

From: [Louise Staples](#)
To: [Triton Knoll Electrical System](#)
Subject: 151027 EN020019 Statement of Common Ground between RWE and LIG
Date: 27 October 2015 16:50:46
Attachments: [SoCG final 27.10.2015 v2.pdf](#)

Dear Sirs

Please find attached a Statement of Common Ground (SoCG) which is version 2 which has been set up after receiving a first draft of a SoCG from RWE last Wednesday 21st October 2015 which was sent to the NFU. We would like to confirm that a Land Interest Group (LIG) has been set up which includes the National Farmers' Union (NFU), County Land and Business Association (CLA) and Lincolnshire Association of Agricultural Valuers (LAAV). This SoCG is between RWE and LIG.

Due to only receiving the first draft from RWE last week we as yet have not had time to meet with RWE to discuss the issues raised in the SoCG. We have spoken to RWE and we will be meeting with them as soon as is possible to take this SoCG forward.

Kind regards

Louise Staples on behalf of LIG.

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Triton Knoll Offshore Wind Farm Limited Triton Knoll Electrical System

**Appendix []: Statement of
Common Ground between Triton
Knoll Offshore Wind Farm
Limited and**

**The Land Interest Group which is
a body comprising:**

National Farmers' Union (NFU)

**Lincolnshire Association of
Agricultural Valuers (LAAV)**

**Country Land and Business
Association Limited (CLA)**

Date: 27th October 2015



**Appendix [] of the Applicant's
Response to Deadline 2**

Triton Knoll Offshore Wind Farm Limited

Triton Knoll Electrical System

Statement of Common Ground between Triton Knoll Offshore Wind Farm Limited and National Farmers' Union, Lincolnshire Association of Agricultural Valuers and County Land and Business Association

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Appendix [] of the Applicant's Response to Deadline 2.

Date: 27th October 2015

Drafted By:	The Land Interest Group
Approved By:	NFU, CLA and LAAV
Date of Approval:	
Revision:	

Revision History

Version	Date	Description	Author
1	21 st October 2015	1st draft set out by RWE	
2	27 October 2015	Response by LIG to 1 st draft and further issues highlighted	

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1. INTRODUCTION

Reason for this Statement of Common Ground

- 1.1.1 A Statement of Common Ground (SoCG) is a written statement prepared jointly by the applicant for a Development Consent Order (DCO) and another party. It sets out matters which are agreed between both parties, as well as matters which are not agreed and matters which are under discussion.
- 1.1.2
- 1.1 The aim of SoCGs is to provide a clear record of the issues discussed and the stage each issue is at during the discussion. The SoCG can be used as evidence of these discussions in representations to the Planning Inspectorate as part of their examination of the DCO application
- 1.2 This Statement of Common Ground (SoCG) has been prepared in respect of Triton Knoll Offshore Wind Farm Ltd's (TKOWFL or the Applicant) application for a development consent order (DCO) under the Planning Act 2008 (the Application).
- 1.3 This SoCG with National Farmers' Union (**NFU**), Lincolnshire Association of Agricultural Valuers (**LAAV**) and Country Land and Business Association Ltd (**CLA**) is a means of clearly recording any areas of agreement and disagreement between the parties in relation to the Application. The SoCG has been structured to reflect topics of relevance to the NFU, LAAV and CLA in relation to the Application.
- 1.4 The NFU and CLA are national representative bodies who perform both an advisory and representative role. Both bodies have considerable experience in carrying out these functions in connection with Nationally Significant Infrastructure projects such as HS2 and A14 Cambridge to Huntingdon improvement scheme.
- 1.5 The LAAV is a regional representative body and a member of the Central Association of Agricultural Valuers (**CAAV**). CAAV is a national organisation with professional authority to represent valuers and ensure professional standards. Members of LAAV have specific agricultural expertise and are subject to CAAV professional regulation. Some members of LAAV are instructed by landowners / occupiers to negotiate private treaty agreements with TWOWFL. Most of these members have previous experience of negotiating commercial terms for on-shore cables associated with off-shore windfarm developments.
- 1.6 The NFU CLA and CAAV have together formed a working party which is called the Land Interest Group (**LIG**), to represent the concerns of landowners and farmers that they represent and who are affected by this scheme.
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- 1.7 Throughout this SoCG the phrase “It is agreed...” is used as a precursor to any point that has been specifically agreed between the Applicant and LIG. The phrase “It is not agreed...” is used as a precursor to any point that the Applicant and LIG wish to identify as not yet agreed. Points that are “still under discussion” or “not agreed” will be the subject of ongoing discussion wherever possible to resolve, or refine, the extent of disagreement between the parties.
- 1.8 It is the intention that this document will facilitate further discussions between the parties and also give the Examining Authority (ExA) an understanding of the level of common ground between both parties from the outset of the examination process.

