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31 January 2020

Dear Sirs

**Application by Vattenfall Wind Power Limited for and Order granting Development Consent for the Proposed Thanet Extension Off Shore Wind Farm off the Coast of Kent
Request for Information and Comments on the Application: EN010084
Our Client: Ramac Holdings (Trading) Limited**

Thank you for your letter of 6 January 2020.

We reconfirm we are instructed on behalf of Ramac Holdings (Trading) Limited and write to enclose further Submissions on behalf of our client to respond to your aforementioned letter and to address the further submissions made on behalf of the Applicant.

Yours faithfully

Charles Russell Speechlys LLP

RAMAC HOLDINGS (TRADING) LTD

SUBMISSIONS IN RELATION TO THE ASSESSMENT OF ALTERNATIVES IN COMPULSORY ACQUISITION OF LAND – RESPONSE TO APPLICANT’S LETTER AND SUBMISSIONS DATED 13 DECEMBER 2019

Introduction

- 1 Following the completion of the examination into the application for development consent for the Thanet Extension Offshore Windfarm on 11 June 2019, the Examining Authority (“ExA”) submitted a report to the Secretary of State for Business, Energy and Industrial Strategy on 11 September 2019. Thereafter, the Secretary of State identified a number of issues upon which further information was required. Among other things, the Secretary of State sought from the Applicant:

“further details to demonstrate that the proposed substation is the best location for the substation, and for additional evidence to demonstrate why the alternative Baypoint Club and BCA Fleet Solutions land can and should be excluded so that the Secretary of State can consider afresh whether the requirements of the Planning Act 2008 can be met and compulsory acquisition powers included within the development consent order.”

- 2 This request followed objections by Ramac Holdings (Trading) Ltd prior to and during the examination regarding the proposed location of the substation, which lies in the middle of its landholdings at Richborough Port.
- 3 On 13 December 2019, the Applicant purported to respond to the Secretary of State’s request, by providing further information seeking to show that the proposed site for the substation (identified in the Works Plans as ‘Work No.13’) was the best location for the onshore substation and seeking to discount the Baypoint Club and BCA Fleet Solutions land as suitable alternatives.
- 4 In a letter dated 6 January 2020, the Secretary of State invited comments on the Applicant’s material. This is the response of Ramac Holdings (Trading) Ltd. In summary, it does not accept that the Applicant: (i) correctly understands its duty to consider alternatives in the context of compulsory acquisition or (ii) has provided adequate justification for the selection of the proposed substation site in preference to other sites which would have less impact on and cause less disturbance to Ramac’s operations. Further the Applicant is wrong when it suggests the principle of siting the substation on Ramac’s land has been established – it has not. Ramac’s position has

been clear and consistent from the first Pre-Application Consultation Response through to the Written Submissions dated 28 May 2019, wherein the first sentence in paragraph 25 states “*In conclusion, Ramac does not consider the Applicant has demonstrated a compelling case in the public interest for the compulsory acquisition of its land*”.

5 These Submissions therefore consider:

- The legal position regarding the need to consider alternatives in order to show the interference with rights to be compulsorily acquired is proportionate;
- The inadequacy of the assessment of alternative sites in the application documents and during the DCO examination.
- The inadequacy of the most recent attempts to rule out alternative sites in the documents submitted to the Secretary of State in December 2019 and the submissions made within the Applicant’s covering letter dated 13 December 2019.

Requirement to consider alternatives

6 The Applicant’s most recent responses to the Secretary of State reveal that it has failed properly to understand the necessity of considering alternative sites in the context of an application for compulsory purchase powers. This is most notable at paragraphs 3-6 of the Annex B to the Applicant’s letter of 13/12/2019.

7 The requirement to consider alternatives arises from the following sources:

- DCLG/MHCLG guidance on compulsory purchase in development consent orders;
- National Policy Statement EN-1;
- Statute and common law.

Guidance

8 The applicable guidance document issued by the Department for Communities and Local Government in September 2013, ‘Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land,’ states at paragraph 8 that the applicant “should be able to demonstrate that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored.”

9 At paragraph 16, the Guidance contemplates circumstances whereby the Secretary of State could reasonably justify granting development consent, but decide against authorising the compulsory acquisition of land, for example, where it is considered “the scheme should be modified in a way that affects the requirement for land which would otherwise be subject to compulsory acquisition.”

10 The general compulsory purchase guidance (‘Guidance on Compulsory purchase process and The Crichel Down Rules’) – most recently issued by MHCLG in July 2019

– refers back to the 2013 DCO guidance where applicable (see paragraph 8 of the 2019 guidance). The 2013 DCO guidance therefore remains applicable.

- 11 It follows that an applicant should be able to demonstrate that all reasonable alternatives to compulsory acquisition (“CA”), including modifications to the scheme, have been explored. It will also need to demonstrate that the proposed interference is for a legitimate purpose and that it is necessary and proportionate. If there are alternative sites which provide a suitable location and cause less disruption to the landowner, then it is difficult to see how a decision-maker could be satisfied that the interference is necessary and proportionate.

National Policy Statement

- 12 National Policy Statement EN-1 states at paragraph 4.4.1:

“As in any planning case, the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to the proposed development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS.”

- 13 At paragraph 4.4.3 it further notes:

“Where there is a policy or legal requirement to consider alternatives the applicant should describe the alternatives considered in compliance with these requirements.”

- 14 It follows that the ordinary legal principles concerning the consideration of alternatives are applicable in the present context of CA pursuant to a DCO. It is therefore wrong to suggest that this section of the NPS in some way diminishes the need to consider alternatives.ⁱ

- 15 There is no suggestion that such principles do not apply in the present case. Indeed, the recent case of FCC Environment (UK) Limited v Secretary of State for Energy and Climate Change and Covanta Rookery South Limitedⁱⁱ serves to confirm that CA in a DCO context is not excepted from the ordinary legal principles relating to CA.

- 16 Contrary to the Applicant’s suggestions, the legal requirements to consider alternatives are not limited to the provisions of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, which in any event do not relate directly to the issue of CA.ⁱⁱⁱ

ⁱSee paragraph 4 to appendix B to applicant’s letter of 13/12/2019.

ⁱⁱ[2015] EWCA Civ 55, at paragraphs 8-11

ⁱⁱⁱAs per representation at paragraph 4 to appendix B to applicant’s letter of 13/12/2019

Legal requirements

- 17 The provisions of sections 122(2) and 122(3) of the Planning Act 2008 establish the tests for compulsory acquisition of land in a development consent order and will be familiar to the Secretary of State.
- 18 It is accepted by the Applicant that as part of the aforementioned tests, it must be demonstrated that the land required is no more than is reasonably necessary.^{iv} This point goes to both the 122(2) test that the land must be required for/to facilitate/is incidental to the development, and the 122(3) test that there must be a compelling case in the public interest. In order to draw a defensible conclusion on the necessity of the land take proposed in the CA, an acquiring authority must sufficiently consider, and justifiably dismiss, reasonable alternatives.
- 19 Alternatives are material considerations, to which regard must be had, as per Trusthouse Forte Hotels Ltd. v Secretary of State for the Environment^v at page 300:
- “Compulsory purchase cases are a fortiori to planning cases: in considering whether to make or confirm a C.P.O. it is plainly material to consider the availability of other sites upon which the need could be satisfied.”*
- 20 Where there is land that is more suitable for the purposes of the development than the land in question, or where alternative suitable land is being offered voluntarily, the acquiring authority will not be able to show necessity for the exercise of compulsory acquisition powers.^{vi} An aspect of balancing whether the land is suitable will inevitably include consideration of the private interests of affected or potentially affected landowners, the object being to minimise interference with the rights of landowners.^{vii}
- 21 The availability of alternative sites is therefore a material consideration to which regard must be had, and the failure fully to explore and consider the details of alternatives will be a failure to have regard to the same, as was the case in Prest,^{viii} impugning any conclusion drawn on the necessity or proportionality of the use of CA powers.
- 22 Where there are two sites equally capable of accommodating the development in question, but only one of them requires use of CA powers, use of CA powers will not

^{iv}Paragraph 6, appendix B to applicant’s letter of 13/12/2019. If authority is required for that proposition, it is to be found in *Brown v Secretary of State for the Environment* (1980) 40 P. & C.R. 285 (page 291 per Forbes J.). The issue of the proportionality of interference will also be answered along similar lines.

^v(1987) 53 P. & C.R. 293

^{vi}*Brown*, page 291 per Forbes J.; confirmed in *Prest v Secretary of State for Wales* (1983) LGR 193, at page 198 per Denning M.R.

^{vii}*Tesco Stores Ltd v Secretary of State for the Environment Transport and the Regions* (2000) 80 P. & C.R. 427, at page 432 per Sullivan J.

^{viii}At page 203, the error being inadequately pursuing the issue of the land price for the alternative site.

be necessary. This point was confirmed in De Rothschild v Secretary of State for Transport^{ix} at page 341:

“No reasonable Secretary of State would confirm a compulsory purchase order imposing a purchase on an unwilling landowner if that same landowner was willing to sell to the acquiring authority land which would be seen to serve equally well for the same purpose after all relevant considerations, including of course cost and delay, have been taken into account.”

23 Whilst it is not the case that the *onus* of proof lies on any particular party to the CA process, if the acquiring authority cannot show the alternative is impossible, the alternative will remain a possibility and it will not be arguable that the acquisition in question is necessary.^x

24 That these principles apply to CA in a DCO context was confirmed in FCC Environment. The compelling case in the public interest still requires to be balanced against the particular land take in question, and it must be asked whether “it may be possible to meet the need without the use of the requested powers of compulsory acquisition” (paragraph 10). It may properly be open to a decision-maker to find there to be no compelling public interest for CA, despite the NPS having established urgent need for development, where the land to be acquired is excessive (in which case the section 122(2) test would also not be met), or where:

“...an NPS did not require consideration of alternative sites for the purpose of deciding whether to grant a development consent for a particular kind of infrastructure development, but where the existence of an alternative site or sites would be relevant for the purpose of deciding whether there was a compelling case in the public interest for compulsory acquisition.”

(paragraph 11)

25 That paragraph deftly distinguishes between alternatives to the particular kind of infrastructure development concerned, and alternative sites to those proposed for CA.

26 To draw rational and defensible conclusions as to the necessity of the use of CA powers, the relative viability of alternatives must be properly canvassed at a sufficiently early stage.

Consideration of alternatives in this case prior to and during the examination

27 The Applicant has failed to adequately assess alternative sites, both generally and specifically in relation to the land identified for the substation. As a consequence, it

^{ix}(1989) 57 P. & C.R. 330; the same principle can also be found in *Brown* at page 291, per Forbes J.

^x*Melton Borough Council v Secretary of State for the Environment* (1986) 52 P. & C.R. 318, per Forbes J. at 328: “It was the duty of the acquiring authority to prove that it was not a possible alternative...”

cannot be concluded that there is a compelling case in the public interest for CA of the proposed substation land.

Documents and pre-examination

- 28 The Applicant's Statement of Reasons purported to provide a "*description of route, works and plots and general justification for extent of the Order lands*" from page 20. Paragraphs 7.5.17 – 7.5.21 (page 22) of the Statement of Reasons sought to provide a justification for the extent of land required for works 12, 13, 14 and 15 on Ramac's landholding. In fact, those paragraphs provide no justification for the extent of the land take. As to alternatives, the Statement of Reasons says that the selection of the landfall, onshore cable corridor and substation location is "*set out in detail*" in the Environmental Statement (SoR paragraph 7.21, page 26). As will be seen, in relation to the substation that is not the case.
- 29 Contrary to the supposed considerations of causing minimum disruption to the landowner (as per 8.20 of Statement of Reasons), the location of Work 13 is at the centre of Ramac's landholding, thus causing maximum disruption to Ramac. Ramac has repeatedly made clear it would prefer to accommodate the substation on land at the south of its landholding, or on land to the north, at Baypoint Club, if it had to be placed upon its land at all.
- 30 The ES addresses alternatives in Chapter 4. Paragraph 4.1.7 sets out the six stages of the site selection process. It was only at stage 5 of that process that any consideration was given to the location of the substation (see page 4-38), even though "onshore components" were part of the site selection process from stage 3. Paragraphs 4.10.5 – 4.10.8 explain only in the briefest terms the move away from the Richborough Energy Park and say that the next area of search was Richborough Port. There is no explanation of why Richborough Port was determined to be the most reasonable alternative to the Energy Park. Nor is there is explanation at all of why the particular area identified Work 13 was selected in preference to other potential sites.
- 31 Ramac first raised concerns about site selection in its pre-application consultation response in January 2018, informing the Applicant that it would prefer the substation to be located further to the north of its landholding, at Baypoint Club, or further to the south in the area identified for Work 14. The Consultation Report Appendices (document 5.1.1) shows the Applicant made no attempt to engage with the substance of Ramac's concerns.

Examination

- 32 Following concerns expressed by Ramac at the Preliminary Meeting, the Applicant provided a document entitled "Consolidated Response to Ramac consultation questions". Those responses, however, were inadequate:
- As to the issue of whether a smaller footprint could have been contemplated for AIS rather than GIS – the Applicant sought to justify their retention of the larger

footprint by its desire to retain “commercial flexibility.” This is not a compelling reason in the public interest justifying CA;

- It was further argued the larger footprint represented a “worst credible case”. Whilst this may be appropriate in the context of environmental assessment, it is not appropriate in the context of CA. Rather, the Applicant should be seeking to take by compulsion as little land as possible;
- It stated the siting of Work 13 “minimises interference” with Ramac’s operations – however Ramac does not agree, as it has repeatedly stated. It is unarguably clear that the question of interference can best be answered by the landowner themselves.

