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Our Ref: 20048269
PINS Ref: EN010119
Date: 30 May 2025
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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 provide a written response to the Applicant's submission at Deadline 4. Responses to ExQ2 are submitted separately.

1. Highways**6.1 Draft Development Consent Order (Rev 4) (Clean) [REP4-004]**

ECC welcomes the increase in timescales as set out at Article 12. This matter is considered to be closed.

7.16 Outline Construction Traffic Management Plan (OCTMP) (Rev 3) (Clean) [REP4-008]

ECC welcomes the inclusion of commitments around onshore site preparation works set out at paragraph 8. This matter is considered to be closed.

ECC welcomes the additional wording around GPS tracking that has been included at paragraph 34. This is considered pragmatic and so this matter is considered to be closed.

ECC welcomes the additional commitments included between paragraphs 55 to 57 and at Table 31 relating to single occupancy car trips and induction materials. These matters are considered to be closed.

ECC welcomes the inclusion of a road safety review process (including at paragraphs 1.33 to 1.34), which is considered to be a reasonable and pragmatic approach for identifying and responding to any emerging issues. This matter is considered to be closed.

ECC welcomes the changes made at paragraph 96 (highway safety management measures) and 102 (travel planning measures).

ECC welcomes the inclusion of further commitments around forward planning of peak material deliveries to reduce impacts at seasonal periods as set out at paragraph 103 and Table 4.1. This matter is considered to be closed.

ECC welcomes the addition of text around a Transport Working Group set out at Section 4.14. This is considered to be a reasonable and pragmatic approach to addressing cumulative impacts, encouraging coordination with other major projects and minimising disruption. This matter is considered to be closed.

For posterity, the Council welcome the additional text at paragraph 126 (HGV recording), 129 (GPS tracking) and 132 (overspill parking). The additional text at paragraph 141 regarding definition of exceedance is considered to be acceptable.

Generally, all matters relating to the OCTMP have been addressed. However, ECC is expecting further information to be provided by the applicant around management of employee vehicles that arrive prior to the 07:00 hours, to reduce the impacts of noise or potential queuing on the highway, as per Deadline 4 [REP4-072] response under Agenda 3.3 Traffic and Transportation, Code of Construction Practice.

9.25 Applicant's Response to Deadline 3 Submissions and Deferred Responses from D2 (Rev 0) [REP4-027]

ECC notes the Applicant's response to Highways (Ref: REP3-054_a) in the Deadline 4 submission Applicant's Response to Deadline 3 submissions and Deferred Responses from D2 (Rev 0) [REP4-027].

ECC would agree with the position presented by the Applicant for highway matters. With regards to the assessment of transport impacts, there are a few minor issues that currently remain unresolved, however, these are currently considered unlikely to alter any conclusions. ECC will look to close these out before the close of examination.

2. Landscape and Visual Impact

ECC notes that part of the landscape comments were accidentally missing from the Local Impact Report (LIR), for completeness, a copy of the full landscape comments is attached at **Appendix 1**, which was sent to the applicant on 2 May 2025. The concerns were in line with our discussions with the applicant throughout the examination period and has been reflected in the agreed Statement of Common Ground.

REP4-023 Indicative Planting cross-sections at the Onshore Sub-station Rev1 April 2025

The Councils welcome the provision of scaled cross-sections. These help to demonstrate the scale of the proposed project in relation to the proposed landscape mitigation and/or compensation and how likely significant visual impacts will remain until circa Year 10 and, even after this, how the upper most elements of the infrastructure will remain visible as alien and detracting features in the rural landscape.

REP4-029 Cumulative visualisations at the onshore substation, including the Norwich to Tilbury (N2T) Pylons wirelines Part 1 of 2 (Rev 0) April 2025

- Viewpoint (VP) 2 Bridleway Barn Lane c 600m distance
 - Demonstrates Year 1 would generate a likely Major negative i.e. significant impact.
 - The N2T pylons are substantially visible adding to the significant negative impacts.
 - These impacts will likely magnify for receptors moving closer to the installations along the bridleway.
- VP 3 Norman's Farm c 350m distance
 - Demonstrates Year 1 would generate a likely Major negative i.e. significant impact
 - The N2T pylons are substantially visible adding to the significant negative impacts.
 - These impacts will likely magnify for receptors moving closer to the installations along the Ardleigh Road
- VP 5 Public Rights of Way (PRoW) Lilley's Farm c 900m distance
 - Demonstrates Year 1 would generate a likely Mod/Major negative i.e. significant impact
 - The N2T pylons are not visible but likely to become more visible as you move closer to the installations along the PRoW towards Ardleigh Road.