The proposed development

- 1.9 The proposed development comprises the project elements as described in Volume 2, Chapter 1, *Offshore Project Description* (document reference 6.2.2.1) and Volume 3, Chapter 1, *Onshore Project Description* (document reference 6.2.3.1) of the Environmental Statement (ES).

Structure of the Statement of Common Ground

- 1.10 This SoCG comprises 5 sections:
- 1.10.1. Section 1 – this introduction
 - 1.10.2. Section 2 – a record of engagement undertaken, for example meetings, emails and letters related to the discussions, including a summary of each.
 - 1.10.3. Section 3 – topics contained within this SoCG
 - 1.10.4. Section 4 - tables recording areas which are agreed and not agreed.
 - 1.10.5. Section 5 – a table recording areas which are under discussion, and a summary of the issues related to each
 - 1.10.6. Section 6 – signatures of the parties to indicate a true and accurate record of the discussions.

2. PREVIOUS ENGAGEMENT UNDERTAKEN

Consultation with NFU

- 2.1 The Applicant engaged with NFU on the proposed development during the pre-application process, both in terms of informal non-statutory engagement and formal consultation, carried out pursuant to section 42 of the Planning Act 2008 (the 2008 Act).
- 2.2 As part of that engagement, the Applicant has held meetings with the NFU on 14.06.2012, 23.07.2012, 04.07.2013, 21.08.2013, 11.02.2014 and 15.10.2015.

Consultation with the CLA

- 2.3 There has been one joint high level meeting with both the CLA NFU and the Applicant.

Consultation with the LAAV

- 2.4 The Applicant has previously refused to engage with the LAAV.

Consultation with LIG

Date	Type of engagement	Summary of discussion

3. TOPICS CONTAINED WITHIN THIS SoCG

Below is a summary of the topics that have been considered within this SoCG and provide a structure as to topics:

- Nature of rights sought
- Easement Width
- Restrictive Covenants
- Drainage
- Code of Construction Practice
- Jointing Pits and Link boxes
- Soil Management and Restoration
- Consultation
- Ardent
- Heads of Terms
- Professional Fees
- Water contamination and disruption to utilities
- Book of Reference
- Business viability
- Access
- Dust and Noise Management
- Farming systems
- Farming Subsidy Payments and Agri environmental Schemes
- Statements of Common Ground
- Security for compensation

4. MATTERS AGREED AND MATTERS NOT AGREED

The table below shows the areas where TK and LIG are not in agreement, the record of non-agreement refers to the source document in which the confirmed disagreement has been noted.

Key Topic	Issue raised and responses by TK and LIG	Record of Agreement
<p>Nature of Rights sought to be acquired</p>	<p>The Applicant has not demonstrated that it is proportionate for it to seek a permanent easement as opposed to a time limited agreement linked to the lifespan of the lease of the sea bed by the Crown for the purposes of the off shore element.</p> <p>Permanent rights cannot be required for a project that is time-limited as that would result in the Applicant acquiring disproportionate rights.</p> <p>The statutory criteria for including a provision in the DCO authorising the compulsory acquisition of permanent rights is not satisfied and the Applicant is requested to re consider its approach to the nature of the rights being sought.</p> <p>The use of the rights to be acquired should be limited for the purposes of the transmission of electricity generated by the TKOWFL offshore windfarm only.</p>	

