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Your Ref:

To all interested parties

Our Ref: EN020014

Date: 07 January 2016

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Dear Sir/Madam

**Application by SP MANWEB for an Order Granting Development Consent for  
The North Wales Wind Farms Connection**

**Examining authority's consultation draft Development Consent Order**

The Examining authority (ExA), also known as the Panel, sets out below, for consultation, its proposed revisions to the draft Development Consent Orders (DCO), based on the Applicant's draft Option A v5 DCO ("Option A DCO") and the Applicant's draft Option B v2 DCO ("Option B DCO") which were both submitted to the Examination on 21 December 2015, for deadline 9. The proposed revisions shown below apply equally, in identical terms, to both the Option A DCO and the Option B DCO.

The weblink to the Applicant's deadline 9 draft DCO for Option A is: -  
<http://infrastructure.planninginspectorate.gov.uk/document/3585498>; and

The weblink to the Applicant's deadline 9 draft DCO for Option B is:  
<http://infrastructure.planninginspectorate.gov.uk/document/3585816>

Text struck through is text proposed to be deleted by the ExA.

Text underlined is text proposed to be inserted by the ExA.

Reasoning is not provided at this stage and will be provided in the ExA's report and recommendations to the Secretary of State.

The proposed revisions generally consider only substantive provisions of the DCO. Consequential amendments to the Title and Contents pages, Preamble, Footnotes, etc. are not set out below. The revisions do not attempt to respond to all representations made in relation to the form and content of the draft Development Consent Orders that were submitted during the course of the Examination, final consideration of which will take place before submission of the ExA's report and recommendations to the

Secretary of State.

Various matters are still under active consideration by the ExA and it may recommend to the Secretary of State further revisions not set out below.

The ExA stresses that the issue of these proposed revisions is entirely without prejudice to its recommendation to the Secretary of State and should not be taken to indicate that it has concluded that consent should be recommended. The purpose of issuing them for consultation is to ensure that the Secretary of State is provided with a suitable form of Development Consent Order in the event that the Secretary of State decides that consent should be given, having regard to the ExA's report and recommendations and all other matters to which the Secretary of State is required to have regard.

Interested Parties (including the Applicant) are asked to comment on these proposed revisions and combine any earlier submissions regarding the drafting of the DCO in respect of particular articles, requirements or schedules into a comprehensive single response to this letter by **noon on Thursday 21 January 2016, deadline 10**. Where Interested Parties (including the Applicant) consider that the drafting should be changed, they should submit their preferred wording as part of their response (and not by way of an amended version of the DCO), together with their justification for all such proposed changes.

In addition, the Examining authority notes that the references to "approximately 17.3km" in the Explanatory Note to the Option A DCO and the Explanatory Note to the Option B DCO will need to be replaced with "approximately 17.4km", to accord with Schedule 1 to each of those documents.

### **Examining authority's proposed revisions to the Option A DCO and to the Option B DCO:**

#### **ARTICLE 19:**

##### **Compulsory acquisition of rights**

**19.—(1)** The undertaker may create and acquire compulsorily the rights over the Order land and impose the restrictions affecting the Order land described in the book of reference and shown on the land plans.

(2) Subject to section 8 of the 1965 Act, as substituted by paragraph 5 of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker creates and acquires a right over land or imposes a restriction under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(3) Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsorily acquisition under this article of a right over land by the creation of a new right or imposition of a restriction.

(4) In any case where the creation and acquisition of rights or the imposition of a restriction under paragraph (1) is required for the purposes of diverting, replacing or protecting the apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to create and acquire such rights or impose such restrictions to the statutory undertaker in question.

(5) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (4) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(6) Nothing in this article authorises the acquisition of rights over, or the imposition of restrictions affecting, an interest which is for the time being held by or on behalf of the Crown.

## ARTICLE 21:

### Crown rights

21.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee—

- (a) to ~~take~~, use, enter upon or in any manner interfere with any land or rights of any description—
  - (i) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
  - (ii) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
  - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department; or
- (b) to exercise any right under this Order to acquire compulsorily an interest in any land which is Crown Land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined in the 2008 Act).

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

## ARTICLE 23:

### Funding

~~23. 23.—(1) The undertaker must not begin to exercise the powers provided within Parts 3, 4, 5 and 6 of this Order in relation to any land unless it has demonstrated to the Secretary of State that it has received sufficient funds in order to cover the liability of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land it has first put in place either—~~

~~(a) a guarantee in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or~~

~~(b) an alternative form of security for that purpose which has been approved by the Secretary of State.~~

~~(2) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under the Order is to be treated as enforceable against the guarantor by any person to whom such compensation is payable and must be in such form as to be capable of enforcement by such a person.~~

~~(3) The guarantee or alternative form of security is to be in place for a maximum of 20 years from the date on which the relevant power is exercised.~~

## SCHEDULE 2 REQUIREMENT 10:

### Construction Hours

10.—(1) Subject to sub-paragraphs (2) and (3) construction work must not take place other than during the core working hours.

(2) The following operations must only take place between 0900 and 1700 hours Monday to Friday and excluding public holidays—

- (a) piling;
- (b) excavator and hydraulic jack hammer operations; and

- (c) HGV deliveries to and from Broadleys Farm site compound.
- (3) The following operations may take place outside the core working hours referred to in sub-paragraph (1)—
- (a) the installation and removal of protective netting across highways or watercourses;
  - (b) only at ~~the~~ Broadleys compound, the completion of operations commenced during the core working hours which cannot safely be stopped; and
  - (c) only at ~~the~~ Broadleys compound, start up and close down activities up to 1 hour either side of core working hours.
- (4) No artificial lighting is to be used in carrying out the construction of the authorised development other than at ~~the~~ Broadleys compound.

## SCHEDULE 2 REQUIREMENT 17:

### Decommissioning

~~17.—(1) On the 30th anniversary of the date of final commissioning the undertaker must submit to the relevant planning authorities for written approval a decommissioning and restoration plan. Not less than 12 months before the expiry of the development consent granted by this Order, a decommissioning and site restoration scheme must be submitted to the relevant planning authority for its approval.~~

~~(2) The decommissioning and restoration plan scheme must include ~~the following provision for~~—~~

- ~~(a) a timetable for the implementation and completion of the decommissioning and restoration plan scheme;~~
- ~~(b) ~~the requirement to remove~~ removal of works 1A and 1B;~~
- ~~(c) the ~~reinstatement~~ restoration of the ~~order~~Order land ~~to an agreed standard~~;~~
- ~~(d) ~~an agreed a~~ methodology for the ecological management of sensitive habitats during the decommissioning and restoration works; and~~
- ~~(e) ~~an agreed a~~ methodology for the management of traffic during the decommissioning and restoration works.~~

~~(2 3) The undertaker must implement the approved decommissioning and restoration plan and carry out and complete the decommissioning works within the timeframe set out therein. Decommissioning and restoration must be completed in accordance with the approved decommissioning and site restoration scheme within the period set out in in the approved scheme.~~

## ADDITION OF A NEW SCHEDULE 2 REQUIREMENT 19:

### Expiry of development consent

19. The development consent granted by this Order expires 30 years after the date of this Order.

Thank you for your continued interest and involvement in this examination.

Yours faithfully

*Lillian Harrison*

**Dr Lillian Harrison**  
**Lead Member of the Panel of Examining Inspectors**

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

