

TC RAMPION OFTO LTD

Planning Inspectorate

PINS ref: EN010117

Date: 10th January 2025

Our Ref: 20045146/02

**Reference to Application: Rampion Extension Development Limited Order Granting Development Consent for the Rampion 2 Offshore Wind Farm Project.
Crossing of TC Rampion OFTO export cables and land by the Rampion 2 project local to the Twineham (OFTO) and Bolney (National Grid) substations.**

Dear Sirs

Further to TC Rampion OFTO Limited's ('the OFTO') written representation on the 31st October 2023 (RR-384) and representation dated 1st August 2024 (REP6-311), the OFTO, having reviewed Rampion Extension Development Limited's (the Applicant) responses to the Secretary of State's request for information dated 25 November 2024, wishes to comment on the position put forward by the Applicant in the Land Rights Tracker submitted with that response (Document reference 4.4, revision G). The information provided by the Applicant within the updated Land Rights Tracker does not accurately reflect the discussions and negotiations to date between the Applicant and the OFTO. The OFTO last met with representatives of the Applicant on the 3rd October 2024 and, similar to the position we presented to the Examining Authority in August 2024 (REP6-311), has had difficulty contacting the Applicant since this date to progress matters further. At this point, terms were approaching an agreed form subject to further negotiation on the appropriate value of the land.

The Applicant's representative wrote to the OFTO's representative via email on the 4th November confirming that they did not have instruction from the Applicant for further meetings that the OFTO had requested take place. Since the 4th November email, the OFTO's agent has made various attempts to discuss the voluntary agreement further. The OFTO most recently met with the Applicant on the 9th January 2025 in an effort to understand the latest position on the project and negotiations however, little progress was made. Whilst the OFTO would like to conclude a voluntary agreement with the Applicant, subject to ensuring their existing assets are protected and the Applicant providing suitable terms, we believe that the Applicant is not meaningfully engaging in negotiations.

The Applicant mentions in the LRT that *"The parties have been unable to reach agreement on commercial terms due to the Land Interest's request for payments which are substantially more than market value and have not been substantiated despite multiple requests for evidence from the Applicant"*. The OFTO's position is that it has provided suitable comparable information to the Applicant to substantiate its position. On the 8th April 2024, the OFTO provided the Applicant with detailed comparables and information which was collated by a valuer with 5 years' experience in negotiating land agreements on behalf of developers and landowners within the renewable energy sector. These explained how, in the opinion of the expert advice from Dalcour Maclaren, the commercial terms provided by the Applicant were not representative of the impact to the holding and instead how the figures provided by Dalcour Maclaren were justified and similar to the subject site. The comparables provided by the OFTO to the Applicant considered a range of sites which were in the vicinity of the subject site and included both completed transactions as well as sites which were actively being marketed. The sites identified were incorporated if they could be considered to have a similar proximity and use to the subject site. The OFTO also provided aggregated information relating to completed agreements within their wider estate for easements of this nature, however due to the commercial sensitivity, was unable to disclose the exact terms of these agreements.

The Applicant has not provided its methodology for land valuation or comparable evidence to substantiate their figures at any stage of the negotiations and whilst the Applicant did increase their commercial offer,

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this revised figure still does not reflect the impact and value of the OFTO's holding based on the expert valuation advice received, and the comparables presented to the Applicant as noted above.

Throughout the discussions with the Applicant regarding the interface between the Rampion 2 project and the OFTO's assets, the OFTO has expressed concerns to the Applicant about safety, asset integrity and the ongoing safety and operation of the existing infrastructure and the location of the Rampion 2 cables within its land including that with the information provided by the Applicant, the OFTO does not consider Rampion 2 to be effectively using the land in collaboration with other projects seeking to be sited on land next to the OFTO's and National Grid's substations. The Applicant's agents understood the OFTO's concern around the final location of the cable, and verbally committed to exploring a solution that would allow multiple projects to cross the OFTO's land which would still provide the Applicant with the flexibility required to install the cables and that this could be built into the agreement; however this remains to be formally agreed between the parties in Heads of Terms. The OFTO's aim is to protect the existing assets in the ground whilst also facilitating as much renewable energy as possible, however, this cannot be achieved with the current plans and DCO boundary. The Applicant has on various occasions promised a detailed design to further negotiations, but the Applicant has still not provided this, though we note that in entry 014 of the Land Rights Tracker (document reference 4.4, revision G) and the Applicant's response to our representation dated 1st August (AS-047) the Applicant states that the Applicant's interim cable design study was expected to be complete in September 2024.

In addition to this, the Applicant's representatives agreed to collaborate with adjacent projects including all party meeting with One Planet, however this still has not happened leading to more uncertainty.

