



Our ref: KM/JB

Your ref:

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[REDACTED]  
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4 March 2025

Dear Ms McKay,

**NORTH FALLS OFFSHORE WIND FARM (EN010119) – DEADLINE 2  
SUBMISSION**

Please find attached in Annex A of this letter the responses to the three Written Questions and requestions for information (ExQ1) raised by the Examining Authority on 4 February 2025 and addressed to National Highways, pertaining to Compulsory Acquisition (Q6.1.45) and Terrestrial Transport (Q17.1.2 and Q17.1.11).

Yours sincerely,

[REDACTED]

Spatial Planning Manager (East)

**Project:** North Falls Offshore Wind Farm (ref: EN010119)

**Subject:** Response to the Examining Authority's written questions and requests for information (ExQ1)

**Date:** 4 March 2025

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## **6. Compulsory Acquisition**

### **Q6.1.45 The Applicant, National Highways Objections to the grant of powers of compulsory acquisition and temporary possession**

**The relevant representation of National Highways [RR-240] indicates that it requires Protective Provisions to be included within the dDCO [AS-022].**

- (i) Please provide an update as to progress on agreeing Protective Provisions including the outcome of National Highways' review of the latest draft provisions provided to it by the Applicant.**
- (ii) The Applicant is requested to explain the need for any CA powers sought in relation to the acquisition of the subsoil beneath the A120 and any other land in the ownership of National Highways.**
- (iii) National Highways is requested to provide further explanation with reference to the s127 and 138 PA2008 tests to support its position that the standard protective provisions set out in Schedule 14 Part 6 of the dDCO do not yet provide it with the necessary protection.**

### **National Highways' Response to Q6.1.45:**

- (i) There has been substantial progress made in respect of the Protective Provisions, with six meetings having taken place with the Applicant's lawyers to address a series of matters. The discussions have been held in conjunction with the Five Estuaries Applicant's lawyers as the issues are identical between the projects.**

- ii) Whilst National Highways is close to reaching agreement on the Protective Provisions with Five Estuaries, including incorporation on the face of the DCO, there are a small number of commercial matters that have not yet been resolved on North Falls, including matters relating to indemnity and a commuted lump sum for maintenance. National Highways will also seek to agree a series of Land Agreements with the Applicant to enable a Compulsory Acquisition clause to be removed from the draft Protective Provisions which will enable National Highways to remove their objection to the DCO. Discussions with the Applicant's lawyers are ongoing.
- iii) National Highways' land was designated as Crown Land prior to the formation of Highways England (now known as National Highways) as a government company in 2015. National Highways was appointed as a strategic highway authority by the Secretary of State on 1 April 2015 and under section 15 the Secretary of State transferred property, rights and liabilities to National Highways and having regard to the statutory functions of National Highways as a strategic highways company.
- iv) Section 127 of the Planning Act (2008) applies to statutory undertaker's land (section 329 Highways Act defines a statutory undertaker as persons authorised by an enactment to carry out road transport) and contains a provision that Statutory Undertakers' land which has been acquired by statutory undertakers for the purpose of their undertaking can only be compulsorily acquired to the extent that the Secretary of State is satisfied that the nature of the land is such that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking or if purchased it can be replaced by other land belonging to the undertakers without serious detriment to the undertaking (in the case of National Highways, the strategic road network).
- v) Section 138 provides for the same exception in relation to rights and the removal of apparatus.
- vi) National Highways' position in respect of all DCOs since the loss of Crown status of its land is that any compulsory acquisition of National Highways land without consent is a serious detriment to its undertaking as strategic highways authority and National Highways would need to maintain an objection to compulsory acquisition of its land due to the need to comply with its duties as strategic highway authority under the Infrastructure Act 2015 and Highways Act 1980 and its requirement under its Licence (Statutory Direction) with the Department of Transport to maintain and safeguard the safe operation of the SRN and ensure the safety of the public using the SRN.

- vii) National Highways must therefore maintain an objection to compulsory acquisition of its land which is a national asset holding economic importance to the country and essential to the growth, wellbeing and balance of the nation's economy and further to ensure it meets its duties as strategic highway authority and for the safety reasons previously outlined in paragraph vi) above.
- viii) It should be noted that, in respect of the North Falls project, National Highways is content to enter into legal agreements for acquisition of non-operational (highway) land or temporary access to operational (highway) land where required for construction activity.