33 Following the first Compulsory Acquisition Hearing (“CAH1”), the Applicant provided a submission purporting to explain, amongst other matters, the reasons for site selection for the substation (“Report Addressing Oral Submissions by Ramac Holdings Ltd at Compulsory Acquisition Hearing 1”, found at Appendix 6 to the Applicant’s Deadline 3 submissions). That report was high level and preliminary. It was an exercise in retrofitting, and not evidence of prior thought to how to acquire the minimum amount of land necessary to deliver the scheme and selection of land that minimises disruption to the owner.

34 Its deficiencies included:

- The assertion, unsupported by technical analysis, that GIS would have little or no space saving benefit compared to AIS (Section 2.2);
- The suggestion, unsupported by any noise assessment, that the Baypoint Club and South Richborough Port Land would be unsuitable locations given the proximity of noise sensitive receptors. There does not appear to have been any consideration of whether a GIS substation could adequately mitigate any noise concerns that may have been identified, had a noise appraisal of alternative sites been carried out;
- The suggestion that the Baypoint Club would be unsuitable as a result of potential flood risk without supporting flood risk assessment or analysis of land available outside Flood Zone 3;
- The suggestion, unsupported by any ecological appraisal or assessment of potential mitigation measures, that Baypoint Club would be unsuitable given its proximity to SAC/SPA;
- The rejection of the BCA Fleet land (Zone 2) on the basis of “potential” bat roosts without any appraisal of the actual existence of such roosts or consideration of mitigation measures that could adequately address that concern;
- The rejection of South Richborough Port Land on the basis of alleged increased cost, with no assessment of the costs increase associated with this location or the consequential implications for the viability of the project;

- The absence of any consideration of whether a GIS substation could be accommodated at Baypoint Club; South Richborough Port or indeed Richborough Energy Park.
- 35 At the second Compulsory Acquisition Hearing (“CAH2”), Ramac reiterated its concern that the Applicant had not properly considered alternatives for the onshore substation, including South Richborough Port or Baypoint Club, and had not justified the extent of the proposed land take.
- 36 In response, the Applicant promised a technical report was under preparation which would address those matters. The ExA made it clear that full justification for the extent of land take would have to be submitted by Deadline 5 or there would be “*natural justice issues*”.
- 37 At Deadline 5, the Applicant submitted a technical report which purported to provide a technical justification for the type and size of the onshore substation (Annex B to Appendix 1 to Deadline 5 submission: Applicant’s response to ExQ 2.3.3). In answer to ExA’s questions 2.3.7 and 2.3.7, the Applicant has sought to justify the rejection of other plots within Ramac’s landholding to accommodate the onshore substation.
- 38 That report submitted confirmed that the Applicant may in fact choose to use GIS technology instead of AIS technology, but denied the space-saving opportunities this presents (paragraph 16). However, despite the specific request from the ExA, the Applicant failed to justify the rejection of GIS by reference to other made DCOs.
- 39 In response to the report, Ramac’s technical consultant (Mr Thorogood of Hurley Palmer Flatt) prepared a response – attached to Ramac’s Deadline 6 Submissions – identifying the following issues:
- The equipment identified for the substation could all be accommodated on a 3 acre footprint, and would not require an 8.5 acre site. The scale of land take thus lacks justification;
 - The substation could be comfortably accommodated (even on the enlarged footprint proposed) on the land South of Richborough Port (11 acres), as Ramac has repeatedly explained it would prefer;
 - As a result of noise attenuation, even without additional noise mitigation, sound levels at Stonar Cottage (in proximity to South Richborough Port) are likely to be within acceptable limits;
 - Any additional costs of cable alignment needing to be re-designed for South Richborough port would be *de minimis* in the context of the wider project costs, and in any event the Applicant has not provided an assessment of what those costs would be or their impact on the viability of the project;
 - Ramac would be willing to cooperate in widening the existing access onto the South Richborough Port site, should it be necessary.

40 The material provided by the Applicant prior to and during the examination has not satisfied Ramac that proper consideration has been given to the possibility of locating the substation on alternative land outside its landholding; or on an alternative, less disruptive site within its landholding.

Consideration of alternatives in the Applicant's latest submissions (13.12.2019)

41 In relation to Ramac's position, the following documents are attached:

- Development Consent Order Pre-Application Consultation Response prepared by Messrs Glenny on behalf of our client dated 12 January 2018.
- Development Consent Order Consultation Response prepared by Messrs Glenny LLP on behalf of our client dated 12 September 2018.
- Written summary of oral representations made at Compulsory Acquisition Hearing 2 on 18 April 2019.
- Ramac's comments on the Applicant's Deadline 5 Submissions dated 28 May 2019.

42 Ramac does not in these Submissions repeat in detail the points made in the enclosed documents, but would invite the Secretary of State to review and consider the same. Where any matter or issue raised by the Applicant is not specifically addressed herein, it should not be taken that Ramac accepts or agrees with what the Applicant is asserting. Ramac's position and submissions made within these documents remains relevant in light of the most recent submissions of the Applicant by letter dated 13 December 2019.

43 Ramac would make clear that the Applicant's statement "*the principle of siting the substation on Ramac's landholding has evidently been established*" is disputed and is not correct. Ramac's position has been made entirely clear throughout the DCO process including as evidenced by the enclosed documents. Further, the submissions make it clear Ramac have not accepted "*the proposed substation can be accommodated within its landholding*" nor is it agreed this is a matter simply to be resolved through payment of compensation. This is not a position taken by the Applicant previously, evidenced inter alia by the Applicant's responses to the technical evidence adduced by Ramac, or at the Compulsory Acquisition Hearings. Ramac stated in its submissions at Deadline 6:

"As to the location of the substation, Ramac has repeatedly explained that it would prefer for the substation to be accommodated on land at the South of Richborough Port if it is to have any land acquired at all" (emphasis added)

44 Ramac refers inter alia to the submissions made on it's behalf within Charles Russell Speechlys LLP's letter dated 13 December 2019 setting out its position, which stated:

"...the Applicant has had more than ample opportunity to put forward detail and evidence to support its case, but has failed to adequately do so throughout the

whole DCO process. It is our client's case inter alia that the assessment of alternative sites and justifications asserted for land take on the application documents was entirely unsatisfactory.....It accordingly remains our client's position that the Applicant has failed to demonstrate a compelling case in the public interest to support the compulsory acquisition in respect of our client's land" (emphasis added).

45 In relation to the Applicant's letter and reference to what is described as a "voluntary agreement" with Ramac, whilst it is not disputed that there have been discussions between Ramac and the Applicant, such discussions have been subject to contract/without prejudice and importantly subject to confidentiality provisions (as provided for in the Heads of Terms document provided by the Applicant to Ramac). It is to be noted (consistent with this) that at no previous time has the Applicant disclosed this confidential information to the Examining Authority and we would make it clear for the avoidance of any doubt that Ramac has not been asked to consent to its disclosure nor has it so consented.

46 Accordingly, Ramac submits it is entirely inappropriate for the Applicant to have referred to such confidential matters. The Applicant should immediately take steps to submit a redacted version of the letter and submissions removing all reference to confidential matters, and we submit the Secretary of State should have no regard to the terms which have been the subject of discussion between the parties.

47 Further, and in any event, no agreement has been concluded. It was made very clear by the Examining Authority at the preliminary meeting that no regard would be had to any negotiations unless or until concluded commercial agreements were actually completed. No commercial agreement has been concluded and Ramac's objections to the DCO have not been withdrawn. Indeed, it is apparent from the Applicant's own "summary contact log" that some two and a half years after initial contact was made with Ramac, no "voluntary agreement" has been concluded.

48 The Applicant's letter refers to Annex B, which the Applicant contends shows the consideration of alternatives was proportionate given there was no realistic prospect of either of site referred to being suitable for the proposed infrastructure. This is disputed. What the Applicant has done is merely look at two alternative parts of Ramac's site. Ramac's understanding of paragraph 8 of Mr Leigh's letter dated 21 November 2019 was that it was requiring the Applicant to "... to provide further details to demonstrate that the proposed sub-station site is the best location for the sub-station, **and** for additional evidence to demonstrate why the alternative Baypoint Club and BCA Fleet Solutions Land can and should be excluded ..." (emphasis added)

By focusing only on the Baypoint Club and BCA land, the Applicant has failed to fully answer the question put to it by the Secretary of State. The sub-station site review submitted does not address any other alternative sites (either on Ramac's land or importantly elsewhere).

49 In relation to the Annex B "Sub-Station Site Review", no evidence is provided as to when the consideration or assessment of alternative sites was carried out by the

Applicant. Ramac submits it is most likely that this assessment took place after the Secretary of State's letter dated 21 November 2019 (support for this can be taken from Appendix A and Appendix B to the Applicant's aforementioned submission, containing an email and a letter dated 6 December 2019 and 10 December 2019 respectively). No evidence has been adduced that such an assessment was carried out prior to the submission of the DCO Application. Indeed, the consultation report submitted by the Applicant states "*land ownerships are still under consultation with all relevant parties and will be taken forward in the post-consent phase.*"

50 Ramac submits that the Applicant has made no attempt to engage with the substance of its concerns prior to that time, and such attempts as have been made subsequently have been inadequate. This statement is indicative of the approach taken by the Applicant, in relation to compulsory acquisition.

51 Ramac submits that the criticism the Applicant seeks to make of Ramac for not submitting "*evidence to justify why alternative sites within its land holding are preferred to the proposed site in the application*" is entirely misconceived. This is not a task for Ramac carry out and at its own cost – it falls to the Applicant to properly make out its case. The obligation falls upon the Applicant to properly and fully examine alternative sites and justify CA.

52 It should be noted from the Pre-Application Consultation Response submitted on behalf of Ramac that its primary position (referred to in paragraph 5.4) was that the Applicant had not demonstrated that:

"(1) *the land and rights the Applicant is seeking to acquire from it are needed for the project*

(2) *that there are no alternatives to the acquisition of its land.*

(3) *that the Applicant is seeking to acquire no more land than is reasonably required for the purpose of the project.*

(4) *that the public benefits that would be derived from the compulsory acquisition of Ramac's land will outweigh its private loss.*

(5) *that the proposed interference with the rights of those with an interest in Richborough Port (including Ramac) is necessary and/or proportionate"*

Further, Ramac made clear its position that the Applicant had failed to adequately explain its reasoning for locating the sub-station upon its land at all, referring to the fact that it was originally planned to locate the substation at Richborough Energy Park.

53 Subject to the above, Ramac's position (again as set out in the Pre-Application Consultation Response) was that if the Applicant could establish the substation had to be located on Ramac's land, "*there is no evidence that proper consultation has been*

given to whether it could be located elsewhere at Richborough Port or Baypoint.....The positioning of the substation will cause maximum interference with Ramac's property interests". Ramac accordingly has previously made clear its position, and that if the Applicant could establish the sub-station had to be located upon its land, then it was not confining its objections simply to the Baypoint Club site or the BCA Site.

- 54 It is noted that the Baypoint Club is operated by a subsidiary of Ramac. It is a private members club and Ramac would be able to close the Baypoint Club should it so wish. There is no obligation upon it to keep the club open.
- 55 It must also be stated that contrary to the Applicant's submission, the Baypoint Club is not *"the best site for landowner preference"*. Ramac has made its position clear that if the substation has to be on its Richborough Port site, it should be located at the southern end of the site. Indeed Ramac has adduced technical expert evidence in support of this alternative. Further, the Baypoint Club will be impacted in any event as the Applicant has decided part of this site is required to run cabling to the substation. Ramac submits it is not for it to justify for the Applicant compulsory acquisition of this part of Richborough Port. Further, the Baypoint Club is not simply fields – there are buildings present on site, and Ramac notes the admission by the Applicant that no flood risk assessment has been carried out. In any event, the part of the Baypoint site said to be not subject to flood risk is stated by the Applicant to be some 2.2ha, and which is comfortably large enough to locate a substation based upon GIS as assessed by Mr Thorogood (page 5 of Mr Thorogood's Report). It is submitted therefore that the Applicant's assessment of the Baypoint site is incomplete and open to challenge.
- 56 Ramac would comment specifically upon the letter produced by the Applicant from the Kent Wildlife Trust. Firstly, the Trust reference its longstanding objection to the DCO itself. Secondly, the Trust reference siting the substation "located furthest south" but it is not clear if the Trust were asked to consider Ramac's alternative proposal at the southern part of the Richborough Port site (if the substation had to be located on Ramac's land at all). Thirdly, it is noted the letter is dated 10 December 2019, so this letter can have played no part of the Applicant's assessment of alternative sites prior to that date.
- 57 Ramac would also comment specifically upon the email procured by the Applicant from Dover DC dated 6 December 2019. No context is given to the request made by the Applicant, but it appears only reference is made to the Baypoint Club. Again given the date, this can have played no part in the Applicant's assessment of alternative sites prior to that date. It is also not explained what options Dover DC were presented with, for example no reference is made to other alternatives such as the BCA land.
- 58 Ramac submits the evidence attached at Appendix A and B is far from compelling. Ramac also notes this is the only additional independent evidence submitted by the Applicant – the remainder consists of submissions by the Applicant itself.
- 59 In relation to the BCA site, Ramac makes the following additional comments. Firstly, the Baypoint Club was not the only site referred to by Ramac prior to the DCO application – Ramac referred to "elsewhere at Richborough Port or Baypoint" within its

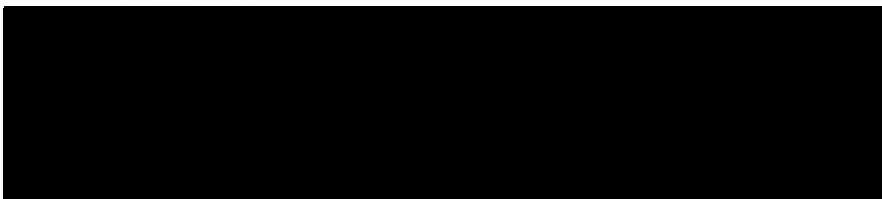
Pre-Application Consultation Response (paragraph 5.10). If the Applicant is seeking to make criticism of Ramac, then Ramac would remind the Applicant that its own stated position prior to the DCO application was *“Land ownerships are still under a consultation with all relevant parties and will be taken forward in the Post-Consent phase”*. Secondly, it is acknowledged that the BCA lease expires in February 2021, and all the Applicant can say is that it understands *“BCA anticipates maintaining an interest in the site beyond February 2021”*. This is far from certain, and does not even state BCA expects to renew its lease of the whole site currently demised. Thirdly, reference is made to the Minster stream, but no explanation/detailed explanation is given as to how this makes the site unsuitable nor what could be done to address any issues that may be evident. Fourthly, there is no necessity for the yard space for storing vehicles to be directly adjacent to the workshops – this is not the case at BCA’s Chipping Warden site.