	LIG seeks clarification as to how the cables will be dealt with at the expiry of the offshore lease.		
Easement Width	The Applicant has stated in email correspondence that it will minimise the easement width where technically possible but this is not reflected in the draft DCO and indeed it seems that the easement width has not yet been determined and therefore the Applicant has failed to demonstrate that the proposed land take is proportionate simply because it is unknown.		
	The Applicant has not demonstrated why land take can't be minimised by laying cables in trefoils rather than side by side.		
Restrictive Covenants	Schedule 5 of the TKES DCO seeks to impose restrictive covenants and LIG do not consider any restrictive covenants should be provided for within the DCO.		
Field Drainage	The Applicant has not designed field specific land drainage systems and has handled the entire issue of land drainage in a cursory manner as illustrated in the Environmental Assessment (eg Volume 3 Chapters 1 & 7).		
	The Applicant has not engaged a local field drainage contractor to consult with landowners on an individual basis and is requested to do so. This local drainage contractor should also in due course work with the Applicant's main contractors.		
	The Applicant has not obtained land drainage plans from landowners and therefore has no understanding of field specific issues. The Applicant cannot therefore logically comment upon or design schemes which consider the depths to which the cables need to be laid without comprising the productivity of the reinstated land or surrounding areas. LIG requires the Applicant		

	to do so as there are material implications for both the Applicant and landowners/farmers.	
	The Applicant is requested to commence a specific program of meaningful and appropriate consultation with landowners and farmers on the issue of land drainage.	
	The Applicant has not considered the impact of the proposed cabling on land drainage beyond the Order Limits. Whole field re-drainage will be essential in a large number if not all cases in order to ensure effective reinstatement of drains and to ensure that the drainage of land outside of the Order Limits is not compromised. LIG requires the Applicant to do so.	
	The Applicant has not demonstrated how it will minimise interruptions to the farming of the surrounding land during construction. LIG requires the Applicant to do so.	
	LIG requires the Applicant to give details as to how the land drainage systems will be reinstated to the satisfaction of landowners and farmers.	
	The Applicant is required to prepare a Drainage Strategy with LIG, such strategy is to includes pre construction, construction and post-construction drainage proposals for entire fields including affected areas beyond the Order Limits. This Drainage Strategy should be included in a Code of Construction Practice.	
	LIG does not agree that the design and detail of the drainage scheme can be delayed for consideration post DCO. The effective reinstatement of drains is critically important in order to avoid damaging significant areas of some of the most productive agricultural land in the country.	

Code of Construction practice	LIG request to see a copy of the Code of Construction Practice document for this scheme. LIG confirms that it has not been able to find the document on the PINs website.	
Jointing pits and link boxes	The Applicant has not given a commitment to locate link boxes and jointing pits in field boundaries in all cases. This is required in all cases except where there is an exceptional reason why not to do so. LIG seek this in writing from RWE.	
	The Applicant has not committed to cut cable lengths to suit field sizes in order for link boxes and jointing boxes to be located in field boundaries. LIG requires the Applicant to do so.	
Soil Management and restoration	<p>The Applicant has demonstrated no understanding of the effects of the TKES on some of the highest quality agricultural land in the country which are dependant on effective drainage to maintain productivity levels. Lincolnshire produces 30% of England's vegetables and leafy salads (source: NFU research) in low lying areas designated as being of special drainage need.</p> <p>The Applicant has no strategy in place which states how it proposes to reinstate and restore soils in an area of national agricultural importance</p>	
	<p>The Applicant is requested to prepare and agree a Soil Strategy document with LIG. This soil strategy to be linked to the Code of Construction Practice in order to effectively manage soils. The strategy must highlight how soils will be managed pre-construction, during construction and post construction. It needs to consider and highlight how issues such as soil structure, soil type separation, weed control and a program of nutrient sampling and reinstatement will be carried out.</p>	