The OFTO's position remains the same as discussed in the representation of the 01st August 2024 (REP6-311), specifically:

1. There remains a lack of rationale or justification why the Applicant is including such a large portion of the OFTO's land within the proposed DCO order limits. Despite interim cable design work being undertaken which the Applicant expected to conclude in September 2024, no accurate (or even more refined) design has been provided. The OFTO provided detailed information to the Applicant in February 2024 setting out the technical specification and precise location of the Rampion 1 cables from the Twineham substation to the Bolney substation which gave the Applicant sufficient detail to design its cable crossing of the OFTO's cables, yet no such design has been forthcoming.
2. The current proposed DCO order limits will impact future projects who also need to cross the OFTO's land to connect into the Bolney substation which will hinder the provision of further renewable energy generation in this location. The OFTO notes that NGET has raised similar concerns in its response dated 6 December 2024 to the Secretary of State's request for information dated 25 November 2024, making the point that *"Granting the Applicant such powers also risks setting a damaging precedent that will have implications beyond this Application, as similar situations are likely to arise elsewhere. Many new sources of generation will be seeking to connect to the NETS across England and Wales over the coming years. Such connections are essential if the Government's ambition for the UK to accelerate its transition from fossil fuel generation to renewable energy is to be achieved. Economical and efficient co-ordination of these connections is therefore vital. This should take place through the existing connections process managed by the National Energy System Operator Ltd and not on an ad hoc basis via individual development consent applications."* While the NGET response relates to land within their ownership, the principle applies to the OFTO's land which is essentially a pinch point for further connections into the Bolney substation that, if fully utilised by the Rampion 2 project as currently permitted by the DCO order limits, will make access for any other projects much more difficult (if not impossible).
3. The Applicant has not entered into meaningful negotiations with the OFTO and has not readily acknowledged that there are potentially significant quantifiable losses to the OFTO by not coordinating with other developers. The OFTO's view is that this is not in the spirit of the

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principles of co-ordination of the transmission network as set out in National Policy Statement for Electricity Networks Infrastructure (EN-5).


4. The Applicant has not provided detailed valuations or methodology for land valuation or comparable evidence to substantiate their figures.
5. The OFTO has provided comparables from other similar negotiations, as well as details of their land which transacted in 2015 for significantly more than currently offered.
6. We remain of the opinion that the Applicant has not met the test of entering into meaningful negotiations, given that voluntary offers are significantly below market evidence, and that this does not result in equivalence to the OFTO and is not in line with the compensation code.
7. We remain of the view that there would be serious detriment to the OFTO's undertaking. While a crossing agreement has been suggested as part of the voluntary land agreement, no such agreement is yet in place. Without a detailed agreement which agrees (or provides a mechanism to agree) the technical specification of any crossing, there remains a significant risk to the OFTO's operations in the event that compulsory acquisition powers are granted over land in which the OFTO's cables are situated. In such circumstances, cables could be installed and works carried out in locations that cross or are in proximity to the OFTO's cables which could impact the said cables. For example:
 - a. During the construction phase when cables are being installed, should any drilling or trenching result in the existing cable being struck by machinery, such damage would cause the cables to fail and result in an interruption to the transmission of renewable electricity to the grid;
 - b. The positioning of the Rampion 2 cables relative to the OFTO's cables during operation could result in impacts to the OFTO's cables depending on the proximity including degradation of the cable performance (or eventual cable failure) during operation as a result of the thermal connectivity from the Rampion 2 cables, or the excessive load of the Rampion 2 cables which could result in the collapse of the OFTO's cables.

As such, the OFTO considers that section 127(5) of the Planning Act is engaged and that the Secretary of State must apply the tests set out therein.

In conclusion, as the statutory undertaker and an owner / interested party in the previously identified plots¹, we do not consider that the Applicant has met the test of entering into meaningful negotiations, given that voluntary offers are significantly below market evidence, which does not result in equivalence to the OFTO and is not in line with the compensation code. **There would be serious detriment to the OFTO's undertaking because, without appropriate voluntary land and crossing agreements, there is insufficient protection in place for the OFTO's assets which are in situ in this location. It is not considered that this detriment can be made good by the use of other land.** There appears to be little to no intention by the Applicant to enter into meaningful negotiations in respect of voluntary land and crossing agreements with a reliance on the use of powers of compulsory acquisition.

The OFTO remains willing to engage to seek voluntary agreements with the Applicant to seek to address its concerns and ask that the Secretary of State seeks a further update on the status of this agreement before considering an award.

Sincerely


Simon Fennell
OFTO Director

¹ Plot 34/24 on the land plans (document reference AS-025)