- 60 In the conclusion of its submission, the Applicant seeks to make complaint that Ramac has provided no justification on why this site is a reasonable alternative. With respect, that is not an obligation that falls upon Ramac.

Conclusion

- 61 The Applicant has failed to show that the proposed site for the substation is the best location and has not provided adequate evidence to justify the rejection of other sites, including the Baypoint Club; South Richborough Port or the BCA Fleet Solutions land. The site proposed for the substation will cause maximum disruption to Ramac’s operations. Given the Applicant’s failure to demonstrate that alternative sites have been justifiably excluded, it cannot be said that CA of the land is necessary or proportionate, and there is therefore not a compelling case in the public interest for the acquisition of the substation land.

Charles Russell Speechlys LLP
Solicitors for and on behalf of Ramac Holdings (Trading) Limited
31 January 2020



Thanet Extension Offshore Windfarm ('the Project')

Development Consent Order Pre-Application Consultation Response

1.0 Introduction

- 1.1 These representations are made on behalf of Ramac Holdings (Trading) Limited ('Ramac'), which is the freehold owner of Richborough Port, Ramsgate Road, Sandwich CT13 9NQ ('Richborough Port') and Baypoint Sports Club, Ramsgate Road, Sandwich CT13 9QL ('Baypoint'). Both properties will be materially affected by the Project, with the impact being the same under both the proposed Option 1 and Option 2 routes.
- 1.2 Ramac is a Category 1 statutory consultee as defined by Section 44 of the Planning Act 2008. To deliver the Project as currently proposed, the Applicant will have to acquire land and rights at Richborough Port and rights at Baypoint. Ramac understands that currently the Applicant is intending to acquire land and rights permanently. During the Project's construction the temporary possession of land will also be required at both Richborough Port and Baypoint.
- 1.3 Ramac has a number of serious concerns about the Project as proposed and believes the consultation documentation provided by the Applicant falls short of demonstrating that the proposed acquisition of its land and/or rights over its land is proportionate, or even necessary. This Consultation Response explains those concerns, raises a number of currently unanswered questions over the technical aspects of the Project and suggests alternative options. The Consultation Response is set out under the following headings:
- i) An explanation of Ramac's land holdings and the occupation of Richborough Port and Baypoint.
 - ii) The impact of the Project on Richborough Port and Baypoint.
 - iii) Unanswered questions relating to the technical/engineering aspects of the Project as currently proposed.
 - iv) Possible alternatives to the Applicant's current Project proposals.
- 1.4 Notwithstanding the contents of this consultation response, Ramac reserves the right to raise further and additional issues, objections and questions in relation to the Project and/or amend this Response as the consultation and Development Consent Order process progresses. Not least because it has yet to receive answers to questions previously put to the Applicant.

2.0 Ramac's Land Holdings

2.1 Richborough Port and Baypoint are situated to the east side of Ramsgate Road (A256), approximately 5.5km (3.5 miles) south of Ramsgate and 2km (1.25 miles) north of Sandwich. Richborough Energy Park (REP) lies immediately to the west. A plan illustrating both sites is attached.

2.2 Richborough Port

Richborough Port comprises an extensive area of land extending, in total, to approximately 24.9 hectares (61.5 acres) with a frontage to Ramsgate Road of circa 950 metres. Ramac's freehold ownership encompasses the following titles: K393135, K435448 and K435449.

2.3 The majority of Richborough Port is flat, open and surfaced with asphalt, concrete or colliery shale. The northern end of Richborough Port is occupied by BCA Fleet Solutions 2 Limited ('BCA') and is dominated by a large, relatively modern commercial building that provides offices, workshops and storage accommodation. South of the BCA site of approximately 4 hectares (10 acres) of land is occupied by the Secretary of State for Communities and Local Government ('the SoS') for the purpose of storing trucks and trailers with illegal cargos, seized by the authorities at the Port of Dover. The occupation of part of Richborough Port for this use has been ongoing for circa twenty years. The site is an established, secure, compound which fulfils an extremely important function for the SoS. To the south of the SoS's land are other areas of land occupied by Transfer Logistics, P&G Scaffolding and Crostline Limited.

2.4 The appended plan illustrates the approximate areas occupied by each of the tenants using the numbering shown below.

- 1 BCA – A five year lease from 4 February 2016.
- 2 SoS – A ten year lease from 10 April 2017, subject to a tenant's break clause exercisable on 9 April 2022.
- 3 Transfer Logistics – Tenancy at Will
- 4 P&G Scaffolding – Tenancy at Will
- 5 Crostline Limited – Terms have been agreed for a new five year lease, at the tenant's request.
- 6 Vacant Land

2.5 Baypoint

Baypoint is an operating sports club, comprising a clubhouse, car park and sports fields, with a total area of circa 7.5 hectares (18.6 acres). Ramac's freehold interest is held under title K371382.

2.6 Baypoint is managed by Princes Leisure Group Limited, which is a subsidiary of Ramac. Part of Baypoint is occupied by P B Nursery as a children's nursery. P B Nursery has a tenancy at will.

3.0 The impact of the Project on Ramac's Landholdings

3.1 The Project, as currently proposed, will involve both offshore and onshore works. The onshore works will include the following works on Ramac's land:

- The laying of cables across the northern and eastern sides of Baypoint.
- The construction of a substantial substation on the land currently occupied by the SoS at Richborough Port. The substation compound will occupy a total area of 215 metres x 160 metres (i.e. circa 8.5 acres) whilst the substation building itself will have a maximum height of 14 metres (circa 46 feet).
- The laying of cables to the eastern side of the land occupied by BCA at Richborough Port.

3.2 In order to undertake these works the Applicant will also need to:

- Acquire rights to lay the cables at Baypoint and Richborough Port
- Acquire land to construct the substation
- Take temporary possession of construction compounds at both Richborough Port and Baypoint. The larger compound at Richborough Port will have an area of 2 hectares (4.94 acres) and will be on land currently occupied by Transfer Logistics.
- Acquire rights of access, both temporarily in order to undertake construction works and permanently for future access to cables and the substation.
- Acquire permanent rights for a 20 metre wide HDD crossing under the A256.

3.3 The proposed works and the acquisition of land and rights will have a significant effect on Ramac's land in both the short and long term and will also detrimentally affect the occupation of its tenants (and hence its rental income stream). In the short term the digging of trenches for cables and the construction of the substation is proposed to commence in 2020 and last for a period of circa 30 months.¹ In the longer term, the substation will occupy a large part of Richborough Port. Its size and central location will make it an oppressive, unattractive and dominant feature.

3.4 The likely negative impacts of the Project will include (but are not necessarily limited) to the following:

- The temporary disruption to Baypoint while cables are laid and an area of land is occupied during construction. This will involve the loss of grass and artificial surfaced sports pitches from which Princes Leisure Group Limited derives income.
- Temporary disturbance to BCA's commercial operation, potentially causing business losses, while cables are laid. Works will commence shortly before BCA's lease expires in early 2021, creating the risk that BCA will vacate as a result.
- The permanent acquisition of a substantial part of the central area of Richborough Port for a substation. This will require the vacation or relocation of the SoS and either the permanent or temporary relocation of Transfer Logistics during the construction phase.
- Importantly, the existence of the substation will negatively affect the remainder of Richborough Port. The substation works could result in other tenants vacating (creating a loss of income for Ramac) and make the re-letting of land difficult. The Richborough Port and Baypoint sites currently support more than 60 jobs. If the current proposals are accepted then a number of these jobs may be lost, adding to the already high average 2.7% unemployment levels in the Dover District as at November 2017². The South East England average for the same period being 1.2%.
- The potential to develop Richborough Port in the future will be negatively affected and there is a very significant risk that development may be prevented altogether. Despite the growing pressure to provide additional housing in the South East, any prospect of residential development will effectively be extinguished.
- The rights of access the Applicant is looking to secure may impact upon the use and enjoyment of both Richborough Port and Baypoint. In particular the Applicant's proposal to use the roundabout at the northern end of Richborough Port could cause significant disruption to its tenants.

¹ See the Preliminary Environmental Information Report - Para 1.7.1 of Volume 3 Chapter 1: Project description (onshore)

² Based on Kent County Council statistics.

4.0 Unanswered questions related to the technical/engineering aspects of the Project

4.1 Set out below are a number of questions which, notwithstanding the information provided in the Applicant's Consultation Documentation, remain unanswered. Ramac believes that it is necessary for the Applicant to answer these questions before it can justify the Project and the currently proposed acquisition of land and rights at Richborough Port and Baypoint.

4.2 It is understood that the Project intends to utilise NGET's new 400 kV Richborough connection, which is currently under construction. In this context the Project's onshore substation is proposed to be either a 66 kV/400 kV substation or a 132 kV/400 kV substation. In relation to the need for a substation:

- When will the Project decide the whether the landing cable voltage will be decided?
- If the landing circuits are 132 kV what prevents the grid connection being made to the existing Richborough 132 kV substation, or an extension of this substation by UKPN or others?

4.3 If a voltage step-up to 400 kV is the only technical solution.

- Why has the Project's substation layout been based on an open switchyard layout rather than a smaller footprint gas insulated switchgear (GIS) solution, as has been adopted by NGET at its new 400 kV substation at the REP?
- What is the MVA rating of the proposed transformers and why does the text refer to four transformers with only two shown on the layout?
- The need for reactive compensation is understood. However, the particular proposed ratings and physical footprint adopted require substantiation. The reactive compensation at the new NGET 400 kV 1,000 MW facility has a smaller footprint than that proposed for the Project.
- The rating and footprint of the proposed harmonic filter banks requires justification.
- The diesel generator footprint is twice that allocated to both NGET's 400 kV substation and the NEMO convertor station, therefore what is the basis of this footprint?

4.4 If a substation is required, with an achievable smaller footprint than that declared, the location may be established at any practicable location, even if this requires extension of the cable routes. In this context:

- Why cannot spare land at REP adjacent to or close to NGET's new 400 kV be utilised for the new substation?
- Why have other locations not on Ramac or REP land not been considered?
- If, and only if, the only option is to develop the substation on Ramac land why cannot the land utilisation be more efficient from aspect of retaining a more contiguous Ramac estate?

4.5 What practical and technical aspects prevent the Project's landing cables utilising the Nemo cable corridor and the necessary allowance being constructed during the Nemo construction? Are there any other cabling routes which should be investigated?

5.0 Possible Alternatives to the Applicant's current Project proposals

5.1 Section 122 of the Planning Act 2008 confirms that a DCO may only authorise compulsory acquisition if the decision-maker is satisfied that:

- The land is required for
 - i) development to which the consent relates,
 - ii) to facilitate, or is incidental to that development,
 - iii) is replacement land, which is to be given in exchange for the order land
- There is a compelling case in the public interest for the compulsory acquisition.

5.2 The Department for Communities and Local Government's September 2013 Guidance on procedures for the compulsory acquisition of land under the Planning Act 2008, also confirms that an applicant for development consent should be able to demonstrate that all reasonable alternatives to compulsory acquisition (including modifications to a scheme) have been explored. An applicant needs to show that the proposed interference with the rights of those with an interest in land is for a legitimate purpose, and that it is necessary and proportionate.

5.3 The decision-maker will further need to be satisfied that any land to be acquired is no more than is reasonably required for the purposes of the Project. Further, he will need to be persuaded that there is compelling evidence that the public benefit that will be derived from the compulsory acquisition will outweigh the private loss that will be suffered by Ramac.

5.4 It is Ramac's contention that the Applicant has not demonstrated that:

- 1) The land and rights the Applicant is seeking to acquire from it are needed for the Project,
- 2) That there are no alternatives to the acquisition of its land.
- 3) That the Applicant is seeking to acquire no more land than is reasonably required for the purpose of the Project.
- 4) That the public benefits that will be derived from the compulsory acquisition of Ramac's land will outweigh its private loss.
- 5) That the proposed interference with the rights of those with an interest in Richborough Port (including Ramac) is necessary and/or proportionate.

5.5 **The need to locate the substation on Ramac's land**

As noted previously in this Consultation Response, the Applicant's Consultation Documents inadequately explain its reasoning for locating the substation at Richborough Port. Although it is said³ that initial discussions with Ramac, which only commenced in June 2017, suggested an agreement could be reached to utilise land for a substation, the discussions that took place were not based on the Project as set out in the Consultation Documents. Nor, until August 2016, was the area of land required for the substation made clear. Early discussions also only suggested the letting of an area of land to the Applicant, rather than the acquisition of part of its freehold interest.

5.6 Ramac notes that it was originally planned to locate the substation at Richborough Energy Park. There is no clear explanation in the Consultation Documentation why this proposal was varied, other than a brief reference to 'space constraints' and that the location of the substation would result in the loss of land at Hacklinge Marshes SSSI.⁴ This is an inadequate explanation for the decision to compulsorily acquire Ramac's land and there is no evidence at all that the Applicant has fully considered other options for location of the substation away from Ramac's land.

