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Your Ref:

Our Ref: EN020019

Date: 11 December 2015

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Dear Sir/Madam

**Planning Act 2008 (as amended) – Section 89 and the Infrastructure  
Planning (Examination Procedure) Rules 2010 (as amended) – Procedural  
Decision, Rule 8(3) and Rule 13**

**Application by Triton Knoll Offshore Wind Farm Limited for an Order Granting  
Development Consent for the Triton Knoll Electrical System**

**Procedural decision on change requests to the DCO, notification of hearings  
and second questions, amendment to the examination timetable and request  
for further information**

As the lead member of the Panel of Examining Inspectors (Panel), I am writing to all the interested parties following the hearings in November 2015 and the subsequent deadline on 30 November 2015, to seek further information on the items listed below, and to make a procedural decision on changes requested by the Applicant.

This letter also provides you with an updated examination timetable (Annex A), a link to the Examining Authority's (ExA) second round of written questions and other matters.

**Examining Authority's Second Round of Written Questions**

The ExA has decided to ask a number of written questions. These questions are now published on our website and can be accessed through the following link:

<http://infrastructure.planninginspectorate.gov.uk/document/3560567>

Responses to these questions must be received on or before **Deadline 4, Tuesday 5 January 2016**.

The Inspectorate requests that interested parties send, where practicable, electronic copies of their submissions as email attachments to [tkes@pins.gsi.gov.uk](mailto:tkes@pins.gsi.gov.uk).

Most people engage with our process via our website, where all submissions are published. Parties are therefore asked to consider this when formatting the electronic copies of their submissions and to avoid submissions made up of large numbers of small files, or excessively large files, or which are otherwise not optimised or unnecessarily difficult to navigate.

Electronic attachments should be clearly labelled with a subject title and not exceed 12MB for each email. Timely submissions in advance of the deadlines set in the timetable are encouraged. Where an electronic submission exceeds 12MB, we will accept the postal submission of an electronic document on portable media (such as a CD or USB flash drive). Providing links to websites where your submissions can be viewed is not normally acceptable, because it does not amount to submitting them.

Parties who are not comfortable with making submissions electronically are welcome to make their submission by post.

### **Procedural Decision made by the Examining Authority (ExA)**

The ExA have made the following procedural decisions under s.89(1) and s.89(3) of the Planning Act 2008 (PA 2008) relating to whether to accept two requests to change specific parts of the application documentation including plans and the draft Development Consent Order (DCO).

In making the procedural decision as to whether to accept both these requests for changes to the application, the ExA have had regard to the guidance in paragraphs 109 to 115 of the Department for Communities and Local Government's guidance entitled *Planning Act 2008: Guidance for the examination of applications for development consent*, as updated in March 2015 – notably paragraph 110 of the updated guidance – namely whether the change is of such a degree that it constitutes a materially different project – as well as the tests set out in paragraph 113 of the 2015 Guidance.

We have also borne in mind the test set in *Bernard Wheatcroft Ltd v Secretary of State for the Environment* (1982) 43 P & CR 233 as to whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation.

We deal with both these requests individually below.

## Request 1: Bicker Fen Extension and Reconfiguration

The first change request was received by the Planning Inspectorate on 9 November 2015. The documentation submitted was published on the Triton Knoll Electrical System pages of our website on the same day [APP-134, APP-135]. A revised version was published on our website on 13 November [APP-136, APP-137, APP-138, APP-139], which corrects the earlier submission, which contained an incorrect plan and had one missing annex (from Appendix A).

The change request relates to a proposed change of location of works which would enable the connection to be made between the proposed project and the National Grid Electricity Transmission sub-station at Bicker Fen.

The change involves amendments to the location of Work Nos. 53 and 54, the subdivision of Plot 48/17 into Plots 48/17A and Plot 48/17B and consequential amendments to the draft DCO.

The relevant documents submitted by the Applicant in relation to the change request are:

- *Bicker Fen Extension and Reconfiguration Note* [APP-136] *with Appendices*:
  - *Appendix A – ES Addendum relating to works at Bicker Fen* [APP-137]
  - *Appendix B – Updated Bicker Fen figures* [APP-138] including
    - *Annex 1 – Updated Onshore Project Description figures*
    - *Annex 2 – Updated visualisations of the Bicker Fen substation*
    - *Annex 3 – Updated cumulative development traffic figure*
    - *Annex 4 – Updated Hydrology and Flood Risk and Flood Risk Assessment figures*
    - *Annex 5 – Updated Works Plans – Sheet 48*
  - *Appendix C - Joint Position Paper between the Applicant and NGET* [APP-139] including
    - *Appendix A – Revised Plan – Bicker Fen Substation*
    - *Appendix B – Bicker Fen Substation Summary of Design Changes.*

At the Hearing into the draft DCO held on 12 November 2015, the ExA requested additional documentation from the Applicant to show any consequential amendments to the draft DCO.

