

FIVE ESTUARIES OFFSHORE WIND FARM

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DEFINITION OF ACRONYMS

Term	Definition	
ARSI	Access Required Site Inspection	
DCO	Development Consent Order	
LEMP	Landscape and Ecological Management Plan	
MMO	Marine Management Organisation	
NPS	National Policy Statement	
OLEMP	Outline Landscape and Ecological Management Plan	
VEOWFL Five Estuaries Offshore Wind Farm Ltd.		

1. IMPLICATIONS OF IMPLEMENTING FIVE ESTUARIES "BUILD OPTION 1"

1.1 TEXT OF EXA'S REQUEST

- 1.1.1 Implications of implementing Five Estuaries "Build Option 1" for the implementation of any onshore works for the proposed North Falls Offshore Wind Farm (North Falls)
- 1.1.2 (NB in making this request for information the ExA has had regard to the submission of the revised version of the "Coordination Document" submitted at Deadline 8, most particularly section 4.1)
 - a) In the event of Development Consent Orders (DCO) being made for both Five Estuaries and North Falls and Five Estuaries commencing works under its delivery Build Option 1, advise on whether the undertaking of those works would also constitute the commencement of works under the provisions of the draft DCO for North Falls?
 - b) In the event of works proceeding first under North Falls' equivalent of Five Estuaries' Build Option 1, would the undertaking of those works amount to the commencement of works under Requirement 1 of any made DCO for Five Estuaries?
 - c) Is there a need for clarifying wording to be added to either the draft DCO or the Explanatory Memorandum? If so, then if that wording relates to the draft DCO any such wording should be submitted for the ExA's consideration and potential incorporation into its recommended version of the draft DCO. If any clarifying wording would only concern the Explanatory Memorandum, then it should be incorporated by the applicant into a revised version of that document.

1.2 APPLICANT'S RESPONSE

- a) In the event of Development Consent Orders (DCO) being made for both Five Estuaries and North Falls and Five Estuaries commencing works under its delivery Build Option 1, advise on whether the undertaking of those works would also constitute the commencement of works under the provisions of the draft DCO for North Falls?
- 1.2.1 In short, the answer to the Examining Authority's question is "No".
- 1.2.2 "Build option 1" as set out in the Coordination document [REP8-029] means scenario 1 in which the first development will deliver works to support grid connection co-ordination, including the laying of onshore cable ducts for the second project.
- 1.2.3 As set out in previous submissions [APP-263, REP1-059 at item 1.2, REP4-037, REP6-054], the Five Estuaries DCO includes works to install a second set of ducts and undertake site preparation activities, which are associated development within the Five Estuaries DCO as applied for. The lawfulness and appropriateness of the inclusion of these works (and the compliance with NPS policy achieved by such inclusion) is considered and endorsed in the opinion of King's Counsel submitted [REP6-050]:
 - "67. In my view such works constitute 'associated development' related to the VE scheme for the purposes of section 115 of the PA 2008 and therefore can lawfully be granted development consent in the VE scheme DCO."

- 1.2.4 "[...] it is my opinion that the proposed shared works here are properly to be regarded as associated development, and that development consent can lawfully be granted for such works in any DCO made in respect of the VE scheme."
- 1.2.5 The works concerned do not and could not constitute works which are also authorised by and may be carried out under another DCO. The works are included in this application, would be carried out by the Five Estuaries undertaker and would be controlled by the Five Estuaries DCO requirements. There is no conceivable legal path whereby that could commence the North Falls DCO.
- 1.2.6 A DCO is (subject to minor exceptions in the transfer of the benefit article), personal to the named undertaker. Five Estuaries cannot lawfully implement the North Falls DCO or vice versa.
- 1.2.7 In order to lawfully commence a DCO the various pre-commencement requirements must be discharged. Where the co-ordinated scenario applies and Five Estuaries in effect 'goes first', the pre-commencement requirements of the Five Estuaries DCO must be discharged, but the requirements of the North Falls DCO will not need to be discharged as works carried out by Five Estuaries solely under its DCO will not constitute works under the North Falls DCO. Works by Five Estuaries cannot constitute commencement under the North Falls DCO. The discharging and relevant planning authority need to be clear who the works are being carried out by, therefore who is liable for compliance and with which DCO. This is why a requirement necessitating submission of a notification as to which build option is being pursued is required by the dDCO.
 - b) In the event of works proceeding first under North Falls' equivalent of Five Estuaries' Build Option 1, would the undertaking of those works amount to the commencement of works under Requirement 1 of any made DCO for Five Estuaries?
- 1.2.8 The answer as given above to a) applies in the reverse. There is no legal path by which undertaking works under the North Falls DCO can lawfully commence the Five Estuaries DCO.
 - c) Is there a need for clarifying wording to be added to either the draft DCO or the Explanatory Memorandum? If so, then if that wording relates to the draft DCO any such wording should be submitted for the ExA's consideration and potential incorporation into its recommended version of the draft DCO. If any clarifying wording would only concern the Explanatory Memorandum, then it should be incorporated by the applicant into a revised version of that document.
- 1.2.9 The Applicant does not consider that any wording requires to be added as the scenario on which the question is predicated cannot arise; that is the works concerned cannot constitute works which are somehow lawfully carried out under another DCO and which commence that DCO. The Applicant does not consider that seeking to 'clarify' this would in any way assist as it only implies some linkage between commencement under the DCOs which does not exist in law.