	<p>LIG specifically wishes to know 1) what provision will be made to protect soil storage areas</p> <p>2)what measures will be in place to return the soil from these areas and the storage areas themselves back into agricultural use.</p> <p>3)how the aftercare of the soils (once reinstatement has taken place) will be carried out.</p>	
<p>Consultation with landowners and their agents</p>	<p>It is agreed that the Applicant has held 7 public exhibitions and 2 land owner-specific exhibitions at Spilsby BUT all such consultation has been at a public, generalised or high level. It is not agreed that the Applicant has undertaken extensive liaison with landowners and farmers or their agents as evidenced by the refusal of the Applicant's Agents to meet with the LAAV. There has been no meaningful consultation with landowners or farmers on an individual basis as would be the industry standard. The Applicant is requested to consult landowners and farmers on an individual basis and to enter into meaningful negotiations</p>	
	<p>It is not agreed that the Applicant has undertaken any consultation with landowners or farmers in a constructive or proactive manner.</p> <p>On the most recent similar infrastructure project affecting Lincolnshire (Hornsea 1 and 2) a collective meeting of all agents, with the promotor's agent, enabled rapid voluntary agreement of consistent terms on behalf of in excess of 95% of affected landowners and occupiers prior to commencement of the DCO Hearing. The Applicant's appalling approach to consultation is borne out by the fact that it was recorded at the First Hearing that not a single landowner or occupier had agreed terms with the Applicant.</p>	

	It is not agreed that the Applicant has consulted with occupiers as evidence by the statement in the draft Heads of Terms that landowners are required to secure the occupiers agreement to the Heads of Terms. Negotiation should take place direct with occupiers.	
	LIG requests a meeting with RWE to progress consultation and negotiation as soon as possible and for RWE to engage with agents on behalf of individual owners and occupiers.	
Ardent	It is agreed that the Applicant has employed a firm of Chartered Surveyors (Ardent Management Ltd) to negotiate on their behalf. It is not agreed that Ardent have considerable experience of negotiating land rights for laying of infrastructure in agricultural land as illustrated by Ardent's refusal to enter into discussions with the LAAV and failure to achieve any mutually acceptable commercial agreements.	
	LIG notes that on similar projects developers have employed appropriately qualified surveyors typically and LIG requires the Applicant to do the same in order to provide farmers with reassurance that the individual surveyors understand the relevant issues and are capable of negotiating reasonable outcomes.	
	The Applicant is required to properly consult by way of face to face on site meetings with landowners and farmers or their representatives.	
Heads of Terms	The Applicant has not carried out appropriate consultation with occupiers and it is inappropriate that Ardent should seek to require the Landowner to secure the agreement of the occupiers to the Heads of Terms.	
Professional	The Applicant's approach to paying the professional costs of landowners and occupiers has been inconsistent and insufficient to enable	

fees	<p>negotiations to take place. Low cost caps have been unilaterally imposed in some cases.</p> <p>To date, no or extremely limited professional fees have been paid and it is totally unacceptable that the Applicant has sought to impose demands on landowners and farmers without sufficient costs reassurance to enable them to take appropriate advice.</p> <p>In order to enable meaningful discussions to take place appropriate and binding costs undertakings need to be provided by the Applicant.</p>	
	<p>The Applicant is required to meet with the LAAV to properly negotiate Heads of Terms after it has put enforceable costs undertakings in place.</p>	
Water contamination / disruption of utilities	<p>The Applicant has not demonstrated how it will minimise the potential to contaminate private water supplies, interference with irrigations system. LIG requires the Applicant to produce Plan which details its strategy to minimise interference, management of any contamination which arising during or post construction and monitoring and restoration proposals.</p>	
Book of Reference	<p>LIG requires an updated Book of Reference to be published which identifies all landowners and occupiers.</p>	
Business Viability	<p>The Environmental Statement does not detail how the Applicant plans to minimise impacts of the TKES on local businesses and farming operations.</p>	
	<p>The Applicant has not considered whether the TKES will have exacerbated the effects on livestock farmers and growers of specialist crops. The Applicant has not stated how it will seek to</p>	