REP4-030 Cumulative visualisations at the onshore substation, including the N2T Pylons wirelines Part 2 of 2 (Rev 0) April 2025

- VP 6 Grange Road c 1600m distance north
 - Demonstrates Year 1 would generate a likely Moderate negative i.e. significant impact
 - The N2T pylons are visible so add to the negative impacts but from this distance not significantly so.
 - However, for receptors closer to the installations along Grange Road these impacts will likely magnify. A viewpoint previously requested from Grange Road west of the installations rather than due north.
- VP7 Public Right of Way near Little Bromley Hall c 1,200m southeast.

- Demonstrates Year 1 would generate a likely Moderate/Major negative i.e. significant impact
- The N2T pylons are visible so add to the negative impacts but from this distance not significantly so.
- These impacts will likely magnify for receptors as they move closer to the installation's northwest along the PRow.
- VP 8 - Essex Way, Dedham Road c 2,400m north/northwest
 - Demonstrates Year 1 would generate a likely Minor/negligible negative i.e. not significant impact due to the distance, intervening vegetation or topography and existing detractors.
 - The N2T pylons are visible so create negative impacts but from this distance and with existing detractors not significantly so. However, the negative effect is likely more enhanced away from the existing pylons and potential for cumulative impacts on the setting to the National Landscape.
 - Other viewpoints are available from within the National Landscape.

REP4-047 Onshore Substation Zone of Theoretical Visibility (18m in height) and Viewpoint Locations with Dedham Vale National Landscape

This demonstrates how the North Falls project by itself is potentially visible from additional points other than VP8 either within the National Landscape or within its setting. This visual impact will be enhanced in combination with Five Estuaries, the East Anglian Connection Node (EACN) and N2T.

REP4-007: Outline Landscape and Ecological Management Strategy (Tracked) Rev 3 April 2025

No comment. Any previously unaddressed comments still stand.

REP3-028 7.22 Biodiversity Net Gain (BNG) Strategy (Rev 1) (Tracked)

As part of the BNG Strategy, the Applicant has assessed BNG calculations in the scenario that this project would be constructed 'alone', without Five Estuaries on the adjacent plot. In Annex 2, Figure 3 indicates the proposals for the associated landscaping that would accompany this 'project-alone' scenario. The 'project-alone' scenario simply blank-out the Five Estuaries substation footprint and the surrounding landscaping proposal, which is entirely not acceptable. It fails to provide a holistic view on how the project alone will be progressed without the Five Estuaries scheme. There are many uncertainties in this scenario, including the siting of the facility, the project-specific landscaping proposals and the embedded mitigation measures such as the essential screening required along Ardleigh Road and the western part of Grange Road. The lack of such mitigation measures would have significant major landscape and visual impacts for the receptors as well as extending the impacts over a wider area to the southwest/west. Given that the draft DCO (dDCO) allows for Build Option 1 representing this project-alone scenario, there is currently insufficient

information to demonstrate that this project-alone scenario will have lesser impacts in EIA terms and it is unclear whether it would constitute material change of the development.

3. Green Infrastructure

REP4 –007 - 7.14 Outline Landscape and Ecological Management Strategy (OLEMS) (Rev 3) (Tracked)

It is noted that a number of or previous recommendations have been incorporated. However, our previous comments as part of Deadline 3 response (March 2025) in regard to including a reference to:

- The Essex Green Infrastructure Standards (2022) as part of paragraph 174 is still relevant. As stated, we welcome the review of the OLEMS (section 3:9: table 3.2) against the Essex GI Strategy (Appendix B 10.1.1). The Essex GI Standards outlines nine principles and standards for the protection, enhancement, creation, and management of GI in Essex. As part of our previous response (March 2025) we provided a similar table summarising how the Landscape plans and strategy can meet directly or indirectly to the nine Essex GI Principles and standards. Aligning the OLEMS with the Essex Green Infrastructure Standards ensures a cohesive approach to enhancing biodiversity, improving ecological connectivity, and promoting sustainable development.

