

Head of Energy Infrastructure Planning Delivery
Department of Energy Security & Net Zero
3-8 Whitehall Place
London
SW1A 2AW

Our Ref: 20048269
PINS Ref: EN010115
Date: 7 August 2025
Telephone: 03330 322546

By Email only

Dear Sir or Madam,

**Planning Act 2008 and
The Infrastructure Planning (Examination Procedure) Rules 2010**

**Application by Five Estuaries Offshore Wind Farm Limited (“the Applicant”) for
an Order granting Development Consent for the proposed
Five Estuaries Offshore Wind Farm (“the Five Estuaries Offshore Wind Farm project”)**

I refer to your letter dated 11 July 2025 (the letter) which sets out matters on which the Secretary of State requires further information regarding the above Development Consent Order (DCO) application. In response, Essex County Council (ECC) in conjunction with Tendring District Council (TDC) [jointly referred as “the Councils”] would like to provide a written update.

Part 2 Paragraph 35 - Wording of the Biodiversity Net Gain Requirement

After the close of the Five Estuaries (VE) Examination in March 2025, ECC published reports regarding achieving a higher Biodiversity Net Gain (BNG) within Essex. According to the Viability Assessment of Biodiversity Net Gain in Essex and supporting documents (**Appendices 1A, 1B, 1C**), the additional costs to achieve 20% BNG is a relatively small percentage of the overall cost for NSIPs in Essex. Therefore, ECC is requesting all development proposals to investigate for 20% BNG. As the 2 projects share the BNG, and to ensure consistency with the North Falls offshore windfarm (NF), ECC is of the view that the applicant should also investigate and seek to deliver 20% BNG, where possible.

The Councils welcome the more detailed wording of the requirement in respect of BNG as it provides clarity and certainty that a minimum 10% BNG will be secured. Sub-paragraph 2 of the suggested wording also broadly reflects the hierarchy for delivery of biodiversity units.

As the 2 windfarm projects are of similar nature and in close proximity, the Councils requested the following wording to apply to NF DCO. The proposed revisions are highlighted in yellow:

- (1) *No stage of the authorised project within the onshore Order limits (excluding any onshore site preparation works) may commence until—*
 - (a) *a biodiversity net gain strategy **for that stage** which accords with the outline biodiversity net gain information comprising the Onshore Biodiversity Net Gain Indicative Design Stage Report has been approved in writing by the relevant planning authority in consultation with Natural England; and*
 - (b) *at least 10% of the total number of biodiversity units **as required for that stage of the development** (calculated using a biodiversity metric and approved by the relevant planning authority in consultation with Natural England) have been secured and where appropriate proof of purchase provided in accordance with the approved biodiversity net gain strategy and to the satisfaction of the relevant planning authority in consultation with Natural England.*
- (2) *The location for delivery of biodiversity units is to follow a prioritisation exercise, as described in the Onshore Biodiversity Net Gain Indicative Design Stage Report, with priority given to areas inside **the proposed Order limits, or within Tendring District or same National Character Area within Essex.***
- (3) *The biodiversity net gain strategy **for each relevant stage** must be implemented as approved.*
- (4) *Any remaining shortfall in biodiversity units identified following detailed design will be secured prior to construction works being completed.*
- ~~(5) *Any biodiversity net gain strategy under sub-paragraph (1) may cover one or more stages of the onshore works.*~~

The strike-through text highlighted in yellow should be deleted as the development is not progressing in stages and the calculations should apply to the whole development, an approach which is also agreed by the applicant.

C1-007 - 10.73 Applicant's Response to Secretary of State Request for Information Part 1 - Secretary of State Consultation response for Part 1 to letter dated 11 July 2025

The Councils note that the submissions in response to Part 1 of the letter have been published and wish to provide the following comments in view of the applicant's response (C1-007).

Paragraph 6 - Compulsory Acquisition & Temporary Possession

Plot 17-024 around Normans Farm

ECC supports the proposed approach of the applicant which retains the planting buffer around the perimeter of this plot, in line with the Outline Landscape Ecological Mitigation Plan (OLEMP), ensuring that there is continuous landscaped screening along the eastern boundary (behind Jennings' Farm) and along the northern side of Ardleigh Road as an important landscape and visual mitigation.

Paragraph 15 - Timeframes for Investigation of Noise Complaints

Both Councils have consistently requested improvements to the investigation and resolution of any noise complaints during operational stage, in the interests of the local amenities.

