

Planning Act 2008

Nationally Significant Infrastructure Project

Application by Triton Knoll Offshore Wind Farm Limited for an Order granting Development Consent to construct and operate the proposed Triton Knoll Electrical System

Location: Land on the bed of the North Sea approximately 33km off the coast of Lincolnshire and 46km off the coast of North Norfolk within the Renewable Energy Zone and within the County of Lincolnshire, the District of East Lindsey and the Borough of Boston

**Examining Authority's Second Written Questions to:
Boston Borough Council required by 5 January 2016**

Planning Inspectorate Ref: EN020019

Boston Borough Council ref: PLE/

This document reproduces the Second Written Questions directed at Boston Borough Council in the order raised by the ExA and supplies the Council's answers.

DCO 2.14 Article 9 Temporary stopping up of streets. The Applicant has inserted a sub-paragraph putatively setting a timescale for notification under this Article. The Applicant states [REP3-047] that it is in negotiation on the actual timescale.

i) The Applicant

Justify the placing of this new sub-paragraph under 9(3) rather than under 9(4)

ii) The Applicant East Lindsey DC and Boston BC

Provide a progress report on negotiations in respect of this Article, stating where any disagreements exist.

Answer: The Council stated in its Submission to Deadline 3 that it is content with a 28-day notification period (para 2.7 of that document).

Since that time the County Council has suggested that these 'consents' should be given by the highway authority. Clearly, this Council accepts that the County Council is the local highway authority but the DCO has the ability to define the consenting authority. In this instance it is the Council's view that this is not about taking on a highway authority function but that it is better procedurally that all parties know that there is a single consenting/ discharging authority for each district. In any event, there is no question in this instance that the precise requirement would not have been discussed in advance between the applicant and the highway authority direct - but any actual or future notification(s) would be all held and recorded in one place.

DCO 2.21 Requirement 14 The Applicant proposes to include the phrase "including the management of public rights of way" into 14(2)(a). Set out your agreement, or otherwise, to this amendment.

Answer: The Council has no objection to this proposal.

DCO 2.26 Schedule 11 Discharge of Requirements. The *DCO Schedule of Amendments Explanatory document* [REP3-047] states that the Applicant confirms that the fee payable in accordance with paragraph 5(1) of Schedule 11 is per requirement discharged, not per request. Confirm or otherwise the acceptability of this interpretation.

Answer: This is also the Council's understanding of the parties' interpretations. However, the matter could be clarified by a change to sub para (5) (1) to Schedule 11 of the DCO in the form of: after 'of a requirement'...insert 'or any defined stage within a requirement'.

AH 2.1 dDCO wording Archaeology and Heritage. For the project, the definition of 'commencement' as set out in Paragraph 2 of Part 1 of the dDCO [REP3 -043] specifically excludes archaeological investigations.

- i) Explain whether as drafted, the Written Scheme of Investigation, which is required under Requirement 12 of Schedule 1 of the dDCO, would not necessarily need to be agreed prior to any archaeological works taking place.
- ii) Update the dDCO to ensure that the archaeological investigations cannot be carried out until the Written Scheme of Investigation is agreed.

Answer: The Outline Written Scheme of Investigation (Document 8.11) specifically states that prior to the commencement of construction on individual sections, individual stage-specific Written Schemes of Investigation (WSI) will be prepared for individual investigations which will inform any further archaeological/mitigation requirements.

Clearly, the nature of any archaeological measures or mitigation may not be known until after the further investigation(s) envisaged by Requirement 12 have been carried out. The Outline WSI which is a part of this application is quite specific in identifying those areas where further investigation might be required and it goes into detail of, for example, where trial trenching may or may not be required.

A simpler solution would be to remove the apparent double duplication of the existing Outline WSI and then the requirement for another WSI which is in effect the proposed archaeological works of mitigation when and if necessary. This could be achieved by in the Requirement 12 deleting from subs (1) the first 'of investigation'. This makes a distinction between any further need for another WSI...which is maybe unnecessary duplication and goes straight to any archaeological measures/mitigation scheme which is what this Requirement is actually seeking to do.