For instance, the OLEMS aligns with the Essex GI Standards' nine principles by ensuring an evidence-led approach, enhancing biodiversity, and promoting sustainable development. It addresses community needs by protecting and creating GI features, thus fostering health, wellbeing, and social equity. The strategy also emphasizes ecological connectivity, climate resilience, and the integration of GI into planning and design processes, ensuring a cohesive and comprehensive approach to environmental stewardship.

This will also align with the Five Estuaries Outline Landscape and Ecological Management Plan -Revision F (REV 1) (REP4-046) which has referenced the Essex GI Standards on page 12 (paragraph 1.2.11) and page 26 (paragraph 2.4.6) as shown below.

“2.4.6 As the mitigation proposals are further developed post consent, the process will be informed by the nine GI Standards set out in Table 1 of the Essex GI Standards Technical Guidance (Available at: <https://www.essexdesignguide.co.uk/supplementary-guidance/essex-greeninfrastructure-standards>) including early engagement with all relevant stakeholders, ensuring the plans maximise connectivity and enhance multi-functionality and that consideration is made around the long term management and stewardship.”

- The Essex Local Nature Recovery Strategy (LNRS) as part of first bullet point paragraph 3.5.3. The final version of the LNRS is expected to be published and adopted in July 2025. ECC is expecting to submit the adopted version at Deadline 7.
- That the funding for the GI has been considered for the lifetime of the proposal to be included with in the last bullet point, paragraph 3.5.3. To ensure appropriate funding mechanisms are put in place to maintain high-quality value and benefits of the GI assets.

REP4-023 – 9.30 Indicative planting cross-sections at the onshore substation (Rev 1)

The provision of the indicative planting cross-sections at the onshore substation is welcomed. At detailed design stage, the locations and species of woodland trees, hedgerow, shrub and species rich grassland would require further investigation to ensure that the landscape/GI features demonstrate connectivity to the wider GI network and are designed to deliver multiple functions and benefits, such as contributing to biodiversity net gain (BNG), nature recovery, and flood and water management.

4. Built Heritage

The Applicant has submitted 9.49 Addendum to Environmental Statement Chapter 25 Onshore Archaeology and Cultural Heritage [REP4-035], further to the responses to LIR [REP1-065] and discussions held on 20 March 2025.

This sets out:

- the rationale for the level of detail of the setting assessment in 3.3.50 Environmental Statement Appendix 25.3 Onshore Infrastructure Settings Assessment Part 1 of 2 [APP-148] and 3.3.51 Environmental Statement Appendix 25.3 Onshore Infrastructure Settings Assessment Part 2 of 2 [APP-149]
- The rationale for not assessing the effects of construction activities on the setting and significance of Jennings's Farmhouse in ES Chapter 25 Onshore Archaeology and Cultural Heritage [APP-039]
- Further rational for the conclusions of the 3.1.27 ES Chapter 25 Onshore Archaeology and Cultural Heritage [APP-039]

The information provided on the setting and significance of Jennings's Farmhouse can be agreed.

However, there remains concern regarding the likely significant effects during construction which are listed in **Table 2.1**. The rationale provided focusses on visual impacts and fails to consider non-visual harm to their setting, in particular from noise, vibration and other nuisances, that would arise from the construction works as required by Historic England's Guidance 'The Setting of Heritage Assets' (GPA3, 2017) and reinforced in Case Law under *R. (on the application of Palmer) v Herefordshire Council* [2016] EWCA Civ 1061.

The construction effects on the significance of the identified heritage assets should be cross-referenced with 3.1.28 Environmental Statement Chapter 26 Noise and Vibration [APP-040].