2. FINAL AND SIGNED STATEMENT OF COMMON GROUND (SOCG) BETWEEN HISTORIC ENGLAND AND THE APPLICANT

2.1 TEXT OF EXA'S REQUEST

2.1.1 The Statement of Commonality submitted at examination Deadline 7 [REP7-064] explains that the final and signed SoCG between Historic England and the applicant was expected to be submitted at examination Deadline 8. However, that final and signed SoCG was not amongst the documents submitted by the applicant at Deadline 8. Accordingly, the applicant is requested to make arrangements for the final and signed SoCG between it and Historic England to be submitted at examination Deadline 8A.

2.2 APPLICANT'S RESPONSE

2.2.1 The Applicant has submitted a final and signed statement of common ground, 10.10.12 Statement of Common Ground – Historic England – Revision B at Deadline 8A.

3. UPDATE TO SOCG BETWEEN THE MARINE MANAGEMENT ORGANISATION (MMO) AND THE APPLICANT

3.1 TEXT OF EXA'S REQUEST

3.1.1 The version of the Statement of Commonality submitted at examination Deadline 7 [REP7-064] advised that an updated version of the SoCG [REP5-060] between the MMO and the applicant was due for submission at examination Deadline 8. However, an update to that SoCG was not submitted at examination Deadline 8. If there remains an intention to submit an updated version of the SoCG between the MMO and the applicant then it must be submitted no later than Deadline 8A.

3.2 APPLICANT'S RESPONSE

3.2.1 The Applicant has submitted a final and signed statement of common ground, 10.10.14 Statement of Common Ground - Marine Management Organisation – Revision B at Deadline 8A.

4. SCREEN PLANTING IMMEDIATELY ADJOINING NORMANS FARM, AS SHOWN ON THE DRAWINGS IN THE OUTLINE LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN (OLEMP)

4.1 TEXT OF EXA'S REQUEST

4.1.1 Clarify whether the strip of screen planting shown on the drawings included in the versions of the OLEMP submitted at Deadlines 7 and 8 has been located correctly or is of the intended length. The ExA undertook an access required site inspection (ARSI) at Normans Farm on 6 March 2025. In undertaking that ARSI it was unclear to the ExA what purpose the planting strip shown on the aforementioned drawings, most particularly the section aligning directly with the northern elevation of the barn to the rear of the farmyard, would serve. That is because any screen planting situated immediately behind the previously mentioned barn and would have limited or no visibility from Ardleigh Road.

4.2 APPLICANT'S RESPONSE

- 4.2.1 The screen planting located immediately to the north of Norman's Farm has been situated correctly and is presented as the intended length. While it should also be noted that the mitigation planting is currently indicative and will require refinement post-consent, the intention of this strip of planting has been well-considered in respect of ensuring a continuous screen along Ardleigh Road, as well as respecting the preferences of the landowners and residents at Norman's Farm.
- 4.2.2 The farm comprises a farmhouse, farm sheds, farmyard and garden, which collectively do not form an effective screen from Ardleigh Road and from the wider landscape to the south. This is on account of the openness of the garden, farmyard and proposed access, which would open up views towards the onshore substations which are a minimum of 370m from the farm and which span a horizontal extent of approximately 600m. Furthermore, there is no certainty that the existing farm shed will be present for the lifetime of the project and its removal would further open up visibility of the onshore substations. The proposed strip of planting to the north acts to fill this gap and ensure relatively continuous screening in views from the south, also taking into account the potential for loss of the farm shed. The precise location and composition of this planting will be refined post consent, once the detailed design of the substation is further developed, to ensure effective screening.

5. REFERENCE TO CABLE BURIAL DEPTH IN THE CODE OF CONSTRUCTION PRACTICE (COCP) [REP7-050]

5.1 TEXT OF EXA'S REQUEST

5.1.1 Paragraph 4.2.5 of the CoCP states:

"VE OWFL will install cable ducts with a minimum soil cover of 0.9m above warning tape, and will endeavour to reach a depth of burial of 1.2m to the top of the cable ducts, where practicable. Installation to this depth is designed to minimise any restrictions on typical agricultural operations, such as cultivation or drainage maintenance, that may be required to protect the cables from accidental exposure and damage."

5.1.2 The ExA considers the applicant within the CoCP should commit to the appointed Agricultural Liaison Officer making available to landowners and/or tenants details of the precise locations and depths for where sub-surface infrastructure would be less than 1.2 metres below ground level. The ExA considers that including that commitment within the CoCP would subsequently assist landowners and/or tenants and the undertaker in complying with the restrictive covenants included in Schedule 7 of the draft DCO.

5.2 APPLICANT'S RESPONSE

5.2.1 The Applicant has added this commitment to paragraph 4.2.5 in Revision E of 9.21 Code of Construction Practice submitted at Deadline 8A

6. REFERENCES TO "LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN (LEMP)" IN THE COCP [REP7-050].

6.1 TEXT OF EXA'S REQUEST

6.1.1 The CoCP in a number of instances incorrectly refers to a "Landscape and Ecology Management Plan" when the document's correct title is "Landscape and Ecological Management Plan" [see for example REP6-026 and document 9.22 Revision E submitted at Deadline 8]. As it is intended that both the CoCP and OLEMP will be certified management documents in any made DCO, the CoCP should accurately refer to the OLEMP. The CoCP should therefore be reviewed and a corrected version should be submitted which accurately refers to the OLEMP or LEMP throughout.

6.2 APPLICANT'S RESPONSE

6.2.1 The Applicant has amended these incorrect document titles in Revision E of 9.21 Code of Construction Practice submitted at Deadline 8A.



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