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Our Ref: 20048269
PINS Ref: EN010119
Date: 1818 March 2025
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By Email only

Dear Ms McKay

Planning Act 2008 – Application by North Falls Offshore Wind Farm Limited for an Order Granting Development Consent for the North Falls Offshore Windfarm (EN010119)

I refer to the Rule 8 letter dated 4 February 2025 which sets out the Examination Timetable for the above Development Consent Order (DCO), currently at Examination. Essex County Council (ECC) in conjunction with Tendring District Council (TDC), and as described as The Councils, would like to respond to provide a written response to the Applicant's submission at Deadline 02.

1. Highways

It is noted that the applicant has not respond to the highways comments in the Local Impact Report (LIR) at Deadline 2.

REP2-020 - 9.19 Applicant's Response to Written Questions (ExQ1) (Rev 0)

With regards to Q17.1.3, the Council have responded on this item in our Deadline 2 response [REP2-036]. We would welcome some clarity on this element of the assessment.

With regards to Q17.1.4, the Council have responded on this item in our Deadline 2 response [REP2-036]. The Council have outlined our preferred routeing and would welcome consideration of this; however, note that the number of movements is low and would represent a small increase in hourly movements.

With regards to Q17.1.5, the Council have responded on this item in our Deadline 2 response [REP2-036] regarding the need to ensure the mitigation is in place, and recommendation for a road safety review to be embedded within the CTMP.

The Council have liaised internally with the road safety team and wanted to confirm that the carriageway markings (e.g. zig zag markings and crossing) have not been refreshed and so the work, as we understand it, has not been completed to date.

With regards to Q17.1.6, the Council have responded on this item in our Deadline 2 response [REP2-036], with regards to inclusion of a mode share target to ensure sustainable travel behaviours.

With regards to Q17.1.7, the Council have responded on this item in our Deadline 2 response [REP2-036], with regards to inclusion of a monitor and manage approach to shift patterns.

With regards to Q17.1.8, the Council have responded in our Deadline 2 response [REP2-036].

With regards to Q17.1.10, following a review, the Council are content with this process regarding the Stage 1/2 Road Safety Audit for the Bentley Road works prior to construction.

With regards to Q17.1.15, the Council have responded in our Deadline 2 response [REP2-036].

REP2-023 - 9.21 Applicant's Response to Local Impact Reports (Rev 0)

With regards to LIR ECC 4.3 – A meeting has been arranged for 20/03/2025. The Council is keen to engage on any issues raised in our LIR, and awaits further discussion with the Applicant.

2. Landscape

Q7.1.1 Cumulative Impacts of the Proposed Onshore Substations for the Proposed Development, Five Estuaries and EACN

The cumulative visualisations [APP-084 to APP-088], do not demonstrably include the overhead power lines for the Norwich to Tilbury project which would connect into EACN. Therefore, we do not agree that a demonstrably meaningful cumulative assessment has taken place.

Q8.1.2 Detailed Design – Design Champion and Review Process

The Councils would wish to have some meaningful involvement in the decision making/advisory guidance function of the Design Champion and any Design Panel that are appointed to ensure effective development and delivery of the Design Vision.

Q8.1.3 Design of proposed onshore substation – noise attenuation

If the need for acoustic barriers within the landscape setting arises, particularly where this would be visible to key visual receptors, these should be placed as close to the infrastructure

to be attenuated as possible, away from visual receptors and screened using appropriate scales native planting in keeping with local character.

Q8.1.4 Onshore substation design principles

In relation to the Holford Rules (1992), it is our understanding that these have not been reviewed since 1992, and do not currently support the approach to landscape value currently advised by the Landscape Institute and supported by the government through its promotion of landscape character assessment as opposed to local landscape designation.

Q8.1.7 Local Authorities Design Mitigation – Earthwork Bunds

In relation to the use of earthwork bunds, we agree with the Applicant that the guidance in the Tendring Landscape Character regarding the inappropriateness of trying to hide a building behind bunds within a landscape setting that is largely open and flat, should be followed, and for the reasons given in relation to effect on character, land take and success rate for planting.

Q8.1.10 The Applicant Impact on Rural Setting

Whilst we acknowledge that visual mitigation has been provided, this would be more effective if located further from the onshore substation as proposed by Five Estuaries, and more in keeping with landscape character if more closely follows existing boundaries. Small blocks of woodland and copses are characteristic of the local areas.

