

Wendy McKay, Lead Member of the  
Examining Authority  
National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol BS1 6PN

**Our ref:** AE/2025/130330/01-L01  
**Your ref:** EN010109  
**Date:** 4 March 2025

Dear Ms McKay

**APPLICATION BY NORTH FALLS OFFSHORE WIND FARM LTD FOR NORTH  
FALLS OFFSHORE WIND FARM  
THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS AND REQUESTS FOR  
INFORMATION (EXQ1)**

Thank you for consulting with the Environment Agency. We note that the questions in ExQ1 reflect the issues raised in our Relevant Representations. Please find below our answers to the questions raised which are referenced by the numbers provided.

**Q.6.1.43**

(i) We were unaware of the Applicants intention to apply for Protective Provisions (PPs) at the time that we were consulted on this application. Having had the opportunity to review this, we are now content that there are no overriding concerns that would prevent us from agreeing to the use of PPs in principle.

(ii) As of this time we have not been contacted by the Applicants legal representatives to discuss the PPs. We are content that the PPs reflect our standard version except for one aspect; that is the ability of the Environment Agency to require that activity ceases where consent for the activity has not been obtained. Given that the PPs ensure that activities are planned and undertaken in a way that prevents harm and risk, we consider that it is very important that the facility to cease unconsented activity is included. Our standard wording for this is:

*'If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions and where the Agency acting reasonably considers it necessary to avoid any of the risks specified in sub-paragraph (2), the Agency may serve written notice requiring the undertaker to cease all or part of the specified works as may be specified within the notice within the period specified in the notice, and the undertaker must cease constructing the specified works or part thereof until such time as it has obtained the consent or complied with the condition specified within the notice served.'*

We believe that the outstanding matter can be addressed by a non-material amendment.

(iii) We believe that our responses above address this part of the question.

**Q.11.1.3**

The Applicant had advised that flood risk would be assessed post consent. We do not agree that this approach is best practice. The risk to third parties is an important consideration and so a flood risk assessment (FRA) should be made to enable decision makers to understand the risk, consider the feasibility of mitigation and consider the weight that should be given in the planning balance. Following a meeting with the Applicants representatives we were provided with guidance that Chapter 5 paragraph 220 of the Environmental Statement stated that where culverts were placed in channel, they would be sized in line with reasonable worst-case scenarios to avoid upstream impoundment. It is the Environment Agency's view that this should be tested through an FRA to understand the risk and the feasibility of the mitigation proposed by sizing culverts etc.

**Q.11.1.4**

Please see our response to Q.6.1.43 above which sets out our position in respect of disapplying flood risk activity permits. In summary, we do not object to the use of PPs for this activity and there is one remaining issue in respect of the standard PPs that remains a point of concern which can be resolved by an amendment to the draft DCO.

(i) The Environment Agency does not consent to the disapplication of environmental permits for abstraction and dewatering activities. This is a position that applies to all NSIPs in the East Anglia Area and is not unique to this Application. An abstraction licence is only required for abstraction of over 20 cubic meters a day and may also be exempt if the activity is of short duration.

This issue may be overcome by applying to the Environment Agency for an abstraction licence (or exemption) for this activity. We recommend that applications are made at the earliest opportunity if the DCO is approved by the Secretary of State.

**Q11.1.8**

Please see our answer to Q.11.1.3


**Q11.1.9**

In our meeting with the Applicant's representatives on 9 January 2025 it was confirmed that there is no DCO Requirement relating to piling risk assessments but that the Outline Code of Construction Practice (CoCP) includes a commitment to produce one should piling be required. We accept that a piling risk assessment is part of the CoCP but the Applicant has not yet shared with us proposals to ensure that we are consulted in the event that piling is required.

**Q.11.1.10**

In our meeting with the Applicant's representatives on 9 January 2025 we were advised that work in respect of landfall has been discussed and agreed in tandem with the Five Estuaries project. Going forward, it has been agreed with the Environment Agency's project manager for Five Estuaries that both projects will be represented at any meetings concerning landfall and flood defences.

Yours sincerely



**Planning Specialist**



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