The purpose of the 'commencement;' definition is not to prevent the investigations which will inform the proposals for measures/mitigation, but to ensure that the works proper may not commence until the measures/mitigation identified by investigations have been defined and agreed.

It is right therefore that the definition of commencement does not prevent the carrying out of these investigations that are necessary to inform what

the future/any measures/mitigation might be. So in part i) of the above question it would be a nonsense to prevent archaeological investigation works taking place until the WSI has been agreed because the former are required to inform the latter. Maybe there is an error in the question.

In respect of part ii) to the above question, again this is confusing the purpose of the Requirement. If the dDCO is amended to ensure that investigations cannot be carried out until the WSI is agreed, then the investigation to inform what goes into the WSI can never commence until the WSI has been agreed..... !

With respect, this Council would suggest – contrary to ii) -that the dDCO does need to ensure that investigation works can commence ...which will inform the measures/ any necessary mitigation but that the actual commencement of the stage of operational development will not commence until the resultant measures/ mitigation arising out of investigation have been submitted to and approved?

EOn 2.6 Noise Monitoring In paragraph 1.5 of Appendix 20 to the Applicant's Deadline 3 submission [REP3-056], the Applicant states a commitment to adding a new paragraph to the outline Noise and Vibration Management Plan (document reference 8.7.3) [APP-101], as follows:
"Whilst no specific noise limits will be applied during construction, as the potential noise impacts of construction will be controlled by the mitigation measures outlined herein, it is recognised that in some circumstances the Local Authorities may find it beneficial to have a record of measured noise levels that occur during construction. Noise levels within construction areas will be monitored as part of the standard monitoring procedures that will be employed to ensure construction plant and equipment is operating within expected parameters, and these measurements will be forwarded on to the Local Authorities on request."

i) Has this new paragraph been agreed with the local planning authorities?

ii) If so, provide an updated outline Noise and Vibration Management Plan at Deadline 4

iii) If not, explain why.

Answer: The Council can confirm that it has agreed with and is totally satisfied with this proposed arrangement.

LV 2.7 Draft DCO North Kesteven District Council has requested [REP3-028] that Requirement 15 of the dDCO submitted at Deadline 3 should specify the hours of illumination and the means of control. Comment on this request.

Answer: Requirement 15 seeks the submission of a scheme for the management and mitigation of artificial light. It would seem implicit that such a scheme would include proposals for hours of illumination and their means of control. Indeed a not insignificant amount of detail and information is already available in the Outline Artificial Light Emissions Plan (ALEP)(Document 8.7.6). Thus, in the knowledge that the consenting authority will influence/ have a say on what those hours might be, there is no need for hours and control measures to be specified in the DCO in advance of the actual scheme being drafted and site specific amendments to the Outline ALEP being proposed and submitted for approval.

LV 2.8 Draft DCO In respect of Requirements 6 (Provision of Landscaping), 7 (Implementation and Maintenance of Landscaping) and 13 (Ecological Management Plan) of Schedule 1 of the dDCO, are the parties satisfied that the wording, which requires that each approved scheme 'accords with the outline ecological management plan' is sufficiently precise? Suggest alternative wording if not.

Answer: Yes, the Council is satisfied. The Council addressed this point in its Submissions to Deadline 3 at paras 4.2 to 4.3. The Landscape and Ecology Management Plan is at a sufficient level of detail and the consenting authority again has the ability to clarify its expectations when any discharge for requirements is submitted. The applicants' response to the point about advanced/ strategic planting was accepted by this Council.