Q14.1.2 Five Estuaries Offshore Windfarm Limited (VEOWFL) Onshore Substation Zone

We agree that the Five Estuaries proposals mitigation planting around the south-eastern field, will mitigate visual effects for a range of visual receptors, including road-users along Arleigh Road, walkers on surrounding PRoWs and residents in the local area as well as at Norman's Farm and Jennings Farm and that it will also mitigate some effects on local landscape character.

When comparing to the landscaping proposal of Five Estuaries DCO, the Councils considered that the Applicant's outline mitigation planting (see Figure 30.1.6 of ES Chapter 30 Figures Part 1 of 6 [APP-083]) to retain the open fields within the foreground and use of layers of planting in closer proximity to the onshore substation, provides reduced visual screening and the arc of planting through the field is less in keeping with local character.

Q14.1.3 Duty to seek to further the purpose of conserving and enhancing the natural beauty of the area.

In the Applicant's response there is still no indication as to how their approach furthers the purpose of conserving and enhancing the natural beauty of the area rather than just mitigating the effects of their proposals that still leave the National Landscape with adverse effects even if these are judged as 'not significant' I EIA terms.

Q14.1.4 The Applicant Landscape Value

Whilst we concur with the judgement on value for Bromley Heaths LCA as 'medium' we

suggest that how that judgement was arrived at should be specifically stated in Table 30.14 in ES Chapter 30 [APP-040] for clarity and transparency reasons.

Q14.1.6 The Applicant Magnitude of Effect – Onshore Substation

We concur that the long-term landscape effects are identified as significant in EIA terms. However, we differ as to the judgement that they reduce down to ‘moderate’ at Year 15 due to the proposed mitigation as most of the current character of the landscape remains impacted.

Q14.1.7 Mitigation Planting at 15 Years – Onshore Substation

We agree the adverse nature of effects is partially as a result in the change in view from open agriculture to views of maturing landscape mitigation around the proposed substation site. However, where visual mitigation is located close to the onshore substation, to help maintain the open character of the landscape, it reduces its effectiveness as screening.

Q14.1.8 Screening impact on surrounding residential receptors

Comments as at previous question.

Q14.1.10 Screening

We welcome the proposed submission of indicative cross sections of planting at the OnSS. We ask that indicative heights of vegetation are included with scale.

Q14.1.14 Cumulative Effects Tendring Colchester Borders Garden Community

The Applicant’s response regarding possible cumulative impacts on Tendring Landscape of the proposal focusses on visual impacts not landscape ones. Whilst Bromley Heaths is a large character area, the cumulative land take for North Falls, Five Estuaries, EACN and Tendring Colchester Borders Garden Communities is projected to be considerable.

3. Green Infrastructure

REP2-020 - 9.19 Applicant's Response to Written Questions (ExQ1) (Rev 0)

Q9.2.7 Requirement 5 Substation works

Our previous response to ExQ1 and Deadline 1 is still relevant. It is noted and welcomed that the Design Vision has been included in draft DCO as a certified document.

Q10.2.1

- I. It is noted that the applicants aim to achieve at least 10% BNG and expect to exceed this target at the detailed design stage, especially in combination with the Five Estuaries wind farm.

As previously mentioned, a study by the Essex Local Nature Partnership found that increasing BNG from 10% to 20% in Essex is feasible. A case study on the Norwich to Tilbury project showed that 20% BNG is manageable. The report suggests local authorities should consider both onsite and offsite BNG solutions, work with local landowners, and balance biodiversity management.

- II. It is welcomed that the Essex Local Nature Recovery Strategy (LNRS) will be consulted as part of the final BNG calculations and landscape designs. In the absence of the LNRS, it is also commendable that the applicant considered other designations and lists to protect valuable habitats.

As previously mentioned, the Essex LNRS can help identify habitat opportunities that connect to the wider green infrastructure and landscape network, despite there are no strategic opportunities for the substation area qualify for a 15% uplift on standard biodiversity units. This can include enhancing the nearby habitats to the onshore substation like freshwater, woodland and grassland.

Q10.2.2

Our previous comment highlights the Big Green Internet woodland project is still relevant for the applicate to note and consider if opportunities to contribute. As well as the maintenance for the early establishment of new trees to be considered as part of the Outline Landscape and Ecological Management Strategy.

We welcome the commitment to a 30-year monitoring and management period for landscape and Biodiversity Net Gain (BNG) at the onshore substation area, as well as the 10-year maintenance period for reinstated habitats and planting along the cable route, with the possibility of extension if needed, if the reinstatement is not successful.

