PLANNING ACT 2008
THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

APPLICATION BY NORTH FALLS OFFSHORE WIND FARM LIMITED

FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE NORTH FALLS OFFSHORE WIND FARM PROJECT

(REF: EN010119)

DEADLINE 2

SUMMARY OF WRITTEN REPRESENTATION BY THE PORT OF LONDON AUTHORITY

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1 THE PORT OF LONDON AUTHORITY AND THE PORT OF LONDON

1.1 The PLA is the statutory harbour authority for the tidal Thames ("**the River**"). The PLA's statutory functions include responsibility for conservancy, including dredging and improvement of the River; managing public navigation and ensuring navigational safety and controlling vessel movements. The proposed wind farm lies outside of the PLA's landownership and limits under the Port of London Act 1968, however the PLA's functions include the promotion of the use of the River for freight and passengers as an important and sustainable transport corridor and access to the River is therefore a key concern for the PLA. As Harbour Authority, the PLA is responsible for navigational safety both within its jurisdictional limits and in respect of the approaches to the limits. In compliance with the requirements of the Port Marine Safety Code, as harbour authority the PLA has to discharge its general and specific statutory duties in respect of the conservancy of the harbour and its seaward approaches. The PLA considers the area between the Sunk Pilot Diamond and the PLA's Jurisdictional Limits to be northern seaward approaches to the Port of London. These are the waters of navigational significance outside of and adjacent to the PLA's jurisdiction limits which vessels must pass through to get into the Port of London.

1.2 The River is home to the Port of London ("**the Port"**) which is the country's biggest port and its contribution to international trade is critical, handling over 50 million tonnes of goods each year. Unlike many other large ports, the Port is spread over 70 separate independently run terminals.

2 PORT DEVELOPMENT

2.1 The PLA's Thames Vision 2050 sets out the future development and ambitions for the Port and the River, including the specific priority to enable future growth of the Port as a net zero hub. The long-term port trade forecast is that between now and 2050 trade will continue to rise to meet growing demand and that by 2050 between 70 - 90m tonnes will be handled at the Port annually, around a 30-60% increase on 2022 levels.

2.2 London Gateway and the Port of Tilbury London Limited ("**PoTLL**") together handle over 50% of trade in the Port and their continued investment in port infrastructure is significant. DP World have announced a £1 billion expansion of London Gateway to make the facility the largest container port in Britain within five years and PoTLL will be expanding its operations and plans, with around £1 billion of investment in the coming years. In 2021, the government designated the area stretching from and including the Ford plant at Dagenham to and including London Gateway as Thames Freeport. This emphasises the importance of ports and river-based trade as a hub for UK trade and a conduit for economic growth. It is anticipated that the Thames Freeport will create 21,000 new jobs, result in £400 million in port investment, contribute £2.6 billion additional gross value added and result in over £4.5bn in new public and private investment.

2.3 It is therefore critical that the existing and future capacity and operation of the Port are not compromised during construction and operation of North Falls Offshore Windfarm ("**NF"**). For the reasons highlighted in its Written Representation the PLA is concerned that NF may cause economic disbenefits to the Port. To accommodate existing and predicted future vessel sizes, the PLA needs to safeguard access via the deep water routes ("**DWRs**") for vessels with a draught of 20m. In the event that is it not possible for vessels of this size to enter the port via the DWRs, it will limit the quantum of trade within the Port. The impact of this restriction could be significant, detrimentally impacting the future of the UK's largest port.

3 POLICY

Ports policy

3.1 The National Policy Statement for Ports ("**NPS-Ports**") (January 2012) sets out the essential role of ports in the UK economy – with ports in England and Wales handling 95% of the total volume of UK trade and 75% of its value (para 3.1.3). The promotion of successful major port

developments is encouraged because they are recognised as being essential for trade and economic growth long-term.

Energy policy

3.2 EN-1 and EN-3 provide the primary policy for decisions by the Secretary of State on applications for nationally significant renewable energy infrastructure. EN-1 sets out national policy for major energy infrastructure. It includes at chapter 4 the assessment principles with marine consideration set out at section 4.5. In relation to Secretary of State decision making, EN-3 states that (emphasis added): "*The Secretary of State should not grant development consent in relation to the construction or extension of an offshore wind farm if it considers that interference with the use of recognised sea lanes essential to international navigation is likely to be caused by the development*." (paragraph 2.8.326)

Marine Policy Statement and Marine Plans

3.3 Regard must also be had to the UK Marine Policy Statement ("**the MPS**") and the relevant Marine Plans, namely the South East Inshore Marine Plan ("**the SEIMP**") and the East Inshore and East Offshore Marine Plans ("**the East Plans**").