5.7 As the questions raised previously in this Consultation Response illustrate, there are a range of substantive questions to be answered before the Applicant can demonstrate that there is a compelling case for compulsory acquisition.

³ See the Preliminary Environmental Information Report - Para 4.10.5 of Volume 1, Chapter 4: Site Selection Alternatives.

⁴ See the Preliminary Environmental Information Report - Para 4.10.4 of Volume 1, Chapter 4: Site Selection Alternatives

5.8 The size of the substation

The Applicant has also failed to demonstrate in its Consultation Documentation why the substation has to be so large, or that the land it is suggesting will be acquired from Ramac is reasonably needed for the Project. The proposed footprint of the substation is much larger than appears necessary and there is no evidence that the applicant has considered how the size of the substation could be minimised.

5.9 As the questions raised previously in this Consultation Response illustrate, there are a range of substantive questions to be answered before the Applicant can demonstrate that it is acquiring no more land than is reasonably needed for the Project.

5.10 The location of the substation on Ramac's land

It is also the case, that if the substation does have to be located on Ramac's land (which is yet to be established), there is no evidence that proper consideration has been given to whether it could be located elsewhere at Richborough Port or Baypoint. It is currently proposed to locate the substation at the very centre of Richborough Port on land occupied by the SoS, which is subject to the terms of a commercial lease with many years left to run. The positioning of the substation will cause maximum interference with Ramac's property interests, both in terms of removing at least one, and probably two, important tenants and impacting on the letting prospects of the surrounding land following construction. Further, the proposed central position of the substation at Richborough Port has a significant adverse and restrictive effect on future development potential. Rather than being a single site available for development, the substation will effectively divide Richborough Port into two sites separated by a large, 'bad neighbour' structure.

5.11 If the Applicant could demonstrate that it was necessary, proportionate and in the public interest to locate the substation on land in Ramac's ownership, the substation would have far less impact on existing tenants and the future use and development potential of Richborough Port if it were to be located either on the sports fields at the north end of Baypoint, or on the vacant land at the southern end of Richborough Port. Both areas of land are large enough to accommodate the substation.

5.12 The interest to be acquired

Although it is not expressly stated in the Consultation Documentation, Ramac understands that the Applicant is proposing to acquire a freehold interest in the land that will be used for the substation. This needs to be clarified. However, it also notes that the expected life of the project is around 25 years,⁵ and so it is difficult to see how a land acquisition in perpetuity can be reasonably justified. As previously noted, the Applicant's initial approaches to Ramac were on the basis of a leasehold interest.

5.13 Whilst for the reasons noted above, Ramac believes the Applicant has not satisfactorily justified the construction of the substation on Richborough Port, if the Applicant could show that there was a compelling case in the public interest for its currently proposed location, Ramac's preference would be for a lease to be agreed so that the adverse impact on Ramac's property interests would be mitigated. It is not uncommon for electricity providers to agree leases for substations.

⁵ See the Preliminary Environmental Information Report - Para 1.7.1 of Volume 3 Chapter 1: Project description (onshore)

6.0 Engagement

- 6.1 To date the Applicant's engagement has been relatively limited and hampered by a lack of technical detail. In the most recent meeting on 10 October 2017, in response to concerns raised by Ramac, the Applicant committed to providing further information. However, this has yet to be supplied.
- 6.2 Ramac has accordingly now instructed specialist engineering firm Hurley Palmer Flatt, as well as Charles Russell Speechlys LLP (in addition to the services provided by Glenny LLP) in order to protect its interests.
- 6.3 Ramac would like to see further and meaningful consultation with the Applicant going forward, not least in relation to the technical questions raised in this Consultation Response and the potential alternative solutions that have been suggested.

Glenny LLP
For and on behalf of Ramac Holdings (Trading) Limited
12 January 2018

Thanet Extension Offshore Windfarm ('the Project')

Development Consent Order Consultation Response on behalf of Ramac Holdings (Trading) Limited

1.0 Introduction

- 1.1 These representations are made on behalf of Ramac Holdings (Trading) Limited ('Ramac'), in response to the application for a Development Consent Order ("DCO submission") submitted by Vattenfall to the National Infrastructure Directorate on 27 June 2018. Reference is made to the Development Consent Order Pre-Application Consultation Response ('PCR') prepared and submitted by Glenny LLP on 12 January 2018 (as appended). Ramac maintains and relies upon the matters and objections as set out therein.
- 1.2 The serious concerns raised in the PCR by Ramac have not been addressed by the DCO submission, and accordingly Ramac formally objects to the DCO application both for the reasons set out in the PCR and those set out herein.
- 1.3 The content of Ramac's PCR is referred to in the DCO submission in a schedule included in the appendices document, Ref. 5.1.1 and, in particular, Appendix G2.2.
- 1.4 In particular, paragraphs 1.3, 1.4, 2.1, 3.2, 3.3, 3.4, 4.1, 4.2, 4.3, 4.4, 4.5, 5.1, 5.4, 5.5, 5.6, 5.7, 5.9, 5.10, 5.11, 5.12, 5.13, 6.1, 6.2 and 6.3 are quoted verbatim from the PCR and against each detailed concern raised by Ramac, Vattenfall's response is simply that "Land ownerships are still under a consultation with all relevant parties and will be taken forward in the Post-Consent phase". It is to be noted that over 6 months have elapsed since Ramac submitted its PCR and the notice being given of the DCO application.
- 1.5 This standard response is unacceptable. Vattenfall has failed to address any of the issues raised by Ramac in its PCR. Vattenfall's application is to acquire a significant part of Ramac's freehold interest in Richborough Port and has no regard inter alia to the following major concerns raised by Ramac (Ramac reserving its right to add to or otherwise amend this list of major concerns in due course):-
- 1) The proposed project has an anticipated lifespan of 50 years and it is not therefore necessary for Vattenfall to acquire a freehold interest.
 - 2) None of the alternative locations proposed in the PCR have been given any consideration whatsoever.

- 3) Technical questions raised by the PCR involving the extent of the land required for the substation and the alternative design solutions which may result in no/a reduced permanent land requirement have not been considered.
- 1.6 Ramac is rightly concerned that if terms cannot be agreed-, the DCO in its present form (if approved) would enable the Acquiring Authority to take their freehold interest in the majority of Richborough Port and the case for this is not properly addressed nor considered. Ramac submits it is entirely unsatisfactory and wrong for the concerns that it has raised to effectively be ignored during this DCO application, and which appears to be what Vattenfall intends.
- 1.7 Ramac respectfully submits that the DCO is not approved. The applicant has failed in its DCO submission to address important issues raised by Ramac, despite having an opportunity to do so during the period of over 6 months from January 2018 to July 2018, and has not satisfied the requirements of Section 122 of the Planning Act 2008.
- 1.8 In accordance with Sections 42, 47, 48 and 49 of the Planning Act 2008, Vattenfall has a "duty to take account of responses to consultation and publicity" (Section 49). For the reasons set out above, Ramac considers that inadequate consultation has taken place and that, notwithstanding the inadequate consultation, Vattenfall has failed to take account of responses (from Ramac and possibly others) to consultation and publicity. Ramac accordingly submits that Vattenfall is unable to demonstrate that its proposals as put forward within the DCO application have been considered in light of the consultation response submitted by Ramac. Indeed, Advice Note 9 (referred to below) states:-

"Clearly for consultation to be effective there will need to be a genuine possibility to influence the proposal and therefore a project should not be so fixed as to be unable to respond to comments from consultees. The importance of consultation during the pre-application phase cannot be overemphasised... Such consultation needs to be appropriate (in terms of content, timing and clarity) and reported fully in the consultation report such that the response of the developer to the comments made in terms of the evolution of the proposals can be clearly understood".

As a result, it is evident that Ramac's concerns as raised in the PCR have not been addressed at all within the DCO application. Where a party has participated in the pre application consultation (as Ramac did) its submissions on the project made at that stage should have been fully reflected in the consultation report submitted as part of the DCO application and addressed. Again, Ramac submits this has not been done (whether adequately or at all).

- 1.9 In its application, Vattenfall refers to and relies upon National Policy Statements and PINS Advice Note 'Rochdale Envelope' in order to justify the inclusion of flexibility provided for in the Order which would entitle

Vattenfall to take the freehold interest in all the land held by Ramac as defined in the Order and Ramac considers that this is inappropriate.

- 1.10 The 'Rochdale Envelope' is principally involved with environmental matters however it deal with principles which are relevant to Vattenfall's attempted flexible approach to acquisition as covered in the DCO submission Doc 3.2 dated June 2018 Explanatory Memorandum para 4.25 onwards-. Referring to the document entitled 'Advice Note 9: Rochdale Envelope' published by Infrastructure Planning Commission February 2011, the question of flexibility is addressed. On page 9, the Advice Note states as follows:-

"Revised draft NPS EN-3 states (paragraph 2.6.43) that the IPC should 'accept that wind farm operators are unlikely to know precisely which turbines will be procured for the site until sometime after the consent has been granted'. This is not to say that the use of the 'Rochdale Envelope' should be used as an excuse not to provide sufficient details. Developers should make every effort to finalise as much of the project as possible prior to submission of their DCO application. Indeed, as explained earlier in this note, it will be in all parties' interests for the developer to provide as much information as possible to inform the pre-application consultation process; to form a clear basis for the EIA (providing as many details as possible should facilitate a clearer ES and avoid the possibility of a delay in the examination process or successful legal challenge on the adequacy of the EIA); and to enable development consent (if granted) to be for a distinct project."

- 1.11 On page 10 it states as follows:-

"Under the 2008 Act it is important to consult comprehensively on the project and to report fully on that consultation. The process should be clear and thorough."

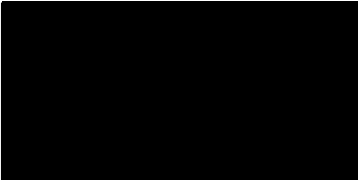
- 1.12 Ramac considers that Advice Note 9 has not been correctly, properly and adequately followed in the DCO process and the application now made.

- 1.13 Significant documentation and detail has been provided to date by Vattenfall, and Ramac submits that there are no good reasons why Vattenfall has failed to address the issues it has raised at or before the DCO application was submitted. The legal authority from which the Rochdale Envelope arises inter alia makes clear that "flexibility" is not to be abused, and "does not give developers an excuse to provide inadequate descriptions of their projects". This is not a situation where Ramac is concerned in respect of the type and number of wind turbines. Rather Ramac's concerns centre on the proposed location of the substation, and which Ramac submits Vattenfall have failed to justify or explain (satisfactorily or at all). Ramac submits that the unreasonable level of "flexibility" Vattenfall seeks within this DCO application is in itself reason for the DCO application to be refused.

1.14 Ramac is willing to engage in constructive dialogue with Vattenfall in order to seek early agreements in respect of the Applicant's project.

However, until this process has been completed or negotiations have been exhausted, Ramac strongly objects to the confirmation and approval of the DCO in its present form for the reasons set out herein and in the PCR attached.

1.15 Ramac wishes to be represented at the Preliminary Meeting and to appear and adduce evidence at the Specific Issues/ Open Floor/ Compulsory Acquisition hearings as may be determined at the Preliminary Meeting.



For and on behalf of Ramac Holdings (Trading) Limited.

Dated..... 12th September 2018

**Application by Vattenfall Wind Power Limited for the Thanet Extension Offshore
Wind Farm Development Consent Order**

Reference: EN010084

RAMAC HOLDINGS (TRADING) LTD

WRITTEN SUMMARY OF ORAL REPRESENTATIONS

AT CAH2 ON 18.4.19

Introduction

1. This is the written summary of the oral representations made on behalf of Ramac Holdings (Trading) Ltd (“**Ramac**”) at the second Compulsory Acquisition Hearing on 18th April 2019.

Representations

2. Ramac attended the previous Compulsory Acquisition hearing on 21st February 2019. It relies upon the representations made at that hearing, without repeating them here.
3. In summary, Ramac’s position is that the Applicant has failed to establish that the proposed interference with its land interests is proportionate or indeed justified at all. The Applicant’s aims could be achieved through less intrusive means (if Ramac’s land interests have to be part of the scheme at all). It has not established a compelling case in the public interest to justify the exercise of compulsory acquisition powers. Principally, that is because of its inadequate assessment of alternatives.
4. DCLG guidance related to procedures for the compulsory acquisition of land (September 2013) makes it clear that an applicant should be able to demonstrate that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored. It will also need to demonstrate that the proposed interference is for a legitimate purpose and that it is necessary and proportionate.