This clearly states that significant effects arise from the construction works to several heritage assets along the Onshore Cable Route. This is particularly of relevance for:

- Ring Cottage and Tudor Cottage (NHLE 1317222 – Grade II Listed Building)
- Barker’s Farmhouse (NHLE 1322630 – Grade II Listed Building)
- Hempstall’s Farmhouse (NHLE 1240504 – Grade II Listed Building)
- Church of St Mary (NHLE 1337175 – Grade II Listed Building)
- Hannams Hall (NHLE 1265148 – Grade II Listed Building)
- The Old Rectory (NHLE 1111420 – Grade II Listed Building)

Also, following mitigation, Ring Cottage and Tudor Cottage (NHLE 1317222 – Grade II Listed Building) would remain experiencing significant effects. The Examining Authority when making their recommendation to the Secretary of State is advised to take these into account.

5. Noise Complaints Protocol

Following recent discussions with the applicant on 29 May 2025, the Councils are expecting an updated version to be submitted by the applicant at D5, in response to our previous comments in terms of shorter time-frame for initial investigation of noise complaints as well as a collaborative approach in handling such complaints among Five Estuaries, North Falls as well as National Grid.

6. Skills and Employment

ECC and TDC are expecting a response to their comments submitted at Deadline 4 (REP4-073). Both Councils are pursuing active engagement with the Applicant and Five Estuaries to ensure a co-ordinated approach to; education and training that will meet the skills gap, embedding the role local suppliers can play and securing a Skills and Innovation Fund, are all clearly set out within the OSEP.

7. Community Benefits

Discussions on the provision of a Community Benefit fund have commenced with the applicant. It is not anticipated that these discussions will reach agreement prior to the close of the examination but will continue and be in place prior to the commencement of construction works.

8. Design Review

The applicant has confirmed that a Joint Design Guide will be produced for both North Falls and Five Estuaries Onshore Substations. Regular meetings are setup with both Councils with a view to facilitate further discussions. The 2 applicants had committed to seek independent design review from the Essex Quality Design Panel (EQRP).

An initial meeting with the EQRP took place on 29th April 2025. The timeframe for the design review will be subjected to the determination of these 2 DCOs, taking into account any

requirement imposed, should the projects be consented. The 2 applicants had been advised to commence dialogue with local communities and relevant Parish Councils as soon as possible.

9. REP4-036 9.50 Applicant's Response to Actions List for ISH1 and ISH2 (Rev 0)

ECC is requesting a phasing/Grampian requirement to tie the North Falls and Five Estuaries windfarms to the EACN, subject to EACN obtaining development consent. Each of the windfarm itself would have no tangible benefits if it were not able to connect to the grid via EACN. Therefore, the project is wholly dependent on the EACN to come forward as part of the N2T DCO in order to be successful to deliver the renewable energy generated. If the N2T were not consented, the windfarm substations would be of no functional value and would have no benefits. The harm caused by the windfarms therefore would not be outweighed.

A pre-cautionary approach must be adopted given that the applicant of the N2T has yet to apply for or obtain all of the consents required to deliver the EACN. The timetable of the N2T has slipped already and other interested parties have already indicated their intention to lodge judicial review even if consent is granted on N2T. It is this ambiguity that has undermined confidence in the consenting process and whether a connection is ultimately available for the subject windfarm.

Any un-anticipated delay to the N2T project would unavoidably cause delay to the wind farm projects, which is a risk that has been highlighted to the applicant at pre-application stage and should be reasonably be expected by the applicant.

10. Legal/dDCO

Article 2 – Interpretation

ECC requests the following definition to be added:

“the 1984 Act” means the Road Traffic Regulation Act 1984

The DCO should include the above definition as ‘1984 Act’ is referred to in Article 14 but has not been defined.

Article 6 - Application and modification of legislative provisions (f)

ECC request the deletion of ‘Essex County Council Act 1987’ and replace with ‘Essex Act 1987’

Article 8 - Street Works

ECC requests that the bullet points read as follows:

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;*
- (b) tunnel or bore under the street;*
- (c) remove or use all earth and materials in or under the street;*
- (d) place and keep apparatus in or under the street;*
- (e) maintain apparatus in or under the street or change its position; and*
- (f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).*

Schedule 1 Part 4

Paragraph 34(2)

ECC requests deletion of paragraph 34(2). Paragraph 34(2) is seeking to recover fees which have been paid under paragraph 34(1) and provides for the repayment of fees within 4 weeks of rejecting an application as invalidly made. This is unreasonable. The authority will still have done the work necessary to reject the application. The relevant planning authority should not be punished financially if an applicant has incorrectly submitted an invalid application. The relevant planning authority would have already incurred the expense of reviewing the application and a refund of the fees would put a strain on the public purse. Therefore, paragraph 34(2) should be struck out of the DCO.