3.4 The Applicant's Marine Plan Assessment (APP-240) sets out various policies within the SEIMP and East Plans that it considers are either not applicable or that they consider the application is compliant with.

3.5 The Applicant's assessment of the Application against planning policy Environmental Statement Chapter 3 (APP-017) includes information on marine policy but provides no commentary on policies PS1, PS2, PS3 in the East Plans in Table 3.3. However, in its Marine Plan Assessment the Applicant concludes that the scheme is compliant with PS1, PS2, PS3 and CAB1 in the East Plans.

3.6 The PLA is unable to agree with this conclusion based on the Application as currently submitted. It has not been demonstrated that the DWRs into the Port have been safeguarded now and into the future and that the cables, cable protection and cable crossings would ensure vessels of 20m draught could enter the Port.

3.7 The PLA considers that it should be possible to do this, but the dDCO and the application documents do not at this time sufficiently reassure the PLA. In line with the approach being taken for Five Estuaries ("**VE**"), the PLA seeks a design requirement to safeguard future depths of 22m below Chart Datum at the DWRs linked to a certified plan showing the spatial extents to which the requirement applies; commitments around pre-construction activities and the DWR; a commitment to use the most expeditious cable laying methodology which achieves the required cable burial depth and; protective provisions for the PLA.

4 THE OFFSHORE CABLE CORRIDOR AND IMPACTS ON THE DEEP WATER ROUTES

4.1 The offshore cable corridor ("**OCC**") Work No. 3 passes through the Sunk and Trinity DWRs – the main DWRs into the Port of London. There is no alternative approach available for larger vessels to access the Port of London.

4.2 Existing and proposed cables will either need to be crossed by NF (e.g Neuconnect) or NF will be crossed by in the future (e.g. Sealink). The depth of the NF cables where they cross the DWRs; the approach to cable laying and repair; cable protection and cable crossings are therefore all critical if the DWR's into the Port are not going to be impacted by NF.

4.3 There are areas of the OCC where certainty is required at this stage on cable burial depths, cable protection and cable crossings to ensure that there will be no significant effects on shipping and navigation arising from the OCC, in isolation or cumulatively with other projects, during construction, operation, maintenance and decommissioning. The cables would need to

be installed and maintained within the OCC at a depth that would allow for the Trinity and Sunk DWRs to be dredged and deepened in the future to a depth of at least 22m below CD. This should be secured through a design requirement and a certified plan and an outline cable specification and installation plan should be produced and submitted to the examination which sets out information in relation to cable installation and maintenance, cable crossings, cable protection and temporary works.

4.4 As well as crossing the DWRs, the OCC includes the Sunk Pilot Diamond. Pilotage is compulsory for large vessels within the London Pilotage District and its approaches and boarding and landing of pilots takes place in the general vicinity of the Sunk Pilot Diamond, rather than at that specific point. Construction and maintenance vessels must not hinder access into the Port nor the ability to board or land pilots.

4.5 Deep drafted vessels to terminals within the Port are tidally constrained, so a small deviation to their schedule could result in them not having enough water for their passage to the berth, thus delaying them until the next tide. With the continued development of London Gateway to six berths there will be greater need to ensure vessels can arrive and depart at all states of the tide, in order for the terminal and the wider port to operate efficiently. Where the cables are crossing over or are adjacent to the DWRs the most effective method of cable laying in terms of speed and ability to achieve the required cable burial depth should therefore be used.

4.6 As is common with the installation of cables a number of pre-construction activities including pre-construction surveys and monitoring may need to be carried out in order to obtain more information to inform for example, the final cable route and burial depth or to allow for the installation of the cable on the chosen route (e.g. boulder clearance, unexploded ordnance ("**UXO**") clearance etc. Monitoring for shipping and navigation is addressed in the Offshore In Principle Monitoring Plan (APP-245). Paragraph 21 refers to engineering related monitoring including geophysical and geotechnical surveys, cable burial and preconstruction UXO surveys.