## **17. Terrestrial Traffic and Transportation**

<b>Q17.1.2 National Highways, Essex County Council, Suffolk County Council and any other IP</b>
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<b>Assessment of onshore traffic and transport impacts</b>
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<p><b>Do you consider that the Outline Construction Traffic Management Plan (OCTMP) [APP 251] and the proposed approval as the CTMP under Requirement 9 of the DCO [APP 005] addresses all relevant issues, including cumulative effects, from the assessment of onshore traffic and transport impacts for the Proposed Development, as set out in ES Chapter 27 [APP-041] and Appendix 27.1 Transport Assessment [APP-165]?</b></p>
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<p><b>If not, what are your concerns and how might they be addressed?</b></p>
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### **National Highways' Response to Q17.1.2:**

- i) National Highways has previously raised a number of concerns with the Applicant regarding the proposed outline Construction Management Plan (oCTMP), specifically in relation to the measures referenced, which lack sufficient strength, and the effectiveness of the proposed enforcement.
- ii) National Highways notes that Applicant has responded to these concerns, and these are currently being reviewed. National Highways will provide an update on its position to the ExA at Deadline 3.

iii) Specifically, the principal concerns related to the following issues:

- National Highways considers that the travel plan measures and incentives do not provide sufficient assurance that the vehicle occupancy of 1.5 for employee trips can be achieved.

To address this, we require more targeted and robust travel plan measures and incentives to be incorporated into the oCTMP to provide some assurance that the proposed vehicle occupancy ratio can be met, along with some evidence that the proposed measures have been effective elsewhere. Should this not be provided, it is recommended that the vehicle occupancy 1.5 ratio for employee trips is reduced as appropriate.

- The CTMP also states that it is possible that, once appointed, the Principal Contractor would require that more employees travel during peak hours than is planned (ie 20% of the peak daily Light Vehicle demand).

If the Principal Contractor does require more employees to travel during peak hours, National Highways should be consulted and the scope of any required further capacity assessments agreed.

We would also request that mechanism is put in place so that both HGV and Light vehicle flows can be managed should the assessed worst-case scenario be exceeded (i.e. avoidance of peak hours etc).

**Q17.1.11 National Highways Update on level of risk in respect of the use of heavy Abnormal Indivisible Loads (AILs) on the A120 from Harwich.**

**Further to your RR [RR-240], please can National Highways provide an update on the above level of risk associated with using the A120 from Harwich as a route for AILs given the expected future condition of the concrete road surface?**

**National Highways' response to Q17.1.11:**

- i) The Wix Bypass section of the A120 remains of concern to National Highways regarding its use by AILs over 300 tonnes. It is 12 years beyond its design life and is included in the Concrete Roads Replacement Programme, but it is extremely unlikely that the replacement will have been completed before the construction phase of North Falls, which could be as early as 2027.
- ii) The surface condition of this section is poor, with a number of cracks and other defects. Whilst surface dressing has ensured that the road remains safe for normal operation, there is a high risk of further damage arising from use by exceptionally heavy vehicles, causing unsafe conditions for all users.
- iii) The Applicant has been assessing the implications and considering potential mitigations that can be put in place jointly with the Five Estuaries Applicant.
- iv) A constructive meeting was held on 14 January 2025 between the Applicant, their consultants and National Highways specialists. During the meeting, National Highways explained the concerns they had about the ability of the road surface to withstand the vehicular movements of some of the particularly heavy AILs proposed during construction of the proposed wind farm. The Applicant and their consultants presented some initial thoughts about how the risks could potentially be mitigated.
- v) National Highways' response was positive, and the specialists were encouraged by the thinking that had been undertaken to date. It was agreed that a more detailed assessment would be undertaken by the Applicant's consultants of the expected loadings and the potential mitigations that could be provided to assure National Highways that the proposed AILs would be able to operate safely on the A120. A draft report is anticipated be provided to National Highways imminently for review and consideration. It is hoped that the report will provide sufficient comfort to National Highways that AILs above 300 Tonnes will be able to use the A120 in a safe manner.

**END**