LV 2.14 Green Zone At the Landscape and Visual Hearing, held on Wednesday 18 November 2015 [EV-026 and EV-027], Boston Borough Council confirmed that its support for the proposed siting for the Substation (the 'Blue Zone' referenced as 'Site Sub_J' in ES Volume 1 Chapter 4 6.2.1.4 [APP-023]) principally stemmed from local views, and that because the Substation would be capable of being served by a permanent access road which could be taken directly from the A52.

a) Explain whether all the shortlisted sites were proposed with permanent access roads.

- b) Explain from where the Green Zone (Cow Bridge referenced as 'Site Sub_F' in ES Volume 1 Chapter 4 6.2.1.4 [APP-023]) permanent access road would have been taken.
- c) Explain whether a permanent access road from the A17 to the Green Zone site was sufficiently explored.
- d) If the Green Zone had a suitable access, would Boston BC have supported this location over the proposed site, having regard to its proximity to the existing NG substation?

Answer: The permanent access road to serve the proposed Blue Zone is from the A17 and not the A52.

The Council can confirm that each of the four shortlisted sites (Blue, Green, Orange and Purple) were investigated up to a point where indicative access routes for each made their way on to a plan provided by the applicants in April 2013. This was in association with a wide consultation exercise which was underway at the time and which also included indicative accesses along existing roads. This was later refined with the Blue and Green Zones having indicative permanent new access routes (a Dwg No TK/ON/0088/A – not in front of the ExA I believe). The proximity of the Purple and Orange Zones to the A17 meant that relatively short stretches of existing highway might be utilised. The applicant advised me on 4 April 2013 that a meeting the previous day with the Highway Authority had heard their advice that the authority would prefer the construction of new haul roads from the network rather than using any local roads.

Initially the use of the existing NGET Bicker Friest access road up to Ing Drove was contemplated to access the Green Zone. This however still did not address the almost overwhelming concerns of residents that these local roads were totally inadequate and unsuitable and the Council pressed for a further investigation into accessing the Green Zone.

A further potential permanent access road for the Green Zone was then suggested which would have sprung from the west side of the A52 Donington Road south west of Bicker at the point where the gated NGET Bicker Friest construction road leaves the A52 and heads almost due north towards Ing Drove. This suggestion however would have run to the north west away from the NGET road, approximately parallel to and almost underneath the overhead high voltage power cables. Once it had crossed Hammond Beck it would then have veered due north and come into the Green Zone approximately mid way along that zone's southern perimeter. It is fair to say that this Council, when the option of a permanent access road to the Blue Zone appeared to be a better

possibility in that it was more remote and the noise climate was better for the Blue than Green, suggested to the applicant that, in combination with the existing evaluation matrix, that the Blue site would likely have the Council's support with the indicated likely permanent access route. At that stage the detailed investigation of routes to the Green zone ceased in favour of concentrating on seeking to resolve the Blue.

A permanent access road to the Green Zone from the A17 would be a considerable distance and it would likely pass close by a number of building groups or closely between building groups in order to seek a straight line. The Council would not have expected the applicants and it did not request them to seek access from the A17 for this zone given its closer relationship to existing properties and the likely torturous nature if any route could be found. If the ExA means the A52, this is set out in b) above.

I do not think that proximity to the existing substation was the sole or determinative factor. The Council's evidence to the ExA to date has been that a number of factors – advantages and disadvantages across the shortlisted sites all conspired to favour the Blue Zone site in the light of a remote permanent access route direct from the A17 and the noise and landscape advantages previously described. The issue of accommodating new plant in association with existing electrical infrastructure- which would have favoured the Green Zone was never, in the Council's opinion going to be determinative. The application is for what was then the Blue Zone to be the site for the new Substation and the Council would wish to confirm that this location, subject to the provision of the permanent access route as described continues to have its support.

The applicants have, in good faith, explored other options but the Council's considered preference for the Blue Zone in the pre-application process and once it had seen and taken account of local representations meant that the pros and cons of the other shortlisted sites were then not, naturally, investigated to the same extent once the Blue Zone became a favoured site.

