



## Meeting note

<b>File reference</b>	EN020019
<b>Status</b>	<b>Final</b>
<b>Author</b>	Kathryn Dunne
<b>Date</b>	9 March 2015
<b>Meeting with</b>	
<b>Venue</b>	Temple Quay House
<b>Attendees</b>	<p>Triton Knoll Offshore Wind Farm Limited: Gill Moore – RWE Liz Dunn – Burges Salmon Kristen Read – Burges Salmon</p> <p>The Planning Inspectorate: Kathryn Dunne – Infrastructure Planning Lead Sarah Green – Lawyer Hannah Pratt – Senior EIA and Land Rights Advisor Tracey Smith – EIA Advisor Oliver Lowe – Consents Service Unit Melanie Bischer – Consents Service Unit</p>
<b>Meeting objectives</b>	To discuss the draft Development Consent Order (DCO) and other queries.
<b>Circulation</b>	All attendees

### Summary of key points discussed and advice given:

After introductions, attendees were made aware that any advice given will be recorded and placed on the Planning Inspectorate's website under s51 of the Planning Act 2008, as amended (PA 2008). Any advice given does not constitute legal advice upon which applicants (or others) can rely.

#### **Draft Development Consent order**

##### The Authorised Development

The Planning Inspectorate advised that the Explanatory Memorandum (EM) should explain which works are considered to be integral and which are considered to be associated development, with an explanation provided for this interpretation.

The term 'mean low water springs' was discussed and the applicant confirmed it should be 'mean low water'.

The applicant confirmed that in regard to work no. 3 (6 export cables), the current drafting is incorrect in stating that this work would connect both work no. 2 (up to 6 export cables) and work no. 4 (upgrading of existing access). Instead it should read as connecting work no.2 to work no. 5 (up to 6 export cables).

The Planning Inspectorate explained that the wording is confusing in relation to the subsections of work no.s 3 and 9. For example work no. 3 is summarised, followed by 'And within work no. 3....' where the works are listed again in greater detail.

The applicant explained that work no. 51 'accesses for surveying, site fencing and maintenance' is in relation to the operations and maintenance accesses. The Planning Inspectorate advised the applicant to explain in the EM, Environmental Statement and Statement of Reasons exactly what these works entail and what rights the applicant is seeking for these works to take place.

### Requirements

Within 'interpretation', the applicant was advised against duplication of the interpretation within Article 2 in regard to 'completion' and 'Highway Authority'. It was also noted that the definition of 'Highway Authority' was different in Article 2 and the Requirements.

The applicant confirmed that work no. 15 should be included within the interpretation of stages, and that it had not been deliberately excluded from the list.

The applicant explained that in relation to work no.s 51 ('accesses for surveying, site fencing and maintenance') and 52 ('pond surveying areas including access'), requirements are not relevant. However the details of work no. 53 ('highway improvement') will need to be agreed prior to these works proceeding.

The Planning Inspectorate advised against the use of tailpieces in line with the recently published Advice Note 15 on 'drafting development consent orders', if they are necessary they should be lawfully drafted and explained in the EM.

The term 'where relevant' within the draft DCO adds uncertainty and should be explained clearly within the EM if it is necessary.

The applicant explained that where the requirements state 'after consultation with...' that this referred to the applicant's consultation before submission to the relevant planning authority. The Planning Inspectorate advised that this should be clearly explained in the EM.

Requirement 3 – 'Detailed offshore design parameters' - the Planning Inspectorate advised that all parameters assessed in the Environmental Statement should be secured within the draft DCO.

Requirement 6 – 'Provision of landscaping' currently refers to the 'outline ecological and landscape management strategy' however this should be the 'outline landscape strategy and ecological management plan' as per the certified document list. The applicant confirmed that an outline of this document would be provided as part of the application.

Requirement 7 - 'Implementation and maintenance of landscaping' states 'in accordance with the relevant recommendations of appropriate British Standards or

other industry guidance'. The applicant will consider whether reference can be made to the appropriate guidance.