4.7 Paragraph 24 of APP 245 states "*Pre-construction monitoring and surveys are secured through Condition of the DMLs in the Draft DCO (Document Reference: 6.*1)". The MMO would approve these documents through the DMLs.

4.8 The PLA would want to be consulted on any surveys or monitoring or pre-construction activities that could affect the DWRs because a survey vessel may pass slowly over the DWRs or even stop to place/remove monitoring equipment which could affect shipping. Equally, restrictions may need to be placed on how the pre-construction activity can be undertaken e.g. a boulder or archaeological find cannot be relocated to or within a DWR but must instead be removed. This would accord with the PLA's protective provisions for VE. VE has also committed in their oCSIP to any relocation of boulders, UXO or archaeological finds being carried out outside the DWR.

4.9 In order to install the cables within the OCC it will be necessary to dredge. The Marine Licence allows for up to 3,019,856 cubic metres of inert material to be deposited within Work Nos. 2 to 4A. This means that it could be disposed within Work No 3 (the OCC). There is a concern about a lack of controls in relation to the placing of inert material within the OCC and the implications of this for navigable depths at the DWR.

5 MITIGATING POTENTIAL IMPACTS TO SHIPPING AND NAVIGATION

5.1 To mitigate potential impacts to shipping and navigation, the Applicant places a significant amount of weight on documents, which will be produced post consent. These include:

(a) Detailed cable burial risk assessment ("**CBRA**")

(b) Development of, and adherence to, a Cable Specification and Installation Plan ("**CSIP**")

(c) Navigation and Installation Plan ("**NIP**")

5.2 The outline documents could alongside protective provisions for the PLA provide the comfort that the PLA requires that at the detailed design stage, the DWRs into the Port will be protected now and into the future. However, the PLA needs to see the outline CSIP as part of the examination and its points raised regarding the oNIP need to be addressed.

6 TEMPORARY IMPACTS ON THE PLA'S ONSHORE NAVIGATIONAL EQUIPMENT

6.1 The PLA set out in detail in its Relevant Representation (RR-272) its concerns about the potential impacts of the vessels required to undertake the horizontal directional drilling at landfall interfering with the PLA's radio link and lowering its reliability. At this stage this matter has not been addressed, and the PLA maintains its position that this matter could be addressed through protective provisions.

7 COMMENTS ON THE DDCO

7.1 The PLA is currently engaging in the Examination of VE which has raised similar issues to those set out in the PLA's Written Representation. The PLA and VE have made substantial progress to resolve many of these issues although some points of disagreement on exactly how these are secured remain. These representations and recommendations for the way forward are consistent with the approach taken to VE.

7.2 The PLA has identified several matters of concern in relation to the dDCO as follows:

(a) **Article 2 (Interpretation) definition of Commence** - The PLA would want to be consulted about any surveys or monitoring that affect the DWRs in line with the process for the VE surveys and monitoring that affect the DWRs. The definition of commencement would not be appropriate for such provisions.

(b) **Article 2 (Interpretation) definition of maintenance** - The definition of maintain is broad and includes adjusting and altering. In the context of the export cable works to adjust or alter could result in a change in location and/or depth which would not be acceptable to the PLA.

(c) **Article 5 (Benefit of the Order)** - The PLA would, in line with the position agreed at VE, expect within its protective provisions to contain a requirement for the undertaker to notify the PLA in writing within 7 days of any sale, agreement or other transaction under Article 5.

(d) **Schedule 1 Part 3 Requirements** - Akin with VE and in recognition of multiple interested parties view on the future use of the DWRs, the PLA would wish to see a requirement and associated certified plan to the effect of:

*"The undertaker must ensure that in the design, implementation, operation and maintenance of the authorised development and ancillary works, a dredged depth of the Deep Water Routes to a depth of 22 metres below Chart Datum is not precluded or impeded." ("**the Requirement**")*

(e) **Schedule 11 Deemed Marine Licence Transmission Assets -** Whilst the PLA would expect its own approvals, the PLA had a number of broad comments as set out in its Witten Representation on the Deemed Marine Licence.

8 PROTECTIVE PROVISIONS

8.1 The dDCO (REP1-011)) does not include any protective provisions for the benefit of the PLA.

8.2 The PLA has appended the form of the offshore Protective Provisions that have been sought on VE to its Written Representation. Onshore Protective Provisions are also required.