Section 2.5.1 of the strategy also states that future hedgerow management along the onshore cable route will include allowing standard trees to develop during the aftercare period (up to 10 years), improving the quality of the hedgerow as a foraging resource. Additionally, all retained hedgerows within the onshore project area should be allowed to thicken up during construction and operation to serve as feeding and commuting corridors for wildlife. This is welcomed.

REP2-023 - 9.21 Applicant's Response to Local Impact Reports (Rev 0)

1) LIR_ECC_4.5 - Ecology & Biodiversity Net Gain (BNG)

The Applicant has confirmed that, as outlined in the BNG Strategy [APP-257], any habitat creation and enhancement contributing to the Project's BNG target will require a minimum 30-year monitoring and maintenance period. Any hedgerows will undergo post-reinstatement surveys to ensure successful establishment and achievement of their target condition, include allowing standard trees to develop during the aftercare period (up to 10 years).

The justification to exclude the habitat reinstatement from 30-year period, is due to them being subject to temporary works and returning to landowners' ownership following construction and reinstatement, providing no guarantee or control of their maintenance.

It is recommended that regular engagement with landowners and local planning authorities continue, and agreements with landowners are being progressed regarding handover and potential long-term management of reinstatement planting.

It is noted that the applicant aims to achieve at least 10% BNG and expect to exceed this target as the landscaping at the onshore substation is refined at the detailed design stage, especially in combination with the Five Estuaries wind farm.

2) LIR_ECC_4.7 Green Infrastructure

- Noted and welcome clarification that the outline landscape mitigation plan is within the ES. The primary reason for requesting the inclusion of plans is to offer a clear visual representation of the proposed works, making the layout and design easier to understand. Combining plans with detailed descriptions ensures a comprehensive grasp of the project, covering both visual and technical aspects. However, we will be satisfied if there is assurance that the detailed plans will be part of the OLEMS.
- Noted and welcome the amendment to wording of Requirement 21 of the Draft DCO.
- The clarification that the details required within a Habitat Management and Monitoring Plan will form part of the Ecological Management Plan secured under Requirement 12 of the Draft DCO [REP1-011] is welcomed.
- The provision of written details of landscaping, secured through Requirement 7 of the Draft DCO, is noted and supported. The suggestion was more to align this with a similar requirement in the Five Estuaries offshore windfarm Draft DCO for consistency, as Five Estuaries windfarm has proposed changes to their DCO to better align with North Falls DCO. For example, Five Estuaries' Requirement 5 covers onshore substation works, design, and landscaping. However, upon reflection, the North Falls Draft DCO defines the requirements for landscaping, the Outline Landscape and Ecological Management Strategy (OLEMS), and the Ecological Management Plan under requirement 7 and 12 more clearly. No further action required.
- It is welcomed that the OLEMS will include the recommendations regarding responsibility for GI assets and tree planting requirements

REP2-008 - 6.1 Draft Development Consent Order (Rev 3) (Tracked)

- The GI Team welcomes the proposed edits to requirement 7 (page 42 (44 of 189) to clearly define that *'the landscaping must be carried out in accordance with the approved written landscaping scheme.'*
- It is noted our previous recommendation to include reference to other vegetation in alignment with Five Estuaries Draft DCO on page 72 (74 of 189)) Operational and Maintenance Access bullet point (h), is actually captured under bullet point (g). No further action is required.

4. Archaeology

The Draft Development Consent Order (dDCO) (**REP2-008**) submitted at Deadline 2, fails to include the suggested wording of a separate Requirement by ECC in their LIR (**REP1-065**). The wording would ensure that the post-excavation process can be monitored and discharged accordingly. As the fieldwork and post-excavation process will extend over a number of years this is essential to ensure the accurate and timely discharge of conditions to allow the development to proceed in areas where the archaeological requirements have been satisfied.

This request was made in the LIR (**REP1-065**) and is the same request that was proposed to Five Estuaries Offshore Windfarm. Five Estuaries accepted the need for the additional Requirements and have included it in their final draft DCO submission. As both projects, if accepted, would be carried out jointly then it is imperative that the DCO wording is comparable. The wording proposed for Five Estuaries is below and is required for the North Falls scheme. The additions required are highlighted in bold.