In response, the Applicant submitted *Bicker Fen Change – Schedule of amendments to the DCO and Application Documents* [AS-042] on 16 November 2015, which was published on our website.

For this change request the Applicant submitted an Environmental Statement (ES) addendum (Appendix A) [APP-137] which concluded no alteration to the assessments presented within the ES submitted with the application.

In coming to our decision, set out below, we have had regard to the facts that the changes requested:

- a) do not alter the order limits as set out in the original application
- b) involve changes to the draft DCO only in respect of the subdivision of former Plot 48/17 into new Plots 48/17A and 48/17B and the allocation of additional rights to plot 48/17B in Schedule 5 of the draft DCO [REP3-043]
- c) involve changes to the Land Plans only in respect of the subdivision of former Plot 48/17 into new Plots 48/17A and 48/17B on Sheet 48 of the Land Plans
- d) do not add any further plots to the request for Compulsory Acquisition (CA) nor involve any additional landowners or other potentially affected persons
- e) involve changes to the Works Plans only in respect of changes to the extent and locations of Work Nos. 53 and 54 within the order limits, involving, inter alia, moving a proposed temporary construction compound shown on Sheet 48 of the Works Plans [AS-040]
- f) the Applicant stated environmental effects would not change from those that had been assessed within the ES submitted with the application.

## **Request 2: Order Limits Reduction Request**

The second request, dated 30 November 2015 was received as *Order Limits Reduction Request* - Appendix 16 of the Applicant's Response to Deadline 3 which was published on our website on 1 December 2015 [REP3-052].

The change involves the removal of Works No. 47B which was one of the two proposed construction compounds at the point where the proposed new access road for the Triton Knoll Substation abuts the A17 main road.

For this change request the Applicant confirmed in section 3 of Appendix 16 that there will be no changes to the Environmental Impact Assessment (EIA) undertaken as the changes constitute reductions of the order limits.

In coming to our decision, set out below, we have had regard to the facts that the changes requested:

- a) do not alter the order limits as set out in the original application
- b) involve changes to the draft DCO only in respect of consequential changes in Works and Plot numbers in: Schedule 1 Part 1; the definition of 'stage' in Schedule 1 Part 3; Schedule 7; the deletion of references to Plots 44/03 and 44/03a (and associated clarification notes and Work Nos.) from Schedule 7; inclusion of Plot 45/15 in Schedule 5 (Land in which only new rights etc. may be acquired and the removal of Work No. 47B from Parts 1 and 3 of Schedule 1
- c) involve changes to the Land Plans in respect of the removal of plots 44/03 and 44/03a and the reduction of the area of Plots 44/02 and 44/04 – and thus to reduce the order limits – on sheet 44, shown at Appendix A of the Order Limits Reduction Request; the reduction of the area of Plot 45/12 replacing the pink shading on Plot 45/15 with yellow shading on Land Plan Sheet 45 to indicate a change from freehold acquisition to acquisition of rights and thus to reduce the

order limits – on sheet 45, shown at Appendix A of the Order Limits Reduction Request

- d) do not add any further plots to the request for CA nor involve any additional landowners or other potentially affected persons
- e) involve changes to the Works Plans only in respect of the removal of Work No 47b – and thus to reduce the order limits – on sheet 44, shown at Appendix A of the Order Limits Reduction Request; the reduction of Work No. 48 on sheets 44 and 45, shown at Appendix A of the Order Limits Reduction Request
- f) removed uncertainty over the location of and thus the potential request for temporary use of, one plot
- g) the Applicant stated environmental effects would not change from those that had been assessed within the ES submitted with the application.

### **Procedural Decision - Acceptance of change requests**

The ExA concludes that the information contained in these two requests for changes does not change the nature and description of the nationally significant infrastructure project (NSIP) as set out in the draft DCO and associated documentation.

In respect of the Wheatcroft test, we point out that the acceptance of these changes into the Examination at this stage would mean that all interested parties and affected persons will still have an opportunity to comment on them.

Specifically, Deadline 4 on 5 January 2016 in the timetable for the Examination of the Triton Knoll Electrical System includes the opportunity for all parties to submit comments on these submissions.

The ExA therefore accepts these changes to the application for consent for the Triton Knoll Electrical System and will proceed to examine the application on this basis.

The ExA have asked all interested parties and affected persons in our second written questions (question DCO 2.3) whether they wish to comment on these changes.

### **Examination timetable**

We write to inform you of an amendment to the examination timetable as set out in the ExA's Rule 8 letter of 11 September 2015 [PD-008]. The amended examination timetable is attached as **Annex A**.

If the ExA considers it necessary to vary the timetable we will write to interested parties, affected persons and 'other persons' and publish the changes on our website. We will also do this if the date, time and place of any hearings are changed, except in the event of an adjournment.