5. The Applicant's justification for the compulsory acquisition of Ramac's land – and principally that land comprised in Work No.13 (the onshore substation) is inadequate in the following respects:
- i) It does not adequately explain the reasons for rejecting the Richborough Energy Park as a location for the onshore substation. The purported explanation in Chapter 4 of the ES (paragraphs 4.10.5 – 4.10.8) is insufficient to justify the rejection of that site. There is no analysis of the extent of land within the Energy Park that is committed to existing projects or of the land that is available outside of existing commitments. The Applicant claims that part of the Energy Park is 'zoned for development' for a diesel peaking plant. Ramac does not understand what is meant by that assertion. The Applicant has not properly explained why the onshore substation could not be accommodated at Richborough Energy Park.
 - ii) If there is a good reason, yet to be expressed by the Applicant, for the rejection of the Richborough Energy Park, the Applicant has failed to explain why Ramac's land at Richborough Port was identified as "the most reasonable alternative" (ES, Chapter 4, paragraphs 4.10.5 – 4.10.8). In particular, Ramac does not understand why the search area was restricted to sites within 1km of the Energy Park rather than, say 2km, and does not understand the basis for rejecting potential alternative sites. Ramac's expert evidence is there is no technical justification for limiting the search area to only 1km.
 - iii) If there is a valid reason for identifying Ramac's land as the most reasonable alternative, the Applicant has not explained or justified the selection of the particular parcel of land comprising Work No. 13. Ramac has made it clear to the Applicant since at least January 2018 (in its pre-application consultation response) that it would prefer the substation to be located further to the north of its landholding, at Baypoint Club or further to the south in the area identified for Work No.14. In its consolidated response to Ramac's consultation queries, the Applicant expressed the view that the siting of Work No.13 "minimises interference" with Ramac's operations. Ramac does not agree. It has consistently made it clear that it would prefer the substation to be

located elsewhere within its landholdings. Had the Applicant engaged in proper engagement with Ramac at the pre-application stage, it would have understood this to be the case. Instead, its published response to all of Ramac's concerns was simply to say "*Land ownerships are still under consultation with all relevant parties and will be taken forward in the post-consent phase*". Ramac suggests this is very telling and clearly shows the approach the Applicant was trying to take to compulsory acquisition. If there had been a proper justification for the selection of the particular parcel of land, one would have expected the Applicant to provide it then. There is no such justification in the Statement of Reasons (see pages 20, 22 and 26 which purport to provide the justification for the extent of land sought and an assessment of alternatives) or in the ES chapter on alternatives (see pages 4.1; 4.38 and 4.39).

- iv) If the substation must be located on Work area 13, the Applicant has failed to justify the extent of the land-take proposed. In particular, it has failed to provide any technical analysis of the land requirements for a GIS substation as compared to an AIS substation. Ramac has consistently argued that a GIS system has the potential significantly to reduce the land-take. In its consolidated response to Ramac's queries as to why a AIS substation was proposed, the Applicant's response was that it wished to retain technical and commercial flexibility (see Applicant's response to query 8(3)). While the AIS requires approximately 8.5 acres, Ramac's technical expert, Robert Thorogood of Hurley Palmer Flatt, assesses that a GIS substation would require c.2.3 acres – a space saving of some 6.2 acres. It is to be noted that the NEMO link interconnector on the Richborough Energy Park uses a GIS substation and Mr Thorogood could not conceive of any technical reason preventing the use of GIS for this project. The Applicant has provided no technical analysis as to why that would not be possible here or any assessment of the comparative requirements of GIS or AIS. It is extremely disappointing that notwithstanding the fact that Ramac has questioned the use of AIS since January 2018, the Applicant was not able to provide a technical justification for its proposed use at the CAH1 in February 2019 and did not present any technical expert to justify its position at CAH2 in April 2019. Had Ramac known prior to CAH2

that Mr Baker (or any other such expert competent to deal with the issues raised) for the Applicant could not attend to address the technical issues, it would have suggested the date for CAH2 be moved to either the original date or another date convenient to the ExA to enable the technical issues to be properly addressed. The Applicant's desire to retain maximum flexibility does not constitute a compelling case in the public interest sufficient to justify the acquisition of Ramac's land by compulsion.

6. Following the previous Compulsory Acquisition Hearing, the Applicant purported to provide a response to the representations made on behalf of Ramac, at Appendix 6 to its Deadline 3 submissions. That response is extremely high-level and preliminary in nature and appears to Ramac to be an exercise in retro-fitting: justifying the proposed site and the extent of land-take after the event. Plainly that is the wrong way round. An applicant seeking powers of compulsory acquisition must seek to achieve its aims in a proportionate manner. That involves the acquisition of the minimum amount of land necessary to deliver its scheme and the selection, where possible, of land that minimises disruption to the owner. Ramac invites the Applicant to disclose all contemporaneous evidence it has in respect of the site selection exercise it carried out, as well as the technical report by Deadline 5 the Applicant stated was "under way" at CAH2.
7. Ramac welcomes the questions posed by the ExA in its EXQ2 questions and awaits the Applicant's responses at Deadline 5. It is disappointing that at this stage of the examination when both CAHs have already taken place, that the Applicant is yet to provide an adequate justification for its site selection or the extent of the land it proposes to acquire. The purpose of the CAHs is to allow Affected Persons the opportunity to respond to and test the Applicant's case at an oral hearing. Ramac has been deprived of that opportunity by the Applicant's failure properly to justify its proposed acquisition.
8. The response provided by the Applicant at Deadline 3 is woefully inadequate. Further detail is anticipated at Deadline 5, to which Ramac will respond fully. At this stage, it simply draws to the ExA's attention the following general areas of concern:

- i) The assertion, unsupported by technical analysis, that GIS would have little or no space saving benefit compared to AIS (Appendix 6, section 2.2). The expert evidence obtained by Ramac is that a site acquisition saving of around 75% could be achieved by GIS.
- ii) The suggestion, unsupported by any noise assessment, that the Baypoint Club and South Richborough Port Land would be unsuitable locations given the proximity of noise sensitive receptors. There does not appear to have been any consideration of whether a GIS substation could adequately mitigate any noise concerns that may have been identified, (or indeed any noise mitigation in respect of the AIS substation proposed) had a noise appraisal of alternative sites been carried out;
- iii) The suggestion that the Baypoint Club would be unsuitable as a result of potential flood risk without supporting flood risk assessment or analysis of land available outside Flood Zone 3;
- iv) The suggestion, unsupported by any ecological appraisal or assessment of potential mitigation measures, that Baypoint Club would be unsuitable given its proximity to SAC/SPA;
- v) The rejection of the BCA Fleet land (Zone 2) on the basis of “potential” bat roosts without any appraisal of the actual existence of such roosts or consideration of mitigation measures that could adequately address that concern;
- vi) The rejection of South Richborough Port Land on the basis of alleged increased cost, with no assessment of the costs increased associated with this location or the consequential implications for the viability of the project;
- vii) The absence of any consideration of whether a GIS substation could be accommodated at Baypoint Club; South Richborough Port or indeed Richborough Energy Park.

EXQ2 – 2.3.3

The Applicant explained at the hearing the reasons for seeking compulsory acquisition and the parties addressed the ExA on negotiations, which if completed, would avoid the need for the compulsory acquisition sought. The ExA will be updated by Ramac and further submissions made on Ramac’s behalf in respect of the compulsory acquisition as necessary by deadline 6.

EXQ2 2.3.5

Ramac confirms the area in question is a substation, serving Ramac's Richborough Port site. Ramac will respond further by Deadline 6 (once in receipt of the Applicant's response at Deadline 5).

Conclusion

9. In conclusion, Ramac continues to oppose the application for powers of compulsory acquisition over its land for the reasons given in its pre-application consultation response; its Relevant and Written Representations and its oral representations to the ExA at both Compulsory Acquisition Hearings.
10. Even at this late stage of the examination, the Applicant has not provided an adequate justification for the proposed location for the substation or the extent of the land that it proposes to acquire. It is essential that it provides at Deadline 5 a proper justification, supported by appropriate technical and environmental appraisals, for the selection of the site and for the extent of the land that it seeks to acquire for Ramac to consider and respond to.
11. Ramac notes the comments of the ExA in relation to costs, and currently intends to make such an application at the appropriate time.

Charles Russell Speechlys LLP

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Cross Lanes

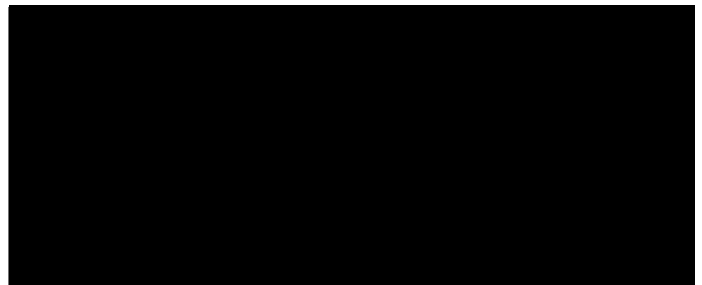
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Dated 29 April 2019



RAMAC HOLDINGS (TRADING) LTD

COMMENTS ON THE APPLICANT'S DEADLINE 5 SUBMISSIONS

Introduction

1. Ramac Holdings (Trading) Ltd (“**Ramac**”) attended the Compulsory Acquisition Hearings on 21st February 2019 and 18th April 2019. On both occasions it raised concerns about the selection of its land for the onshore substation; the proposed siting of the substation within its landholding and the extent of the land take. Indeed, those same objections were raised by Ramac in its first response to pre-application consultation, some 18 months ago in January 2018. Even at this late stage in the examination, none of those concerns have been satisfactorily addressed by the Applicant.
2. The Applicant has indicated to the ExA a number of times that it intends to enter into an agreement with Ramac that will allow Ramac to withdraw its objection. Unfortunately despite the best efforts on behalf of Ramac, and with only two weeks left until the close of the examination, no such agreement has been reached.
3. A joint statement submitted at Deadline 6 between Ramac and the Applicant records the continued negotiation between the parties. Both parties are hopeful that an agreement can be reached which allows Ramac to withdraw its objection. Unless and until agreement is reached, Ramac maintains its objection and respectfully invites the ExA to take these representation into account.

Chronology of Ramac's concerns and representations

First Compulsory Acquisition Hearing, 21 February 2019

4. At CAH1 Ramac expressed concerns about the Applicant's justification for the compulsory acquisition of Ramac's land (and principally that land comprised in Work No.13 (the onshore substation)) was inadequate.

5. Both the assessment of alternatives and the justification for the land take in the application documents were entirely unsatisfactory. Reference was made to the following documents:

- i) The Statement of Reasons purported to provide a “*description of route, works and plots and general justification for extent of the Order lands*” from page 20. Paragraphs 7.5.17 – 7.5.21 (page 22) of the Statement of Reasons purports to provide a justification for the extent of land required for works 12, 13, 14 and 15 on Ramac’s landholding. Those paragraphs provide no justification for the extent of the land take. As to alternatives, the Statement of Reasons says that the selection of the landfall, onshore cable corridor and substation location is “*set out in detail*” in the ES (SoR paragraph 7.21, page 26). Unfortunately that is not the case.
- ii) The ES addresses alternatives in Chapter 4. Paragraph 4.1.7 sets out the six stages of the site selection process. It was only at stage 5 of that process that any consideration was given to the location of the substation (see page 4-38). Paragraphs 4.10.5 – 4.10.8 explain only in the briefest terms the move away from the Richborough Energy Park and says that the next area of search was Richborough Port. There is no explanation of why Richborough Port was determined to be the most reasonable alternative to the Energy Park. Nor is there is explanation at all of why the particular area identified Work 13 was selected.
- iii) The Consultation Report submitted by the Applicant indicates that Ramac had raised concerns about site selection and land take in its pre-application consultation response. The Consultation Report Appendices (document 5.1.1) set out the concerns raised by Ramac and the Applicant’s response to each and every one of them was simply “*Land ownerships are still under consultation with all relevant parties and will be taken forward in the Post-Consent phase*”. The Applicant made no attempt to engage with the substance of Ramac’s concerns.

- iv) Ramac expressed concern at the lack of substantive engagement at the Preliminary Meeting. Following that meeting, the Applicant provided a document entitled “Consolidated Response to Ramac consultation questions” (which is appended to Ramac’s Written Representation). The Applicant’s purported responses were entirely inadequate. In particular:
- a. In response to Ramac’s question 9(3) about whether the Applicant was in fact seeking more land than was reasonably required for the substation, the Applicant said that the justification for the extent of the land required was fully set out in the Statement of Reasons. Plainly that was not correct.
 - b. In response to Ramac’s question 8(3) about whether AIS was required rather than GIS, which would have a smaller footprint, the Applicant said “*We have retained the option for both GIS and Air Insulated Switchgear (AIS) solutions. This is to retain technical and commercial flexibility during detailed design phase.*” The desire of the Applicant to retain flexibility is not a compelling reason in the public interest justifying the acquisition of land by compulsion. Had there been any technical reason for selecting AIS over GIS one would have expected the Applicant to mention that in this response. Any more recent attempts to justify the use of AIS should be read in that context.
 - c. In response to Ramac’s question 8(5) and (6) regarding the proposed footprint of the substation, the Applicant’s response was that “*Current sizes/footprints constitute a worst credible case*” and “*Current sizing is a worst credible case to all for future detailed design*”. While it may be appropriate in the context of environmental assessment to assess the worst case scenario, it is certainly not appropriate in the compulsory acquisition context to acquire land on a worst case basis. The Applicant should seek to take by compulsion as little land as possible. More recently, the Applicant has attempted to move away from its earlier responses and claim that in fact GIS and AIS would require similar footprints. Ramac does not accept that to be correct. Furthermore, if that was the justification for the land

take, it is extraordinary that no such explanation was offered in response to Ramac's repeatedly raised concerns.

6. At CAH1, the ExA asked the Applicant to provide a submission that "*goes back to the starting point of went Ramac's representations*", including a clear explanation for the route selection and an explanation of why the substation had to be located on the Work 13 land; an explanation for the rejection of Richborough Energy Park; a justification for the extent of land take to accommodate the substation; an explanation of why GIS could not be used and if so, whether that smaller footprint substation could be accommodated at Richborough Energy Park or on the southern part of Ramac's landholding, which would be preferable to Ramac (if acquisition of any of Ramac's land can be justified at all).