Requirement 15

The current wording of Requirement 15 Groundwater Monitoring still lacks any trigger as to when the schemes will be submitted to the Discharging Authority. ECC request Requirement 15 is amended to the wording in italics below, as in the Five Estuaries DCO:

Ground water monitoring

15.—(1) No stage of the onshore works for which a groundwater monitoring plan is required in accordance with the outline groundwater monitoring plan, must be commenced until, for that stage a groundwater monitoring plan has been submitted to and approved by the discharging authority (2) Sub-paragraph (1) does not apply to any works or surveying and investigation necessary to inform the preparation of a groundwater monitoring plan. (3) Any plan approved under sub-paragraph (1) must be implemented as approved.

Requirement 17 (2) –

ECC request the amendment of Requirement 17 (2) – to read:

(2) Prior to the commencement of operation of Work No. 11, the undertaker will consult and agree with Five Estuaries and National Grid a noise investigation protocol to be submitted to and approved by the discharging authority. The noise investigation protocol must identify how the undertaker, Five Estuaries and National Grid will jointly investigate noise.'

Drainage Protective Provisions

For 3(1), the drainage authority would require 21 days instead of 14 days to request for further information. The shortened period would not allow sufficient time for the drainage authority to consider the submission appropriately, taking into account resources and in case of annual leave. It appears that the applicant is trying to mirror the wordings in the latest wordings of Five Estuaries dDCO (REP8A-004 of Five Estuaries Examination Library), the shortened period does not reflect the agreed position between the parties and such amendment has not been informed nor agreed by ECC.

Highway Protective Provisions

ECC have reviewed the Protective Provisions (PPs) for the Local Highway Authority. Although they mirror the provisions agreed within the latest Five Estuaries draft DCO, the suggested wording will only be acceptable if a Framework Highway Agreement (FHA) is signed between the parties.

The purpose of a FHA is to be read alongside the PPs and provides details regarding ECC processes for highway works, which are not included in the PPs. It sets out how the DCO will operate in line with Highway Authority's current processes. ECC previous experience of NSIPs means that the FHA strikes a balance between the PPs and s278 agreements for the delivery of highway works, providing benefits to both the developer and subsequent contractor and the Highway Authority. Whilst the DCO provides the consent and requisite permissions for the development, a separate highways work agreement provides the mechanism regarding how the proposed works will be carried out within the boundary of the existing highway following the granting of the DCO. The highways work agreement can take the form of an FHA or a section 278 agreement.

The FHA-model has been used in Essex previously, as precededented in the Bramford to Twinstead DCO. ECC does not wish to 'reinvent the wheel' with each DCO, therefore a FHA is sought. This will ensure standards and consistency with the way that highway works are carried out in Essex under DCOs. In the long term this will have benefits for all projects.

Utilising processes that are already established within ECC for DCOs is expedient for both the development, contractors as well as ECC as the Highway Authority. It is also ECC's experience that in actual implementation, a contractor would be looking to enter into a legal agreement with ECC and to follow closely existing practices and processes for the delivery of developer highway works, which they are familiar with and therefore give them confidence in timeframes and outcomes. Neither the Highway Authority nor contractor are set up to follow ad-hoc processes, which will likely result in negative impacts on programmes. Given the urgency to meet the 2030 deadline, it is even more expedient to follow the FHA process.

To date, the applicant has not commented on the FHA provided by ECC on 20th March 2025 nor indicate whether a FHA is in-principally agreeable, this remains uncertain for the Local Highway Authority to agree to exact wordings of the suggested PPs.

11. Conclusion

The Councils have signed a Statement of Common Ground with the applicant, which also highlights matters not agreed and still in discussion. The agreed version is expected to be submitted by the Applicant at Deadline 5. The Councils look forward to continuing the dialogue with the applicant, in an attempt to further minimise and resolve those outstanding matters.

Yours sincerely



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