## Notification of hearings

Further to the procedural decision and timetable enclosed within our Rule 8 letter dated 11 September 2015, we write to advise you of the dates, times and places of the following hearings:

Date	Hearing	Start time	Venue
Tuesday 19 January 2016	Issue specific hearing – Local impacts hearing	9.30am	The Storehouse North Parade Skegness PE25 1BY
Wednesday 20 January 2016	Compulsory acquisition hearing	2.00pm	The Storehouse North Parade Skegness PE25 1BY
Thursday 21 January 2016	Compulsory acquisition hearing (continued from previous day)	9.30am	The Storehouse North Parade Skegness PE25 1BY
Friday 22 January 2016	Compulsory acquisition hearing (continued from previous day)  Issue specific hearing on the Development Consent Order (DCO)	9.30am  This hearing will commence following the close of the compulsory acquisition hearing but not before 11.00am.	The Storehouse North Parade Skegness PE25 1BY

The hearing venues will be open **30 minutes** prior to the start of the hearing to enable a prompt start. Hearings will finish as soon as the ExA deem that all those present have had their say and all matters have been covered.

Every effort will be made to ensure that the issues are discussed on the days that they are scheduled for. This may mean that the hearings continue after 5.00pm. The ExA reserves the right to rearrange the agendas for these hearings at short notice, if necessary, or if they take longer than anticipated, certain issues may have to be adjourned to a later date.

Agendas for the hearings will be published on our website no later than 11 January 2016, and depending on the numbers wishing to speak, it may be necessary to limit the time allocated to each speaker.

### **Procedure at hearings and notification of wish to speak at hearings**

The procedure to be followed at hearings is set out in Rule 14 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR). Any oral representations must be based on either the relevant or written representations made by the person by whom or on whose behalf the oral representations are made. We shall be responsible for the oral questioning of a person giving evidence but your attention is drawn to Rule 14(5) of the EPR and the circumstances that apply to cross-questioning between parties.

Our examination will be primarily written, and the ExA will decide whether a hearing on a particular issue or topic is necessary. This decision is not connected to how relevant or important the ExA considers an issue or topic to be.

Yours faithfully

*Kevin MacDonald*

**Lead Member of the Panel of Examining Inspectors**

Annex A – Amended timetable for examination of the application

## Annex A

### Timetable for examination of the application

Item	Matters	Due Dates
13.	Publication by ExA of: <ul style="list-style-type: none"> <li>• Second written questions</li> <li>• Notification of hearings</li> <li>• Procedural decision acceptance of change requests made by applicant</li> </ul>	<b>Friday 11 December 2015</b>
14.	<b>Deadline 4</b>  Deadline for receipt by ExA of: <ul style="list-style-type: none"> <li>• Response to ExA's second written questions</li> <li>• Comments on any other information received at Deadline 3</li> <li>• Updated schedule of compulsory acquisition</li> <li>• Updated Statements of Common Ground</li> <li>• Any further information requested by the ExA</li> </ul>	<b>Tuesday 5 January 2016</b>
15.	Publication of agenda for second round of issue specific hearings	<b>No later than Monday 11 January 2016</b>
16.	Issue specific hearing	<b>Tuesday 19 January 2016</b>
17.	Compulsory acquisition hearing (pm)	<b>Wednesday 20 January 2016</b>
18.	Compulsory acquisition hearing (continued from previous day)	<b>Thursday 21 January 2016</b>
19.	Compulsory acquisition hearing (continued from previous day)  Issue specific hearing - Development Consent Order (DCO) (immediately following the close of the compulsory acquisition hearing)	<b>Friday 22 January 2016</b>

20.	<p><b>Deadline 5</b></p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> <li>• Post hearing documents</li> <li>• Written summary of oral cases put at hearings</li> <li>• Comments on responses to ExA's second written questions</li> <li>• Comments on any other submissions received at Deadline 4</li> <li>• Updated schedule of compulsory acquisition</li> <li>• Updated Statements of Common Ground</li> <li>• Any further information requested by the ExA</li> </ul>	<b>Monday 1 February 2016</b>
21.	<p>Publication of:</p> <ul style="list-style-type: none"> <li>• Report on the Implication for European Sites (RIES)</li> <li>• ExA's consultation draft DCO</li> </ul>	<b>Wednesday 10 February 2016</b>
22.	<p><b>Deadline 6</b></p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on ExA's consultation draft DCO</li> </ul>	<b>Wednesday 17 February 2016</b>
23.	<p><b>Deadline 7</b></p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on RIES</li> <li>• Applicant's final draft DCO</li> <li>• Final updated Statements of Common Ground</li> <li>• Any further information required by the ExA</li> </ul>	<b>Wednesday 24 February 2016</b>
24.	<p>The ExA is under a duty to complete the examination of the application by the end of the period of 6 months beginning with the day after the close of the Preliminary Meeting.</p>	<b>Thursday 3 March 2016</b>

## **Publication Dates**

All information received will be published on our website as soon as practicable after the deadline for submissions:

<http://infrastructure.planninginspectorate.gov.uk/Triton-Knoll-Electrical-System>

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 Planning Inspectorate 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.