Applicant's Deadline 3 submissions

7. At Deadline 3, in purported response to the request from the ExA, the Applicant provided a "Report Addressing Oral Submissions by Ramac Holdings Ltd at Compulsory Acquisition Hearing 1" (Appendix 6 to the Applicant's Deadline 3 submissions).
8. That Report was extremely high-level and preliminary in nature and appeared to be an exercise in retro-fitting: justifying the proposed site and the extent of land-take after the event. Plainly that is the wrong way round. An applicant seeking powers of compulsory acquisition must seek to achieve its aims in a proportionate manner. That involves giving thought, prior to the application for compulsory acquisition powers about how to acquire the minimum amount of land necessary to deliver its scheme and the selection, where possible, of land that minimises disruption to the owner. As Ramac has repeatedly made clear, it would prefer to accommodate the substation on land at the south of its landholding or indeed on land to the north, at Baypoint Club. The location of Work 13 at the centre of its landholding causes maximum disruption to Ramac.
9. Examples of the inadequacies of the report include:

- i) The assertion, unsupported by technical analysis, that GIS would have little or no space saving benefit compared to AIS (Section 2.2);
- ii) The suggestion, unsupported by any noise assessment, that the Baypoint Club and South Richborough Port Land would be unsuitable locations given the proximity of noise sensitive receptors. There does not appear to have been any consideration of whether a GIS substation could adequately mitigate any noise concerns that may have been identified, had a noise appraisal of alternative sites been carried out;
- iii) The suggestion that the Baypoint Club would be unsuitable as a result of potential flood risk without supporting flood risk assessment or analysis of land available outside Flood Zone 3;
- iv) The suggestion, unsupported by any ecological appraisal or assessment of potential mitigation measures, that Baypoint Club would be unsuitable given its proximity to SAC/SPA;
- v) The rejection of the BCA Fleet land (Zone 2) on the basis of “potential” bat roosts without any appraisal of the actual existence of such roosts or consideration of mitigation measures that could adequately address that concern;
- vi) The rejection of South Richborough Port Land on the basis of alleged increased cost, with no assessment of the costs increase associated with this location or the consequential implications for the viability of the project;
- vii) The absence of any consideration of whether a GIS substation could be accommodated at Baypoint Club; South Richborough Port or indeed Richborough Energy Park.

Second Compulsory Acquisition Hearing, 18 April 2019

10. At CAH2 Ramac reiterated its concern that the Applicant had not properly considered alternatives for the onshore substation, including South Richborough Port or Baypoint Club and had not justified the extent of the proposed land take.

11. Ramac’s technical expert, Mr Thorogood of Hurley Palmer Flatt, explained that he could see no reason to reject GIS technology and expressed the view that the use of

GIS over AIS was likely to result in a significant reduction in the footprint of the onshore substation and therefore the land take required to accommodate it.

12. Ramac expressed its disappointment that the Applicant had provided no technical analysis as to why that would not be possible to use GIS technology or any assessment of the comparative requirements of GIS or AIS. Notwithstanding the fact that Ramac has questioned the use of AIS and the extent of land take since January 2018, the Applicant was not able to provide a technical justification for its proposed use at the CAH1 in February 2019 and did not present any satisfactory technical evidence to justify its position at CAH2 in April 2019 (the Applicant's expert did not attend the hearing, being unavailable on the day) . Ramac reiterated its view that the Applicant's desire to retain maximum flexibility did not constitute a compelling case in the public interest sufficient to justify the acquisition of Ramac's land by compulsion.

13. The ExA made the following observations at CAH2 in respect of the Ramac land subject to compulsory acquisition: *"We remain unclear as to the precise justification for the proposed permanent acquisition of this extent of land. It is quite a large amount of land. Here or at Deadline 5 we would like a considered justification for the full extent of the land take that deals with the concern that there is a possible over-acquisition here."*

14. The Applicant promised that a technical report was under preparation which would explain the necessity for AIS over GIS. The ExA made it clear that the report should have regard to other made DCOs and explained that *"Before we accept that additional space is required here, we will need to understand why that is"*. The ExA made it clear that the full justification for the extent of land take would have to be submitted by Deadline 5 or there would be *"natural justice issues"*.

Deadline 5 submissions

15. At Deadline 5 the Applicant has submitted a technical report which seeks to provide a technical justification for the type and size of the onshore substation (Annex B to Appendix 1 to Deadline 5 submission: Applicant's response to ExQ2.3.3).

16. In answer to the ExA's 2WQ 2.3.7 and 2.3.8 it has purported to justify the rejection of other plots within Ramac's landholding to accommodate the onshore substation.
17. Ramac remains of the view that the Applicant has failed, even at this late stage of the examination process, to adequately justify the selection of the land comprised in Work No. 13 or the extent of the land take proposed.

Response to Deadline 5 submissions

18. The report submitted by the Applicant at Annex B confirms that in fact the Applicant may decide to use GIS technology instead of AIS technology, but claims that the space-saving from use of GIS is likely to be minimal because a multi-storey GIS substation is "*not practical for a wind farm*" and is "*less practical from an environmental and construction perspective*" (paragraph 16).
19. Despite the explicit request from the ExA to justify the rejection of GIS by reference to other made DCOs, the Applicant has failed to provide any such comparisons.
20. Ramac's expert, Mr Thorogood has reviewed the Applicant's technical report. His expert report is attached to this submission. In his view, the equipment identified in the Applicant's Annex B could all be accommodated on a 3 acre footprint. The Applicant proposes an 8.5 acre site for the substation. There is no justification for the extent of the land take proposed to accommodate Work No. 13 in circumstances where the substation could be accommodated on a site of around one third that size.
21. As to the location of the substation, Ramac has repeatedly explained that it would prefer for the substation to be accommodated on land at the South of Richborough Port if it is to have any land acquired at all. There is c11 acres of land available in that plot of land which could well accommodate a substation, even on the enlarged footprint proposed by the Applicant. Mr Thorogood's report shows how the substation could be comfortably accommodated on the land at the South of the Richborough Port site.
22. The Applicant suggests that noise considerations mean that land at South Richborough Port is not appropriate for the substation. However, it has provided no

assessment of the noise impacts of the substation on the nearest sensitive receptor at Stonar Cottage to support its assertions. Nor has it considered noise mitigation measures that could be employed to reduce noise levels at Stonar Cottage. Mr Thorogood's report indicates that as a result of noise attenuation, even without additional noise mitigation, sound levels at Stonar Cottage are likely to be within acceptable limits. Potential noise impacts would therefore not preclude the location of the substation at South Richborough Port, which would be a much more acceptable and less intrusive result for Ramac.

23. Nor is there any reason to prevent cable alignment being re-designed to serve a substation at South Richborough Port. While there may be some increased costs associated with the cabling, the Applicant has not provided any assessment of what those additional costs would be or whether they would have any impact on the viability of the project. Mr Thorogood's view is that the additional costs of the cabling would be *de minimis* in the context of the wider project costs.

24. As to access arrangements, there is an existing access into the site which could be widened if necessary. Ramac would be happy to cooperate with the Applicant should such widening works be required.

Conclusion

25. In conclusion, Ramac does not consider that the Applicant has demonstrated a compelling case in the public interest for the compulsory acquisition of its land. It has failed adequately to consider alternative options that would have fewer impacts on Ramac's landholding and operations. It has failed to justify the use of AIS over GIS technology or to demonstrate that all of the land comprised in Work No. 13 is necessary to deliver the substation. Its proposed interference with Ramac's interests is not proportionate in that the same infrastructure could be delivered on a smaller plot and in an alternative location more favourable to Ramac.

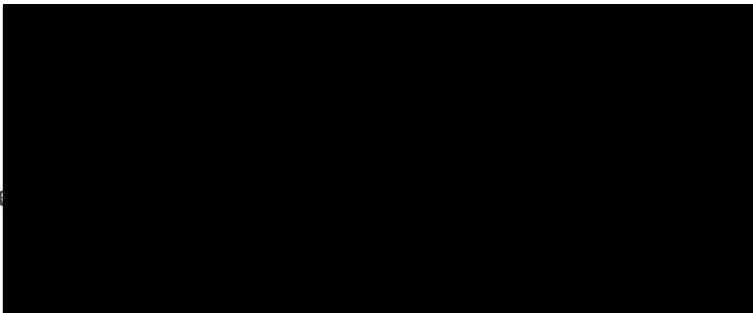
26. Even if the ExA finds that there is a need for the proposed wind farm such that the DCO should be made, Ramac invites the ExA to refuse the Applicant powers of compulsory acquisition over its land. The effect of that decision would be to require the Applicant to enter into a voluntary agreement with Ramac as to the location of the

substation, which Ramac would be willing to accommodate on other parts of its landholding.

Charles Russell Speechlys LLP

Solicitors for Ramac Holding (Trading) Limited

28 May 2019



RAMAC HOLDINGS (TRADING) LTD - RICHBOROUGH PORT

ASSESSMENT OF VATTENFALL PROPOSALS FOR THANET OFFSHORE WIND FARM

LCY12315R/2.1 28th May 2019

1.0 Introduction

This note has been prepared to consider the impact to RAMAC on the proposed offshore wind farm proposed by Vattenfall, in particular the landing of the cables and subsequent substation that will be required to raise the voltage level from 66kV or 132kV to 400kV to allow direct connection and transmission to the National Grid.

There are three main aspects that concern RAMAC, they are:

- 1) The site area required for the proposed substation
- 2) The substation location and,
- 3) The landing of the cables to the substation.

To some extent these three aspects are related, but to enable easier analysis they are considered individually from section 3.0 onwards. I confirm I have specifically considered the evidence filed at Deadline 5 and attended the CAH2 hearing and gave evidence on the 18th April 2019.

2.0 Summary of Key Points

In my consideration of Vattenfall's proposals, including specifically Annex B to Appendix 1 to Deadline 5 submission, I have considered a range of technical factors that should be taken into account, the key points to note are:

- Vattenfall's proposals for the substation are based on a traditional open compound arrangement on a single level. No consideration is given to basing it on a multi-storey arrangement with GIS switchgear. Vattenfall argue that their substation is not typical and has more components than a DNO's substation; I would not disagree with this, it is understood that additional components are required to allow the system to function. However, this does not stop Vattenfall considering how these components could be designed to be within a building and so then reduce the footprint required. In my opinion, this is certainly possible and feasible for this project.
- In my review of the components that are required for Vattenfall's substation, I have assessed them in terms how these could be incorporated into a multi-storey building, I have estimated that this could be as little as 35% of their current land requirements.
- In terms of location, Vattenfall have assumed a location with no real consideration of alternatives, either by the use of alternative AIS arrangements or combining with a multi-storey/GIS arrangement.
- The argument that noise may be a factor in limiting the number of locations is disputed, there are many measures that can be used to reduce noise levels to acceptable levels required by the Local Authority.

In summary, I do not agree with the evidence put forward by Vattenfall. Further explanation of the points and my expert opinion follow in the sections below.

3.0 Sub-station Area

Vattenfall in their documentation have identified a substation area of 215m x 160m (c.8.6 acres) as advised in Table 1.3 of Volume 3, Chapter 1 of their Preliminary Environmental Information Report. Below, in figure 1, is an extract from the same document noted as Figure 1.15 and is titled as an "Indicative Layout of the Onshore Substation".

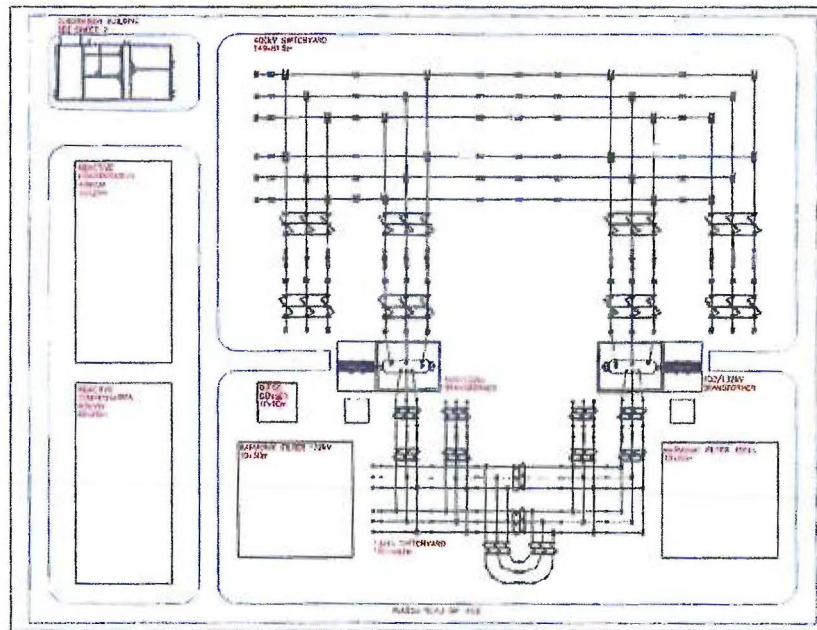


Figure 1 – Extracted Figure 1.15

Also noted in the same documents are the components within the substation, shown in Section 1.5.74 and repeated in Table 1 below. Although not specifically noted in the above document, it has been later confirmed by Vattenfall that their substation scheme is based upon Air Insulated Switchgear (AIS) as opposed to Gas Insulated Switchgear (GIS).

2 x three phase shunt reactors – to provide additional reactive power compensation to the windfarm 66 or 132 kV connection;
2 x Static Synchronous Compensators (STATCOM), Static Var Compensator (SVC) or equivalent – to provide variable reactive power to meet NGET technical connection requirements;
2 x 400/ (66 or 132) kV transformers – to convert transmitted 66kV or 132 kV HVAC power to National Grid 400 kV HVAC;
Various ancillary transformers to connect components at lower voltages
Set of harmonic filters – to meet power quality connection requirements; each filter will comprise capacitors, reactors and resistors together with interconnecting conductors;
Control building – housing the main 66 or 132 kV switchboard, SCADA and protection equipment;

400kV and 132 or 66kV switchgear to switch and protect the various components
Associated connections between equipment via overhead busbar and cabling, including buried earthing system
Access roads and fencing – for O&M access to equipment

Table 1 – List of Proposed Substation Equipment

It is understood, and accepted, that all of the above equipment is necessary and fundamental to the function of connecting the proposed windfarm to the National Grid, with many of the components being necessary to meet the criteria for connection to the transmission system operated by National Grid.

