facilitate responding to the same thematic areas for both projects at this Deadline. We therefore kindly request that the ExA considers moving Deadline 3 to 21<sup>st</sup> March 2025 to assist Interested Parties (IPs) involved in both Examinations.

#### Deadline 4

Deadline 4 is currently scheduled for 25<sup>th</sup> April 2025 which falls just after school Easter holidays (7<sup>th</sup> – 21<sup>st</sup> April 2025) and the Easter bank holiday weekend (18<sup>th</sup> to 21<sup>st</sup> April 2025). Deadline 4 for North Falls Offshore Wind Farm is also currently scheduled for the same week (22<sup>nd</sup> April 2025). We therefore request that this Deadline is deferred to the following week.

#### Deadlines 7, 8 and 9

We note that there is only one week between each of Deadlines 7, 8 and 9 (as well as less than two weeks between 6 and 7). If a large volume of updated/additional documents are submitted at these deadlines, we may have to defer responses for some thematic areas to a later deadline. We also note that Deadline 6 for North Falls is currently scheduled for 24<sup>th</sup> June 2025, two days before Deadline 7 for Dogger Bank South (26<sup>th</sup> June 2025). This will increase the likelihood of comments for Dogger Bank South needing to be deferred to Deadline 8.

We hope these comments assist the ExA at the Preliminary Hearing. For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely,

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