

**PLANNING ACT 2008**

**INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010**

**WRITTEN SUBMISSIONS OF NFU REGARDING THE MONA Offshore Wind Project**

**DEVELOPMENT CONSENT ORDER APPLICATION BY BP and EnBW**

**PLANNING INSPECTORATE REFERENCE No. EN010137**

**SUBMISSIONS OF NATIONAL FARMERS UNION ON THE – EXAMINERS FIRST**

**WRITTEN QUESTIONS**

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## 1.0 Introduction

- 1.1 Submissions on behalf of the National Farmers Union (“NFU”) in respect of the application for a Development Consent Order (DCO) by BP and EnBW for the Mona Offshore Wind Farm Project. The NFU is making a case on behalf of its members who are affected by the DCO.

## 2.0 First Written Questions - Agriculture

### 1.6 Compulsory Acquisition (CA) and Temporary Possession (TP)

- 2.1 **Q1.6.16 Policy context :Do paragraphs 2.6.4 and 2.6.5 of NPS EN-5 provide policy support for the Applicant’s approach to the compulsory acquisition of land?**

2.6.4 In such cases (i.e. where the compulsory acquisition of rights is sought) permanent arrangements are strongly preferred over voluntary wayleaves (which could, for example, be terminable on notice by the landowner) in virtue of their greater reliability and economic efficiency and reflecting the importance of the relevant infrastructure to the nation’s net zero goals.

2.6.5 The applicant may also seek the compulsory acquisition of land. This will not normally be necessary where lines and cables are installed but may be sought where other forms of electricity networks infrastructure (such as new substations) are required.

**Answer: Paragraph 2.6.4** does state that permanent arrangements are strongly preferred over voluntary wayleaves and the Applicant is seeking permanent arrangements in this case.

**Paragraph 2.6.5** does inform the Applicant that even though they can seek compulsory acquisition of land that this is not necessary where cables and lines are to be installed. The NFU can confirm that the Applicant is only seeking to acquire rights.

- 2.2. **Q1.6.17 dDCO provisions: In respect of your concerns about rights in land that the Applicant seeks ([PDA-048] and [REP1-082] respectively), with reference to the dDCO [REP2-004], can you suggest the specific wording of amendments or additions to its provisions that would address them.**

**Answer:** The NFU and the land agents strongly believe that no landowner should have to give rights in perpetuity if they are not required. In recent years the NFU working with land agents in different areas have agreed a term of 99 years with five offshore wind developers. The NFU and land agents acting on this project can see no difference in the schemes and therefore no reason for rights to be given in perpetuity. We understand that the rights granted by the Crown will be for a term that is considerably less than 99 years.

The NFU is aware that once a DCO is granted it gives those rights in perpetuity, surely if there is only an operational 'life time' of the proposed scheme then the rights granted should be tied to this life span and this could be stated and drafted within the dDCO.

**2.3. Discharge of Water and Field Drainage: In its Response to Written Submissions made at Procedural Deadline ([REP1-011], pages 32 & 33) the Applicant addressed concerns about perceived lack of detail as to management of surface water run-off and provision for field drainage [PDA-048]. With reasoning for your conclusion, does this allay your concerns.**

**Answer:** The NFU has seen that the Applicant has confirmed that all surface water can be managed within the Order Limits and is pleased to see the high-level principles which are set out within the Outline Construction Surface Water Drainage Plan (OCSWDP) (APP-218). Landowners will all be concerned that any surface run off from the haul road and trenches is controlled and that it does not run across the surface of the adjoining land to the nearest watercourse or cause flooding. Silt fences will be very important and must be maintained. The NFU would like further information as to how surface water will be pumped via settling tanks or ponds to remove sediments prior to discharge within the corridor. Where in the corridor is the water being discharged to?

The Applicant has stated that refinement of the OCSWDP will be undertaken at detailed design in conjunction with landowners. How does this get triggered, who will speak to the landowners?