The Council would wish to confirm its support for the application proposal for the substation site but has tried to assist on how the other shortlisted sites were eventually discounted.

LV 2.16 Management and Maintenance of Planting

- a) Confirm when the 10-year period of management and maintenance of the planting, as specified in Requirement 7(2) of the dDCO [REP3-043] would commence (i.e at 'Year 1' commencement of construction) and whether this is secured in the draft DCO.
- b) Clarify whether the 10-year period of management and maintenance of planting, as specified in Requirement 7(2) of the draft DCO [REP3-043] would be sufficient to ensure the successful establishment of the planting.
- c) State whether you consider that the draft DCO is sufficiently precise as to the responsibility of the management and maintenance within the 10-year period.

Answer:

- a) The simple answer is that the 10-year period would commence upon implementation of that particular stage, or area of planting as defined within the to-be-agreed implementation timetables required by Requirement 6. In terms of the 'replacement' part of Requirement 7 this would again commence upon implementation of that planting. There will be a whole range and series of commencements or implementations of planting and each ten years will run from a potentially different implementation date. It will be for the local planning authority to satisfy itself that any potential needs for replacements are requested within that ten year period.
- b) Standard practice and the retained Appendix A from former Circular 11/95 had assumed a normal maintenance period of ~5 years. This had evolved from the former Circular advice that the long term protection (of trees) may only be achieved by tree preservation orders. The Council takes the view that 10 years is significantly longer than would normally be able to be achieved or imposed and give that there is a clear indication that some planting will take place as soon as enabling works have been completed, the Council is entirely satisfied that 10 years is sufficient.
- c) The drafting of Requirement 7 to affect this maintenance and replacement is precise and generally follows model conditions.

LV 2.17 Planting on the cable route In responses to Deadline 3, Lincolnshire County Council [REP3-024] states that the Applicant's assertion that only shallow root systems can be planted over the cable route is not justified.

Please respond stating your reasons for supporting or refuting this assertion.

Answer: The Council would venture that the County Council assertion that "as all trees and hedges have shallow root systems i.e. within the first 1m of soil" (REP3-024 para 34) may be an over simplification of the situation. It is common practice that water authorities, utilities and electrical companies always specify that only 'shallow rooted species' may be planted over their assets. This Council has no reason to refute the applicants' experience and view.

SE 2.12 + SE 2.13 Agricultural Liaison Officer and aftercare

Answer: Whilst not directed at the Council these questions relate to the appointment of an ALO and the submission and discharges of stages under Requirement 14. The Council in assessing or consenting to any CoCP is satisfied that there will be clearly defined roles and responsibilities for the ALO and a dispute resolution process is in place in respect of drainage/reinstatement. Separate discussions/ understandings will need to be arranged later in the event of any DCO and commencement so that the Council in assessing those relevant parts of the CoCP correctly takes any ALO inputs into account.

TT 2.5 + TT 2.6 Vehicle occupancy and routeing

In Volume 3 Chapter 9 paragraphs 9.81, 9.112 and 9.114 of the Environmental Statement [APP-050] you say that vehicle occupancy of 3 per car/LGV has been assumed. Your answer to question TT 1.7 [REP1-044] mentions a minibus service with 10 seats per vehicle but does not explain how your figure of 3 per car/LGV is arrived at.

- i) Justify your assumption of 3 per car/LGV
- ii) How will this vehicle occupancy be monitored and enforced?
- iii) How and where will such monitoring and enforcement be secured?

and

- i) Will the proposed permanent access road for the proposed new substation also be used by you to undertake works at the existing National Grid substation nearby?

- ii) If so, do you see any potential benefit to the local community in encouraging the use of this proposed permanent access road by other parties during the lifetime of the proposed project?
- iii) Do you see any other potential for enhancement for the local community?