Requirement 10 - 'Requirement for surface water drainage scheme' states 'in accordance with the surface water drainage strategy', the Planning Inspectorate queried if this should be a certified document and if not, clearer referencing to the specific Environmental Statement document would be required. The applicant explained that this document currently forms part of the Flood Risk Assessment within the Environmental Statement and that the Environment Agency requested this specific requirement.

Requirement 12 - 'archaeology' - the applicant confirmed that this does not apply to work no. 53 (highway improvements) because this work is within a public highway, it will be explained within the EM. The Planning Inspectorate asked if English Heritage should be consulted on the written scheme of investigation.

Requirement 14 - 'code of construction practice and construction environmental management plan' - the applicant confirmed it would provide outlines of these documents with the application. The applicant explained that the detail of trenchless and non-trenchless techniques would be included within the construction method statements.

Requirement 15 - 'control of operational artificial light emissions' - the applicant confirmed that this is separate to the plan detailed within requirement 14 as it relates to operational lighting.

Requirement 16 - 'construction hours'- 16(1)(d) states 'any other time critical element', the Planning Inspectorate highlighted that this wording was broad and asked whether narrower wording can be provided. The applicant will also look into whether residents should also be contacted regarding 24 hour working for trenchless techniques, in addition to the relevant planning authority (16(3)). The Planning Inspectorate asked if the occupied dwellings within 100m of the trenchless technique can be identified (16(4)) and the applicant said it would confirm.

Requirement 17 - 'Control of noise during operational phase' - the Planning Inspectorate queried why this requirement relates only to work no. 9A and 49A 'above ground electrical infrastructure compounds', the applicant explained that all other works are underground or are the unlicensed works at National Grid's Bicker Fen substation.

Requirement 18 - 'construction traffic' - the applicant explained that the outline traffic management plan is in relation to construction traffic whereas the construction travel plan relates to workers travelling to the site.

Requirement 21 - 'onshore decommissioning' – the applicant agreed to explain the 'cessation of commercial operation' within the EM.

#### Deemed Marine Licence

Condition 7 - 'Pre-construction plans and documentation' – the Planning Inspectorate queried whether condition 7(g) should refer to the certified document entitled 'the outline offshore written scheme of investigation'.

#### Articles

In relation to the fourth paragraph in the draft DCO, the Planning Inspectorate stated that s131 and 132 of the Planning Act 2008 (as amended) requires not only that the Secretary of State is satisfied that one of the subsections applies, but that fact, and the subsection concerned, are both recorded in the order. The order must therefore include reference to the relevant subsection. The applicant explained that the beach at the landfall is owned by the County Council. It is not formally designated as open space, however the applicant is treating it as if it is.

#### Article 2 Interpretation

'collector substations' - the Planning Inspectorate queried if the term 'offshore' collector substations was necessary, as the offshore wind farm DCO does not authorise any onshore works.

'commencement' - the applicant was advised to view Advice Note 15 in relation to this definition.

'Horizontal directional drilling' - is defined, and so is 'trenchless technique' (which refers to horizontal directional drilling). The Planning Inspectorate queried if a definition of pipe-jacking and micro-boring is required also.

'maintain' - the Planning Inspectorate advised that the word 'maintain' should be removed from the interpretation of the same word, and also advised the applicant to refer to Advice Note 15. The definition of maintain and the maintenance article should not authorise works outside of those assessed in the ES.

'Statutory undertaker' - the Planning Inspectorate advised that sections 128 and 129 of the PA 2008 have been repealed, therefore reference to these sections should be removed.

Article 5 - 'transfer of benefit of order' - 5(6)(a) should refer to subsection 5 as well as subsection 1.

Article 6 - 'Application and modification of legislative provisions' - the Planning Inspectorate reminded the applicant that consent is required for some of the provisions listed (regarding s150 of the PA 2008).

Article 12 – 'Discharge of water' – the applicant explained that the requirement, including the 28 day period, was consulted on and no comments had been received.

Article 17 – 'compulsory acquisition of rights' – the Planning Inspectorate explained that subsection 1 is a wide power and its inclusion will need to be justified. A general power to impose restrictive covenants has been refused in some other NSIP decisions.