The NFU has now negotiated further with the Applicant regarding wording to be included in the Heads of Terms (HoTs) to cover field drainage but HoTs are still to be finalised and signed by landowners. The Applicant has stated in its response that during detailed design, the Applicant will ensure a full pre and post construction drainage plan is created in conjunction with the affected parties to ensure field drainage systems are maintained during and reinstated post works as set out in the Outline Construction Surface Water Drainage Plan (APP-218). The OCSWDP does state at 1.6.2.1 pre-construction drainage will be installed but does not state how landowners or occupiers will be informed of the pre-construction drainage plan. How will this be undertaken and this needs to be stated in paragraph 1.6.2.1. Paragraph 1.10.1.1 does state that any drainage impacted will be reinstated and the NFU is pleased to see what has been stated but again would like clarification as to how landowners and occupiers are to be consulted on the drainage and who will be making contact with landowners and occupiers to carry this out.

**2.4. Q1.6.20 Soil management and reinstatement: In its Response to Written Submissions made at Procedural Deadline ([REP1-011], pages 32 & 33) the Applicant addressed concerns about soil management and reinstatement [PDA-048] and it also submitted a revised Outline Soil Management Plan at Deadline 2 [REP2-054]. With reasoning for your conclusion, does this allay your concerns?**

**Answer.** The NFU is pleased to see what has been included within the Outline Soil Management Plan and would like to highlight that the information to be gathered about the soils as highlighted

at 1.9.1.5 is very important and would like to see that this information is set out in a statement for each landowner and occupier affected so that when the soil is reinstated and aftercare provisions are to be considered as set out in paragraph 1.14 it will be very clear to each landowner and occupier what needs to be achieved through the aftercare. The NFU would like to see further wording added to paragraph 1.9.1.5 which states that a pre-construction soil statement will be set out and provided to each landowner and occupier.

**2.5. Q1.6.21 Outline code of construction: In its Response to Written Submissions made at Procedural Deadline ([REP1-011], pages 31 & 32) the Applicant signposted where it has made provision for the matters raised under the heading ‘Outline Code of Construction’ in the NFU submission [PDA-048]. With reasoning for your conclusion, does this allay your concerns**

**Answer:**

- 1) **Agricultural Liaison Officer:** the NFU is pleased to see what has been identified under the heading of Agricultural Liaison officer in the OSMP but would have still liked further roles and obligations to have been highlighted so that both the ALO and the landowners and occupiers are clear as to exactly what will be undertaken during the construction of the project.

The NFU has agreed the wording below on many DCO schemes for underground cables:

**Agricultural Liaison Officer (ALO):** The ALO will be appointed by the Grantee prior to the commencement of the cable installation works and will be the prime contact for ongoing engagement about practical matters with landowners, occupiers and their agents before and during the construction process. There may be more than one ALO if required.

The ALO (or their company) will be contactable within the core working hours during the construction phase by landowners, occupiers and their agents and will provide 24-hour team or company contact details for use in the event of emergency.

Post-construction the ALO will remain appointed for up to one year in order to manage remediation issues.

The ALO will have responsibility for liaising with landowners, occupiers and their agents, including the following examples:

- i. Coordinating remaining drainage surveys and sharing pre and post construction drainage schemes with landowners or occupiers in advance for their consideration;
- ii. Coordinating the provision of a detailed pre-construction condition survey (where necessary pre-application, accounting for surveys undertaken pre-application) to include a soil survey as detailed in (ii) *Pre-Construction Soil Statement and Pre-Entry Schedule of Condition* above;
- iii. Advising on risks relating to the translocation of soil diseases, where necessary, and ensuring appropriate protective provisions are implemented;
- iv. Arranging quarterly meetings with landowners, occupier or their respective agent representatives, where considered necessary;
- v. Undertaking pre-construction liaison with affected parties to minimise disruption, where possible, to existing farming regimes and timings of activities (which will include endeavouring to keep the Grantor informed at least 3 months in advance (where

- practicable) of the Grantee's intention to take entry in order to commence the cable installation works);
- vi. Undertaking site inspections during construction to monitor working practices and ensure landowners' and occupiers' reasonable requirements are fulfilled;
  - vii. Discussing and agreeing reinstatement measures following completion of the works;
  - viii. Ensuring landowners and occupiers are consulted in respect of requirements to field entrances and accesses across the construction strip, in particular to severed land parcels.
  - ix. Discussing the location, grouping, and marking of inspection chambers with the Grantor and Occupier.