(4) Intrusive onshore site preparation works must not take place until an archaeological or geoarchaeological written scheme(s) of investigation in accordance with the outline written scheme of investigation as appropriate has been submitted to and approved by the discharging authority. **The archaeological or geoarchaeological written scheme(s) of investigation required under this sub-paragraph must be implemented as approved.**

(5) **The archaeological post investigation assessment must be completed in accordance with the programme set out in the archaeological mitigation strategy and any relevant written scheme of investigation, and provision made for analysis, publication and dissemination of results and archive deposition.**

It is clear from the Applicant's response to the LIR (**REP2-023**) that there continues to be a lack of agreement regarding the adequacy of the information supplied, specifically the level of intrusive archaeological and geoarchaeological fieldwork (paragraphs 4.8.49, 4.8.50 and 4.8.51) and how this can be effectively managed through mitigation. The Applicant considers the baseline to form a proportionate basis on which to inform on the potential impacts on known and potential archaeological remains however other linear schemes in Essex have completed extensive archaeological and geoarchaeological evaluations which enabled a greater understanding of the nature, extent and significance of the heritage resource. It is acknowledged that areas of potential higher significance have been removed from the scheme which is welcomed. At present, the potential for further areas of significant archaeology that have not been detected through aerial photographic assessment or geophysical survey remains a potential risk to the Applicant.

In response to paragraphs 4.8.52 and 4.8.53 (**REP2-023**) it is acknowledged that ongoing discussions with the Applicant, Five Estuaries and Historic England are leading towards an agreed programme of post-consent evaluation. An Archaeological Mitigation Strategy (AMS) and Outline Written Scheme of Investigation (OWSI) have been agreed with Five

Estuaries Offshore Windfarm. The Applicant states they are following the same approach and will be using the same archaeological consultants as Five Estuaries, therefore it remains unclear as to why the updated OWSI will not be supplied until Deadline 5 when these documents have been completed and agreed for Five Estuaries. These documents should be submitted at the next deadline for review and agreement.

In response to Paragraph 4.8.54 (**REP2-023**), the Applicant refers to a revised Outline Code of Construction Practice (OCoCP) (**REP1-033**) and draft Development Consent Order (dDCO)(**REP1-011**) which they state reflect ongoing discussions between the Applicant, Essex Place Services and Historic England, in combination with Five estuaries. At present, these documents do not accurately reflect the ongoing discussions and changes to the draft DCO (**REP2-008**) have been submitted at Deadline 2. Neither document has been approved and further changes are proposed before they could be considered acceptable. Further comments on the draft DCO submitted at Deadline 2 (**REP2-008**) are provided in this response.

Comments on the revised outline CoCP (**REP1-033**)

The CoCP (**REP1-033**) submitted at Deadline 1 requires amendments to include the proposed addition of an Archaeological Mitigation Strategy and to align with the CoCP from Five Estuaries.

Item 181 (**REP1-033**) should be revised to say “All Onshore Works will be carried out in accordance with the Outline Onshore Written Scheme(s) of Investigation (WSI(s)) and the Archaeological Mitigation Strategy (AMS). These will include details of specifically identified measures to mitigate the impact to known heritage assets and will also include a range of generic mitigation measures which would be applied to currently unknown heritage assets that could be physically damaged by construction.

Item 184 (**REP1-033**) also needs to identify the Archaeological Mitigation Strategy.

Section 1.12.1.1 (**REP1-033**) should include an additional point regarding appropriate protection measures for these areas including fencing to avoid damage to the deposits

Item 187 (**REP1-033**) will need to be expanded to include all forms of mitigation: open area excavation, strip map and record and archaeological monitoring of construction strip. The mitigation required will be confirmed as further information from archaeological evaluation becomes available. The Onshore Works are designed to mitigate the potential impact from construction on the archaeological resource.

Recommended wording revision for Item 188 (**REP1-033**) for consistency with the COCP from Five estuaries. “During construction the Principal Contractor(s) and the archaeological contractor will need to work together to ensure the archaeological programme of works to be defined and implemented. The Principal Contractor(s) will manage the construction process to allow for safe access for archaeological works to be carried out by the archaeological team as agreed with the relevant statutory consultees”.

In advance of Section 1.12.1.4 (**REP1-033**) it is recommended that an additional section or paragraph is added to define the role of the Local Authority Archaeological Advisors

and Historic England within the project. This has been agreed within the Five Estuaries CoCP. The wording recommended is:

Archaeological curators will be afforded access to the archaeological mitigation sites to monitor the evaluation and mitigation works and sign-off completed archaeological work in accordance with the OWSI and AMS. The detailed WSIs shall set out the arrangements and responsibilities for implementing, monitoring and sign off of the archaeological mitigation measures.