Article 38 – 'Crown rights' – the Planning Inspectorate explained that if the compulsory acquisition of any Crown interest is authorised by the DCO, consent must be given before the order is made, in order to satisfy the requirements of section 135(1). However, consent should be sought prior to the application being submitted.

#### Requirement Stages

In principle, provided the local authorities are content, the Planning Inspectorate has no comment on the proposal to divide the onshore cable works into separate stages (works), allowing each stage to be signed off separately through the requirements. The Planning Inspectorate advised the applicant that a schedule of requirements

would be helpful to ensure the local authorities are able to keep track of which stages have been signed off and which remain, for each requirement.

### **Drainage Boards**

The Planning Inspectorate has no comment on the applicant's proposal to disapply the various provisions of the Land Drainage and Water Resources Acts, provided the relevant bodies are satisfied with this approach. This will also be a matter for the Examining authority who will take into account the views of these bodies during the examination.

The CSU confirmed that the agreement of the consenting bodies is required to disapply this legislation in accordance with s150 of the Planning Act 2008.

### **Overlapping order limits**

In relation to the overlapping order limits of the offshore wind farm and the electrical connection, the Planning Inspectorate advised the applicant to consult with the Marine Management Organisation as they are the enforcing authority for Marine Licences. The Planning Inspectorate advised the applicant to explain in the EM how the DCOs and Deemed Marine Licences will interact in practice. For example how will the applicant ensure that construction of the works in the electrical system will not prevent or interfere with the works consented in the offshore wind farm Order. There is nothing in the draft DCO to prevent any works commencing before the offshore wind farm is constructed or to ensure that they are coordinated to protect the interests of the wind farm undertaker.

The Planning Inspectorate advised that it is important to ensure that the worst case scenario has been assessed in relation to the timing of the construction of the two projects in the Environmental Statement.

### **Works Plans**

The Planning Inspectorate advised of a number of instances where the works do not go in the general direction identified in the DCO:

Sheet 19 (work no. 18) – slight north west direction, however the draft DCO states 'in a generally south westerly direction' .

Sheet 47 (work no. 50) – direction of route goes entirely in a south easterly direction on this sheet and also continues south east before turning slightly south west on sheet 48. The draft DCO states 'in a generally south-south westerly direction'.

Sheet 50 – no order limits are currently shown for these works on the plans.

In regard to work no. 53 (highways improvements), the Planning Inspectorate advised that an inset map might be helpful to see the extent of the works as it is unclear at 1:2500 scale.

### **Pre-construction survey work**

The Planning Inspectorate advised the applicant, in accordance with advice from Natural England, to explain (including evidence, for example dated emails and letters or other correspondence including financial reasoning) the attempts to secure access to the land for surveying, and the reasons for not pursuing section 53 powers prior to submission of the application. An explanation of why the applicant feels this survey information is not required to be submitted with the application is also advised.

## **Access**

The Planning Inspectorate advised the applicant to explain how they intend to secure the access they need, for example are they acquiring rights over this land for access on which they are not proposing to carry out any development. The Planning Inspectorate advised the applicant to explain if the creation / use of access tracks could have an environmental impact when they will be increasing the traffic flow on these tracks, the Planning Inspectorate notes that the applicant stated the roads are only to be used to access the cable corridor for pre-construction surveys and for post-construction operations and maintenance. The Planning Inspectorate advised that they would provide separate advice on the draft ES Chapter 3 'Approach to EIA' by 13 March 2015.

The Planning Inspectorate confirmed that the applicant should provide a summary of the other consents that they require and progress in obtaining them with their application.

## **Plans**

The applicant explained that they intend to submit application plans to the Planning Inspectorate at A1 scale, but that copies placed in public access points and provided to statutory consultees, who have requested a hard copy of the application, would be provided at A3 and as a result, the scale will not comply with the regulations. The A3 plans will be appropriately rescaled and the legend and scale bars will be correct. The applicant intends to take this approach as it considers the plans will be easier to view by members of the public. The Planning Inspectorate requested that the applicant explain this approach within the application.