The questions that arise regarding the physical size of the substation are:

- i) Why has it been assumed that all of the substation components are to be installed on a single level in an open compound, which has the greatest footprint.
- ii) What is the basis of the decision to select AIS (air insulated) switchgear in lieu of GIS (gas insulated) switchgear, given that the latter has less of a footprint.

Both of these questions are reviewed in more detail below.

1) Substation Component Arrangement

Vattenfall identify a range of issues to explain why they have arranged all their equipment in an open compound, their primary reasons are described below:

- Majority of the equipment is outdoor type with need to external air for cooling
- Access for delivery and maintenance, particularly for craneage
- Fire / blast control by use of distance to ensure that one item of equipment that is on fire doesn't impact any others.

Each of these primary reasons are considered and commented on as follows:

Discussion on Outdoor/Indoor equipment

Vattenfall have now provided commentary on the various items of equipment included within their substation, identifying those that need to be outdoors and those that are indoor, these are shown in Table 2 below:

Equipment item	Commentary
Shunt reactors	Outdoor
Static Synchronous Compensators	Indoor
400/66 or 132kV transformers	Outdoor

Equipment Item (continued)	Commentary (continued)
Ancillary transformers	Outdoor
Harmonic filters	Outdoor
Control building	Indoor
Access roads	Outdoor
400kV and 66 or 132kV Switchgear	Located indoor (GIS) or outdoor (AIS)
Associated connections between equipment	Located indoor (GIS) or outdoor (AIS)
66 or 132kV Switchgear	Located indoor (GIS) or outdoor (AIS)

Table 2 – List of Equipment by Indoor/Outdoor Location

Given the variety of types of equipment with the potential to house some internally in a building or in an open part of a part of a building, it is quite clear to see that a single level open compound is not the only option and that Vattenfall have clearly not demonstrated any other options to just an open compound.

Alternative Arrangements – Multi-storey Building

In our initial assessments, I considered a multi-storey building arrangement which would have reduced the overall footprint from 8.5 acres to circa 2.3 acres; with the additional information provided in Annex B to Appendix 1 to Deadline 5 Submission. It is accepted, in the light of information now submitted, that this may not be achieved to quite that level, nonetheless, it is possible to achieve a significant reduction in the overall footprint required.

In Figures 2a and 2b below, are shown schematic arrangements of how the components noted in Table 2 might be arranged to reduce the footprint; note that all of the components that would have to have “outdoor” access to air and craneage are on the upper level, all other components are on the lower level including all the switchgear which is assumed to now be GIS.

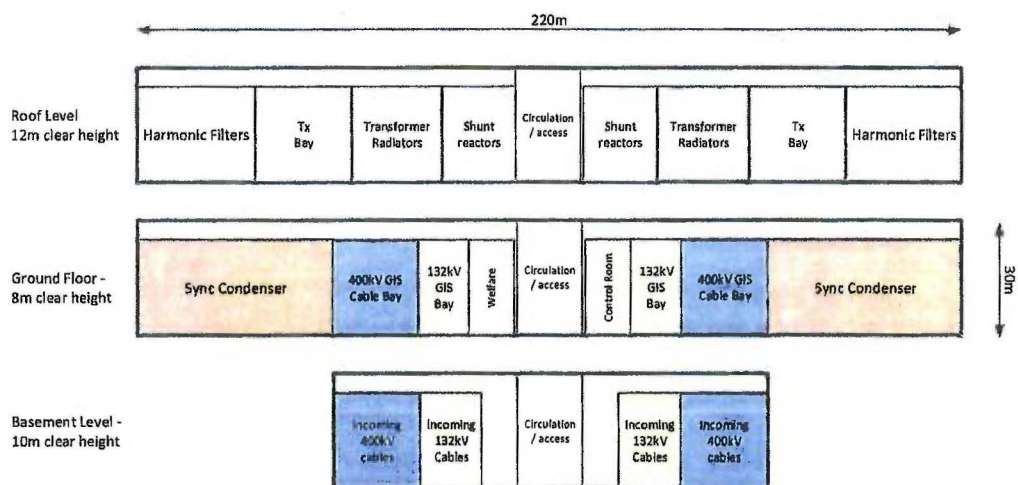
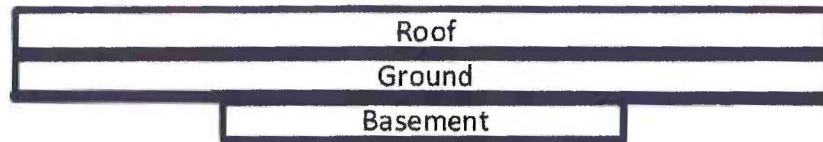


Figure 2a – Multi Storey GIS Building Arrangement – Layout



Indicative Building Section
(overall height 20m above ground)

Figure 2b – Multi Storey GIS Building Arrangement – Long Section

The arrangements shown in Figures 2a and 2b ensure that equipment requiring external access to air and access are provided and allowances for blast and fire walls provided within the structure; given this, all of Vattenfall's primary reasons for having an open compound are shown to have been dealt with within a multi-storey building with a significantly smaller footprint.

The schematic arrangement in Figures 2a and 2b can then be compared in terms of footprint area as follows:

- I. **Vattenfall proposal (AIS in open compound)**
Total area required = 34,400sq.m or 8.5 acres
Maximum height = 14m
Basement = none
- II. **Alternative proposal (GIS based in a building, see illustration below in Figures 2a/2b)**
Building footprint required = 220m x 30m = 6,600sq.m
Total Site Footprint required = approx. 12,000sq.m or 3 acres
(includes 10m area around building)
Maximum height = 20m
Basement = 10m

From the high-level assessment above, it can be seen that there is vast difference in the site footprint required between the two options, even allowing for a 10m fence all around, the site footprint would only be around 35% of the Vattenfall proposal. It is therefore suggested that Vattenfall could and should seriously consider and adopt this option in terms of layout.

2) AIS vs GIS switchgear types comparison

The issue of why AIS has been assumed rather than GIS as a switchgear type has already been raised to Vattenfall through question and answer process to date. Vattenfall have responded that the difference is not sufficiently material to make a real difference. Whilst I would agree that there are other factors and equipment that can drive the sizing, the selection of switchgear is a key issue, not only in its own footprint but also as an enabler to allow a multi-storey arrangement as shown in Figures 2a and 2b.

The use of GIS is now common place in city centres, primarily due to limited space and the cost of land but there is no reason as to why it can't be applied to other locations. An

example of this already exists nearby at the proposed Nemo interconnector link which has housed a significant number of its components within buildings as well as some external elements. It is recognised that this is likely to be more expensive to build but there are a range of benefits that this provides as outlined below:

Benefits to using GIS within a Purpose Designed Building

- More easily secured with all plant behind walls and/or louvred facades
- Better fire protection and separation
- Easier to terminate cables that are underground into specific purpose made chambers
- Lower acoustic noise with attenuation possible in transformer bays
- Lower magnetic field interference to areas around the substation
- Lower electric fields to areas around the substation
- Lower maintenance costs of switchgear

As noted above, the use of GIS in a purpose made building has already been suggested, however Vattenfall have belittled the idea by advising that the potential reduction in area would be “eroded”; this response is not accepted, it is unfortunate that to date Vattenfall have refused to consider this alternative and to provide an assessment of any sort.

I would recommend the use of GIS as part of an overall strategy to reduce footprint on the selected site with layouts and options generated for consideration in the planning process.

4.0 Sub-station Location

The question has been posed as to why could the Vattenfall substation be located elsewhere in particular the MOJ replacement land of circa 11 acres shown below in green. The current land take requirement is circa 8.6 acres, so although this site is not completely rectangular, it is a larger site. The land is shown in Figure 3 which is Figure 8 from Vattenfall’s Appendix 6.



Figure 3 – MOJ Replacement Land Context

Using the land arrangement shown in Figure 3 above, an assessment has been made to see how the components of Vattenfall’s proposed AIS substation could be fitted within the site boundary. Figure 4 shows this assessment; it is fairly crude, but it does show that with some reasonable additional design input to the arrangement that the substation could be fitted

within this site. It has been deliberately shown in the northern part of the site for two reasons:

- 1) To give the greatest noise reduction to the nearest residence (see more below)
- 2) To minimise the cabling route length to the site (see commentary below).

Vattenfall, in its latest submission in Annex B to Appendix 1 to Deadline 5, have in Section 2.3, Figure 1, including an example Onshore Windfarm Substation Layout. This is very useful, firstly because it demonstrates that other less square arrangements are possible, secondly because the area required appears to be reduced.

We have taken this Google Earth image and re-scaled it and applied it to the MOD replacement land, as shown in Figure 5. We have estimated that the area taken is circa 120m x 250m giving an overall area footprint of 30,000sq.m or 7.5 acres, so around 12% smaller than the footprint that Vattenfall are currently claiming. However what is as important, as shown in Figure 5 is that it fits very well with the MOD replacement land; the question arises as to why this hasn't been considered by Vattenfall?

In addition, the arrangements in Figures 4 and 5 still assume the use of AIS in a single level open compound; if GIS was used then the footprint requirements would be reduced significantly and there would be no issues at all locating in this area.

Other issues to consider

There a number of issues to consider when siting the substation as follows:

- a) Noise levels – within the substation, the elements that are likely to emit noise are the transformers, reactors and synchronous machines. On the assumption that the synchronous machines would already be housed in some form of box, the overall sound level for all of these components is likely to be in the order of 70dB at 1m from each item. Most local authorities will expect a maximum to have no more than 30dB at any openable window of a residence particularly where noise levels over night (due to low local traffic and industry activity levels) occur.

Noise from the substation equipment is usually defined in sound power levels, therefore as such, attenuation due to the direct distance, r , from each unit from the nearest residential property is based on the formula, $10 \times \log(2\pi r^2)$. This is based on the sound power radiated from the unit being equally spread over the area of a hemi-sphere.

Using the typical level of 70dBA at 1m and on the basis that each item of plant has a reasonable size, it is usual to treat each unit as a line source up to a distance of 5m, consequently, the attenuation is based on a reduction of 3dB per doubling of distance up to a point 5m from the unit, and 6dB per doubling of the distance thereafter.