**2) Agricultural Water Supplies:** The Code of Construction states the following:

### **Water Supplies**

1.10.4.8 Discussions with Dŵr Cymru/Welsh Water and landowners will be undertaken at the detailed design stage to confirm the location of public and private water supplies. Prior to any construction activities, utility surveys will be undertaken to establish if any infrastructure is present prior to any intrusive work being undertaken.

1.10.4.9 Works to be undertaken within proximity to Dŵr Cymru/Welsh Water assets will be designed in accordance with the water authority's design standards and will require to be approved by Dŵr Cymru/Welsh Water prior to the commencement of works.

The NFU believes that it is absolutely essential that the Applicant discusses with landowners locations of water supplies especially as so many livestock farms are going to be affected by the construction works.

The NFU would like to see the following wording included in the outline code of construction:

**Water Supply:** If an existing piped mains or private water supply that serves and is located upon the Landowner's Property is directly interrupted on a temporary basis by the construction works for the installation of the Cables, then the Applicant shall (subject to it being requested to do so by the Landowner or the Occupier (as applicable)) and where it is reasonable, proportionate and reasonably practicable to do so, provide or procure an alternative supply to the Landowner or the Occupier (as applicable). Where it is not reasonable, proportionate or reasonably practicable for the Applicant to provide or procure an alternative water supply the Applicant shall reimburse the fair, reasonable and proper costs incurred by the Landowner or Occupier in procuring their own alternative water supply during the period of such interruption in accordance with the Compensation provisions.

Where an existing piped private water supply that serves and is located upon the Landowner's Property is directly interrupted on permanent basis by the construction works for the installation of the Cables the Applicant shall either provide or procure an alternative permanent water supply or where it is not reasonable, proportionate and reasonably practicable to do so pay the Landowner or an Occupier's (as applicable) fair, reasonable and proper costs incurred in procuring a permanent means of an alternative supply of water in accordance with the Compensation provisions.

This wording has been agreed on many DCO schemes for underground cables and included within the outline Code of Construction.

**2.6 Q1.12.8 Effect on farm holdings: At Section 7.8.3 of ES Chapter 7 (Vol 3) [APP-070] the Applicant assesses the significance of the Proposed Development's effects on farm holdings during each of its phases having taken account of measures adopted in respect of Farm Holdings in Table 7.24 thereof. Giving reasons for your conclusions, do you agree with its assessment?**

The NFU believes that impacts on the livestock farms and in particular the dairy farms will need to be addressed with specific accommodation works and not enough has been done to reach an agreement on what is required so that farming enterprises can be maintained through the construction period.

In particular one of the dairy farms which will be very badly impacted has been in discussions with the Applicant for a length of the cables to be direct drilled so that the construction of open cut trenching will not impact the dairy enterprise. This still has not been agreed and signed off. Just agreeing accommodation works will not be enough to reduce the impact on this particular dairy farm.

The impacts to some of the farms is likely to be more permanent than has been stated in paragraph 7.8.3.2 and the viability of the dairy farms will be impacted contrary to what is stated that if the implementation of measures identified in table 7.24 are implemented this would not affect the overall viability.

As an example, the dairy farm affected by the proposed substation site might have around a 1/5<sup>th</sup> of the land used for the dairy enterprise lost to the proposed project (with a significant proportion permanently). No in-depth discussions have taken place to date to attend to what measures will be put forward to assist with addressing such a loss of land and resource to the dairy enterprise. The farm business will also have land impacted by the proposed Awel y Mor scheme, and associated works needed to divert a Gas pipeline by Wales & West Utilities. This is a cumulative impact on the farm business, and this has not been addressed. Please refer to the submission submitted by Davis Meade Property Consultants for the affected party, registration Id no:20048007.

Paragraph 7.8.3.3. highlights the implementation of appropriate mitigation measures but these have not been agreed and as stated above it is actually going to require direct drilling of the cables along specific locations to reduce the impacts of construction. It cannot be stated that the magnitude of the temporary impact on the operation of farm holdings is assessed as low.

Please refer to the submission for G Lloyd Evans & Sons, Bryn Hen by J Bradburne Price & Co.