	minimise any direct and indirect losses likely to be suffered by such businesses. The Applicant is required to consult properly and prepare a Business Viability Continuity Plan.	
Access	The Applicant has not stated how it will prevent land and property from being inaccessible during construction	
	The Applicant needs to state what suitable and alternative access provision will be provided..	
Dust and Noise	The Applicant has not stated how dust and noise will be minimised to reduce the impact on farming crops livestock dwellings and businesses.	
Farming Systems	LIG requires the Applicant to produce a report which identifies the future effect of the TKES on farming systems for example Electro Magnetic Field interference with GPS, crop warming, bio security and health and safety aspects.	
Farming Subsidy Payments and Agri environmental Schemes	<p>The Applicant is required to consult with the Rural Payments Agency DEFRA and any other similar or successor agency which administers the basic payment scheme (including the greening payment) ("the Administrator") established by Regulation (EU) No 1307/2013 and any similar replacement scheme and any similar additional scheme, whether resulting from the implementation of the agreement on the reform of the CAP under Regulations (EU) 1305/2013, 1306/2013, 1307/2013 and 1308/2013 of the European Parliament and of the Council and any similar replacement or additional legislative instruments and all associated delegated and implementing acts, and all legislation, guidance and codes of practice made from time to time under them by the UK government or any devolved authority, in each case as amended, extended or re-enacted from time to time (the Payment Scheme)</p> <p>The purpose of such consultation is so the Applicant can obtain assurances that farmers will not be penalised or suffer losses under any</p>	

	<p>Payment Scheme as a result of the TKES.</p> <p>Further the Applicant is required to demonstrate that it understands the likely consequences that could be imposed upon farmers as a result of the TKES in terms of the requirements of any Payment Scheme and to put in place an unqualified indemnity against all losses claims costs and consequences likely to be caused as a result of TKES so that farmers are placed in no worse a position to that they would have been in if the TKES had not been constructed.</p>	
	<p>The Applicant is required to produce updated plans showing the detail of the land to be taken at least three months prior to the submission of subsidy forms in each year in a form acceptable to the Administrator and the farmer.</p>	
	<p>The Applicant is required to consult with Natural England which is the body responsible for the administration of Agri-environment Schemes in England and any other body discharging similar functions from time to time in respect of any agri-environment scheme (including but not limited to entry level, higher level, organic, countryside stewardship and any other similar schemes).</p> <p>The purpose of such consultation is so the Applicant can obtain assurances that farmers will not be penalised or suffer losses as a result of the TKES.</p> <p>Further the Applicant is required to demonstrate that it understands the likely consequences that could be imposed upon farmers as a result of the TKES in terms of the requirements of agri environment schemes and to put in place an unqualified indemnity against all losses claims costs and consequences likely to be caused as a result of TKES so that farmers are placed in no worse a position to that they would have been if the TKES had not been constructed.</p>	

	LIG wish to know what arrangements / provision and funding will be put in place for on-going management of features under the Payment Scheme and agri environment schemes	
Statements of Common Ground	LIG requires the Applicant to produce Statements of Common Ground with each individually affected landowner and occupier in order to identify any specific issues for that landholding and business that need to be agreed..	
Security for compensation	LIG requires the Applicant to put financial provisions in place to guarantee that compensation will be available to any landowner or Farmer that suffers losses as a result of the laying of the TKES prior to the commencement of works. The Security should be available for a period coterminous with the operation of the lifespan of the associated offshore wind farm.	

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5. MATTERS AGREED

The table below provides a summary of the matters which are still under discussion between LIG and the Applicant. The record of agreement refers to the source document in which the original point of discussion has been noted.

Description	Matters under discussion	Record of discussion

2 Record of areas still under discussion

2.1.1 The table below provides a summary of the matters which are still under discussion between RWE and LIG. The record of agreement refers to the source document in which the original point of discussion has been noted.

Ref	Description	Matters under discussion	Record of discussion
1			

6. CONFIRMATION OF AGREEMENT

Confirmation of Agreement with the Land Interest Group

Signed:

For: Triton Knoll Offshore Wind Farm Limited

Name:

Title:

Date:

Signed:

For: National Farmers Union

Name:

Title:

Date:

Signed:

For: Lincolnshire Association of Agricultural Valuers

Name:

Title:

Date:

Signed:

For: County Land and Business Association Limited

Name:

Title:

Date:

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