As stated in the Applicants Response to Written Questions (ExQ1) (**REP2-020**), there remains a lack of agreement on the level of survey data submitted with the application (Q12.1.4) and sufficiency of trial trench evaluation (Q12.1.5 and Q12.1.9). The Applicant does not propose to carry out any further investigations, including intrusive fieldwork, prior to the application being determined and so this lack of agreement is unlikely to be rectified during the application process and will be reflected in the Statement of Common Ground (SoCG).

Q12.1.7 (**REP2-020**) With regard to onshore archaeology, the mitigation proposed is currently part of ongoing discussions and will require an amended OWSI and an AMS to be submitted for approval.

Q12.1.8 (**REP2-020**) The results of the geophysical survey have not been ground truthed across much of the scheme and the effectiveness of the technique remains largely unknown in many areas. The effectiveness of this technique will only be determined following a programme of archaeological evaluation post-consent. It is acknowledged that the Applicants have removed areas from the scheme which were judged to be higher significance and the mitigation proposed recommends preservation in situ or by design for areas where archaeological remains are deemed to be of significance.

5. **Built Heritage**

REP2-020 – 9.19 Applicant’s Response to Written Questions (ExQ1) (Rev 0)

The Applicant’s response to Q12.1.3 refers to planting to the west of Jennings’s Farmhouse which will provide screening for the North Falls Onshore Substation. This is incorrect as the existing planting is located to the southwest of Jennings’s Farmhouse. The existing planting may provide screening for the Five Estuaries Onshore Substation but not the North Falls Onshore Substation.

The location of the North Falls Onshore Substation is proposed to be located to the northwest of Jennings’s Farmhouse whereby the landscape can be views and appreciated to and from. Furthermore, as previously noted, the field boundaries to the northwest of Jennings’s Farmhouse comprise ditches and occasional tree planting which allow the open nature of the agrarian landscape setting to be appreciate.

The proposed landscape mitigation would introduce areas of planting within the open agrarian landscape that would not align with the existing field boundaries but would lie

within the fields themselves, thus eroding the agrarian landscape setting which contributes to the significance of Jennings's Farmhouse as a historic farmstead.

6. Flood, Surface Water and Drainage

No further comments. Temporary Drainage Strategy for construction works and an Operational Drainage Strategy would need to be agreed by the Lead Local Flood Authority.

Part 4 of the Protective Provisions of the dDCO (REP2-007) should be updated to reflect the Councils' wording.

7. Legal/dDCO

While there are still technical matters subject to further discussions, the Councils would comment on the dDCO at later deadline(s) as matters progress.

8. Other Matters

REP2-018 – Progress with Statements of Common Ground (Rev. 1)

The Councils had a discussion with the applicant and agreed that topical technical discussions will need to be arranged with respective services to liaise on disputed matters.

ExQ9.2.17 (iii) and (iv) - Requirement 19 Onshore Build Options

(iii) Please explain how it is intended that R19 should operate in the event that the VEOWF DCO were to be made and commence development before NFOWF, or alternatively, that the NFOWF DCO were to be made and commence development first. Does the Requirement need amendment to preclude other options in those circumstances, or is it sufficiently robust as it stands?

The Council will continue to review this question and will respond at Deadline 4 by 25 April 2025.

(iv) To provide clarity in the event that Build Option 1 is the chosen option, should a revised set of Onshore Works Plans also be submitted to the relevant local planning authority to indicate precisely the land required to implement that 'lesser' option in land-take terms?

Currently the submitted Onshore Works Plans indicate the worst-case scenario, in the event of only Build Option 1 is to be proceeded, the Councils would expect the applicant to submit a material change application of the DCO, should it be consented.

ExQ1, Q16.1.6(ii) – Socio-economic Effects - Supply Chain

The Councils are happy in principle with the proposal for a supply chain plan and the outline skills and employment plan as a whole, with view to working with the applicant to developing them into full plans with relevant/current data (currently lots of references to SELEP) AND clear KPIs.

Conclusion

The Councils look forward to continuing the dialogue and further discussions with the applicant, in an attempt to minimise and resolve any outstanding matters, which will be reflected in the forthcoming Statement of Common Grounds.

Yours sincerely

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