Answer: The Council can be content that the staged submission of Traffic Management Plans will set out how Construction Access and Travel Plans will be devised, monitored and enforced. The Council has already had initial and separate discussions with the applicants about PPA(s) to assist the resource implications arising from monitoring. In some respects the 'Bicker end' of the exercise is really only to do with ensuring- as the applicant has indicated, that all access to this end of the line is taken from the A17 permanent or temporary haul routes to access both the proposed substation and the unlicensed works at the NGET substation.

The applicants will be proposing amendments to Requirement 19 (formerly 18) reacting to the use of these routes and by the time of its submission this will likely be an agreed position. This is also referred to in Question TT 2.8 to the applicants.

The Council is comfortable with the assumptions about generation in the Outline Traffic Management Plan and recalls that the Highway Authority took part in the Evidence Plan process and the traffic assignment and generation methodology was all agreed in advance of submission (Document ref 8.16).

The appointment of a Travel Plan Coordinator will likely assist but the Council is very keen to protect local roads and residential amenities from abuse of any agreements -given the experiences and apparent breaches of agreements by previous contractors in the past and referred to in the Council's LIR. It will be important that any variations to any agreed Plans do not have abilities within them for informal, 'tailpiece' type variations to be agreed without proper consultation.

The submission includes confirmation that the unlicensed works will be accessed via the TKOWFL permanent and temporary access routes or cable corridors (para 9.70 to Volume 3 Chapter 9) and the proposals to amend Requirement 19 will enshrine these needs for such control.

Questions TT2.6 ii) and iii) may be answered in more detail by the applicants but the Council did, very early on, make suggestions about the ability to use the permanent access road to the substation site for recreational purposes to access the South Forty Foot Drain and for ~ boating purposes. My recollection was that the applicants would not have

wished the track to be adopted as any sort of Public Right of Way but they were to investigate other aspirations for access/ car park alongside the South Forty Foot Drain for the Fens Waterway Project - which aims to regenerate river and waterways corridors in Lincolnshire.

TT 2.9 Monitoring and enforcement

- i) Are you satisfied with the control measures proposed in the outline Traffic Management Plan [APP-110] in respect of monitoring and enforcement of restrictions on construction traffic movements?
- ii) If not, what measures do you think need to be included and why?

Answer: At first glance it could be said that a lot is riding on the outline TMP and it may not be ideal that so much is left to later submissions. However and in reality the information that is available from, for example, the County Council on matters such as Travel Plans and how Travel Plan Coordinators can operate in association with highway authority experts (<http://www.lincolnshire.gov.uk/searchResults.aspx?qsearch=1&keyword=s=travel+plans&x=24&y=16>) means that the Council is content that the submission of staged discharges of this requirement is the only way in which to address issues of particular monitoring and enforcement. The answer to this question is thus 'yes' but subject to:

The Council would observe that there are however no firm commitments or requirements for, for example, the appointment of a Travel Plan Coordinator, how it might be funded and how the Travel Plan might be monitored and amended as necessary. It may be that individual staged submissions of the TMP should be under a detailed overarching document which commits to a Coordinator, an overarching Travel Plan with targets, how it is funded, monitored and etc. The Council understands and will accept the applicants' view that these details are all for future discussion and submission within the TMP.

In any event, the Council will however continue discussing with the applicants separately to assist the Council's resources in responding to and monitoring enquires or complaints.

TT 2.10 Tourist Traffic

- i) Are you satisfied with the measures proposed in the outline Traffic Management Plan [APP-110] to mitigate effects of the project on tourist traffic?
- ii) If not, what measures do you think need to be included and why?

Answer: I think it is fair to say that there are actually no specific measures in the outline TMP to mitigate effects upon tourist traffic. However, the successful control and mitigation of transport effects upon the networks, it must follow, would address any specific effects upon tourist traffic, mostly towards the coast. The Borough Council does not have any concerns over the effects upon tourist traffic and is aware that there have been specific discussions with East Lindsey DC and the County Council over specific crossing or TCC locations so as not to disrupt tourist traffic.

ends

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Boston Borough Council
5 January 2015