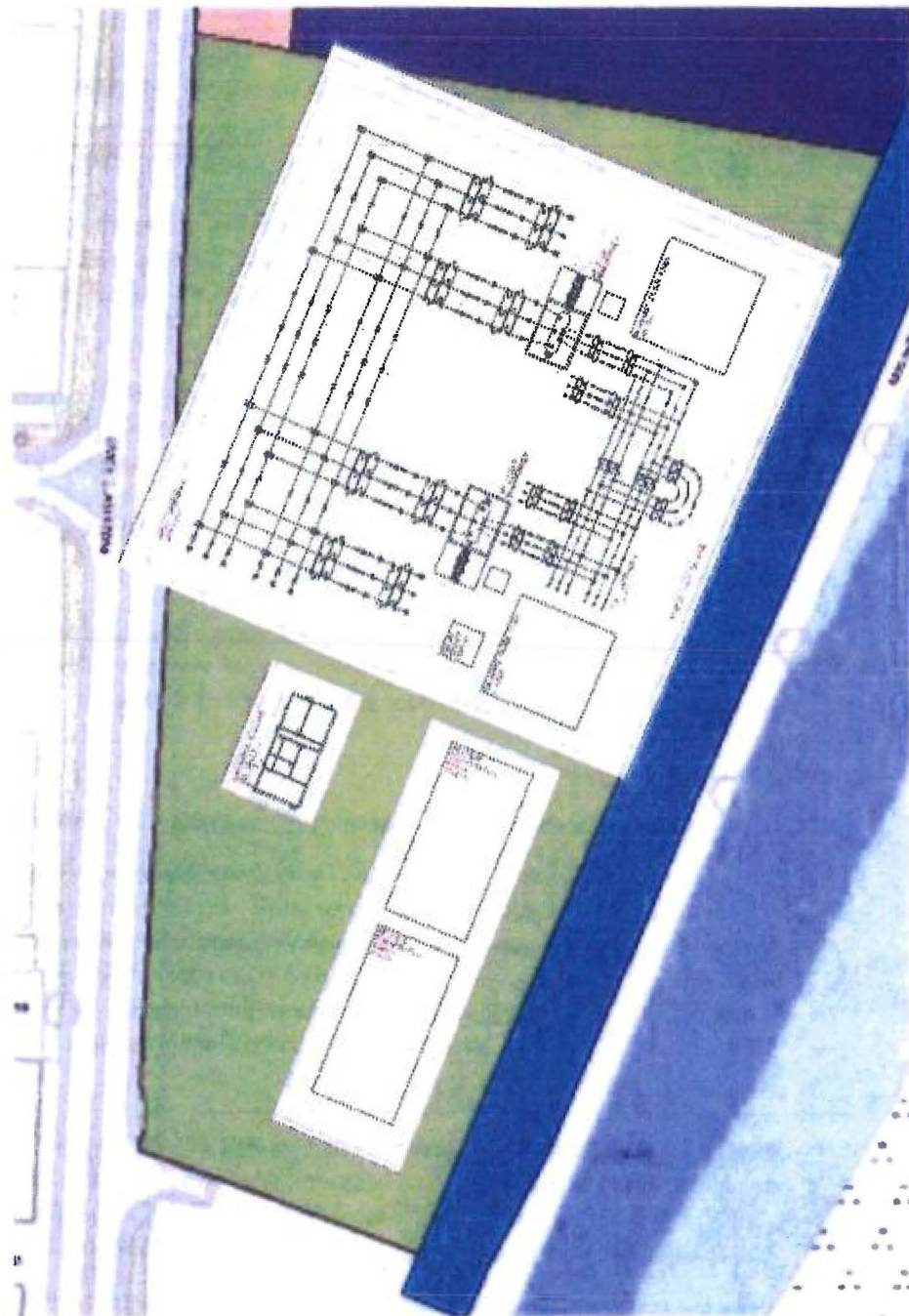


Figure 4 – MOJ Replacement Land Substation Assessment

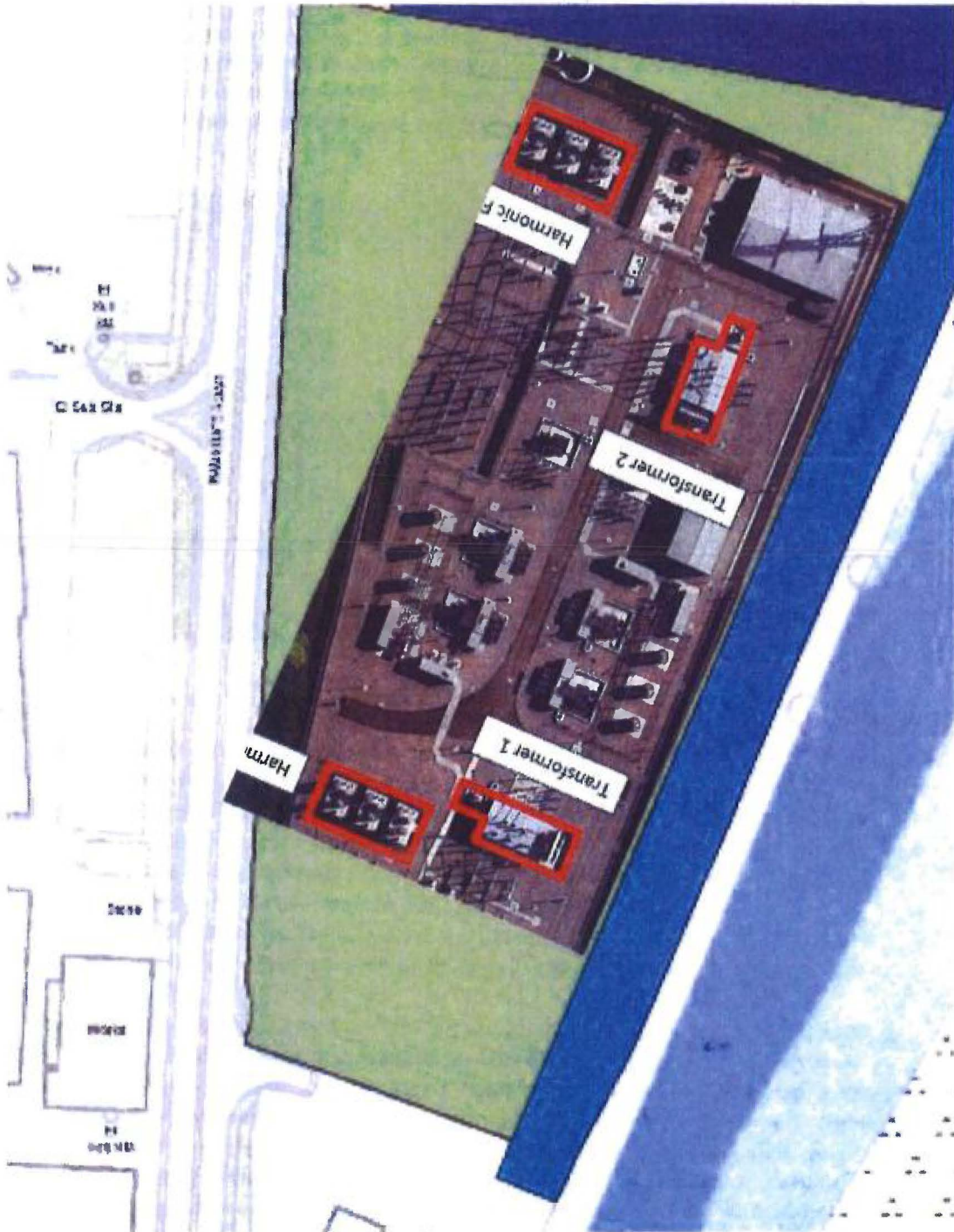


Figure 5 – MOJ Replacement Land - Alternative Substation Layout

The nearest residence to the above site is Stonar Cottage, see photo below in Figure 6, which is estimated to be around 320m. Using the assessment process noted above, it is estimated that there would be an attenuation level of circa 42dB, therefore the reduction of noise emitted by plant will be $70\text{dB} - 42\text{dB} < 30\text{dB}$ and therefore be likely acceptable to the local authority. In any event, it would be possible to install attenuating elements to reduce noise and ensure that the chosen equipment keeps noise emissions to an acceptable level.

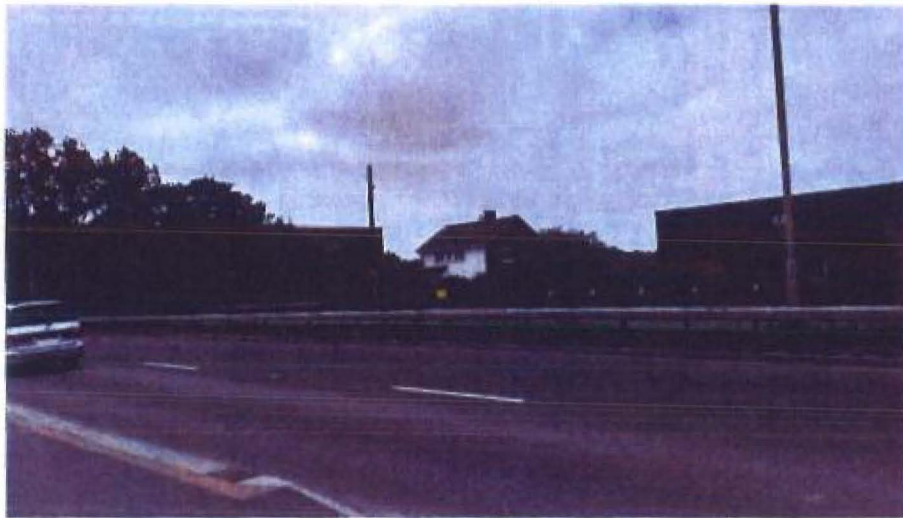


Figure 6 – Stonar Cottage

- b) Cable Trenches - As noted above, the substation has been shown on the northern part of the site for reasons already given. However, an alternative arrangement could be designed and the southern part of the site could be used; from a cabling point of view whether the substation is in the north or south of the site is not a key technical factor. However, there would be an impact on the cost of the cable trenches, it is estimated that the cost is likely to be in the order of £1,500 per metre or £1.5m per km for each trench, so £3,000 for each metre moved in a southerly direction. In the light of what I expect the overall cost of the project to be, this additional expense would be minimis.
- c) Site access – should a substation be located on this land then clearly site access should be provided. The site is located directly onto the Ramsgate Road or A256 as shown in the photo below in Figure 7. The site has an access already, this may need to be widened and sight lines improved, but essentially there is no reason why this existing access cannot be used for both construction traffic and for normal access once the substation is complete. It should also be noted that there is a similar access on the north bound carriageway to enter the industrial units, shown below in Figure 8, so a similar entry format could be provided. RAMAC are prepared to co-operate to ensure that access is adequate and support any upgrading permitted.



Figure 7 – Existing Site Access



Figure 8 – Ramsgate Road Accesses

Given all of the above, it is suggested that this MOJ Replacement Land site should be considered as a viable alternative. In addition, Vattenfall state that their search for sites was limited to sites within 1km suggests that Vattenfall's site searching is incomplete and insufficient. Vattenfall's reports and responses do not make it clear as to why 1km was chosen and why not 2km or more even. I do not consider in my expert opinion there is any justification technically for limited the search to 1km. A significantly more extensive search could and should have been carried out.

There are examples of where the substation linking an offshore windfarm to the 400kV National Grid transmission system has been located a long way from the where the offshore cables have been landed onshore. An example of this is the Rampion Offshore Wind Farm project (see appendix A) located near Shoreham on the South Coast of the UK, it connects to the 400kV transmission system close to Bolney using 150kV circuits which travel around 15 miles inland. This demonstrates that there are many options that could and should be considered rather than just a 1km radius.

5.0 Cable Routing

There are a number of issues that arise regarding how the cabling to the substation could impact the land and routing to the substation.

Trenching arrangements

Vattenfall have advised that they have not yet decided as to whether the circuits from the offshore windfarm will be at 66kV or 132kV (the maximum voltage available to Vattenfall). Vattenfall have therefore shown two indicative versions of cable trenching for these two voltages as shown in Figure 9. The arrangements shown are typically for a DNO or IDNO distributing cables at these voltages. What is not defined are the limitations that will be applied to the land that they cross, such as the Bay Point Sports Club area; the norm is to run along public roads or footpaths. The limitations stem from (understandably) not interfering with the cables and the ability to access the cables should a fault arise. As such, no building structures, piling, concrete slabs should be built above these trenches as these will impede access. However, laying down of roads, car parks, gardens or walkways would be possible as these would still allow access.

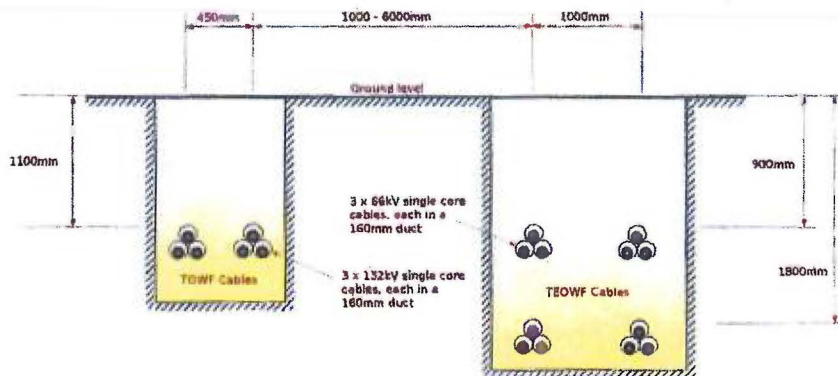


Figure 9 – Indicative trench arrangements for Sandwich Road
(extract from Volume 3, Chapter 1, Figure 1.14)

Duct arrangements

Vattenfall have shown ducts in a trefoil arrangement which is a common one. However, no pilot wires are shown in these ducts or additional ducts; I would expect these to be provided for their fault protection systems and are surprised at their omission.

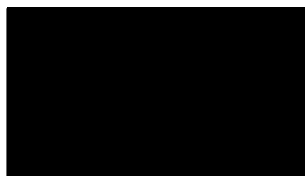
Alternative Routes

It is noted that Vattenfall have proposed horizontal directional drilling (HDD) for parts of their cabling system, in this case from the onshore substation to the National Grid Electricity Transmission point (NGET). HDD is a well-recognised method, used at all numbers of

voltages, from 400V to 400kV and is useful for crossing train lines, rivers, canals, motorways etc to avoid disruption and damage.

From the information submitted so far, Vattenfall do not appear to have considered crossing the River Stour using HDD in order to improve routing and the position for the landing of the offshore cables. I can not see a technical reason to prevent this being carried out and I would recommend that this reviewed and developed further.

END



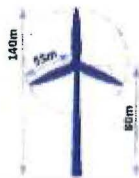
Director
Hurley Palmer Flatt

Appendix A - Rampion Offshore Wind Farm Fact Sheet

Winter 2017/18



The south coast's first offshore wind farm



350,000 homes supplied

116 turbines
400 MW installed capacity
1,400 GWh produced per year

600,000 tonnes CO₂ emissions saved per year

Foundation weight 550-800 tonnes
Foundation length 60-80m

Length of offshore export cables 16km
140km Inter-array cables

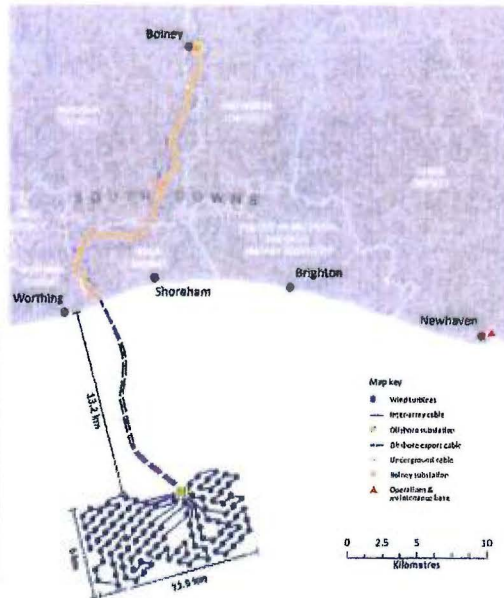
* Based on an average annual domestic household electricity consumption of 3,938 kWh (BEIS).

The Rampion Offshore Wind Farm comprises 116 wind turbines that each sit on top of a foundation fixed into the seabed.

With an installed capacity of 400 megawatts (MW), it will generate 1,400 gigawatt hours (GWh) of green power each year, equal to the amount used annually by around 350,000 UK homes¹, or almost half the houses in Sussex. It will reduce CO₂ emissions by nearly 600,000 tonnes a year.

The wind farm site covers 70 square kilometres, so it is larger than the island of Guernsey, and is located in the English Channel between 13 and 20 kilometres off the Sussex coast.

Rampion will be operated and maintained from a purpose-built base at Newhaven Port, and is already acting as a catalyst for the regeneration of the port area.



Construction time frame

Construction of the Rampion Offshore Wind Farm began in 2015 and first generation is due by the end of this year. It will be fully operational in 2018, with the final completion date being largely dependent on logistics and weather during the construction period. Reinstatement of the onshore cable route will be completed in 2018 and monitored for 10 years. The wind farm itself will have a lifespan of 20 to 25 years.