Since the close of VE examination, the Outline Noise Complaints Protocol (REP7-080) had been updated by the 3 relevant parties. The Councils note that the latest version submitted by the applicant in response to Part 1 of the letter (**C1-018 – 10.36, May 2025, Revision C**) is the same as the one submitted to the NF DCO examination at Deadline 5. However, this revision still lacks a Joint Noise Panel to collectively deal with the potential cumulative noise impacts.

The current approach proposed by the applicant is fragmented and down to individual operator to investigate any noise complaints, without considering that there could be a scenario that more than 1 operator(s) may also contribute to the noise issues, and the potential for all operators to act as swiftly as possible once complaint is received. This fragmented approach acts against the coordinated concept amongst the relevant parties and affirmed the piecemeal nature of these inter-related NSIPs, which have been repeatedly raised as a significant matter by the Councils as well as by the local communities. It is considered that such piecemeal investigation approach is inadequate to address any cumulative operational impacts.

As there is no precedent case for collocation of so many substations in such close proximity and that cumulative impacts on the local residents could not be fully anticipated, the Councils strongly maintain the request that any noise complaints during operational stage are addressed by all three developers (VENF & National Grid) concurrently. These projects are collocated and could be responsible for individual or cumulative noise breaches, this is a collective responsibility.

While the Councils welcomed the retention of an acoustic consultant following commencement of operation of the substation(s), there is no reason why the overall investigation timeframe could not be shorten as requested. Moreover, it is also important to ensure that any investigation approach should apply to the entire operational period of the substation (with an indicative design life of 30 years), which is far beyond the 18 months as suggested for the retention period.

	Applicant's proposal	Councils' proposal
Initial site walkaround	2 working days reduced to 48 hours	48 hours
Appointment of noise consultant	10 workings days	5 workings days if no retained acoustic consultant
Noise measurement	10 workings days	5 workings days (with an additional 2 workings days under special circumstance such as inappropriate weather condition)
Reporting to LPA	15 to 20 workings days	10 workings days

As shown in the above table, the new insertions in the latest Protocol do not significantly shorten the proposed timeframe for complaints to be investigated, and it is still around 8.5 weeks for a recommended mitigation by the nearest operator.

Even if the initial workaround is jointly conducted by all 3 operators within 48 hours, the subsequent process will be repeated respectively by the 3 operators if source of breach could not be identified by the other 2 operators, it means the entire complaints process could be up to 24 weeks after the initial site workaround. Such timeframe is significantly longer than the typical timeframe to mitigate noise complaints under the statutory nuisance regime:

- Acknowledgement: about 3 working days
- Investigation: 1 - 4 weeks
- Abatement Notice period: 7 – 28 days

Therefore the applicant's proposed timeframe is wholly unacceptable for the length of time that the complainant has to endure the problem. The Councils consider that the timeframe must be massively reduced to ensure complaints are reasonably dealt with in an expedient manner and in a coordinated fashion by all 3 operators.

To ensure that the protocol is undertaken with collective responsibility, we request that dDCO requirement 15(2) is revised to reflect a collaborative complaint handling approach in the noise investigation protocol as set out below. The following wording has been proposed for the NF dDCO at the end of the Examination:

15.-(2) Prior to the commencement of operation of Work No. 11, the undertaker will consult and agree with Five Estuaries and National Grid a noise investigation protocol to be submitted to and approved by the discharging authority. The noise investigation protocol must identify how the undertaker, Five Estuaries and National Grid will jointly investigate noise.

The Councils could not agree with the applicant's response that the primary purpose of the Joint Noise Protocol is to identify the method to investigate a complaint. The main purpose of such a document should be for protecting the amenity level of nearby sensitive receptors, especially given the co-location of all the proposed substations. It is essential to outline an acceptable method or investigation approach in this certified document, which could then be further developed and finalised to discharge requirement 15 at a later stage.

The Councils also do not agree with the applicant's assumption that any breach of the noise limits would be down to mechanical fault(s) within a plant.

The focus should not be about the likelihood of a breach, it is about if there is a noise complaint, whether there is a breach, who is responsible for such breach, what would be the best way to handle and rectify the issue in a prompt manner, to protect the amenity levels of the sensitive receptor(s), and implement any mitigation measures as soon as possible if required.

The Councils reiterate that, in its current form, the Joint Noise Protocol is insufficient to ensure the cumulative noise impacts of these NSIP schemes would be adequately addressed.

Yours sincerely,



Technical and Operational Lead, Nationally Strategic Infrastructure Projects
Essex County Council

T: [Redacted]

E: [Redacted]@essex.gov.uk

W: www.essex.gov.uk