



**N O R T H F A L L S**

*Offshore Wind Farm*

## **Applicant's Response to Actions List for CAH1**

Document Reference:	9.97
Volume:	9
Date:	June 2025
Revision:	0

**Project Reference: EN010119**



<b>Project</b>	North Falls Offshore Wind Farm
<b>Document Title</b>	Applicant's Response to Actions List for CAH1
<b>Document Reference</b>	9.97
<b>Supplier</b>	NFOW

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<b>Revision</b>	<b>Date</b>	<b>Status/Reason for Issue</b>	<b>Originator</b>	<b>Checked</b>	<b>Approved</b>
0	June 2025	Deadline 6	NFOW	NFOW	NFOW

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# 1. INTRODUCTION

## 1.1 Background

- 1.1.1 The Compulsory Acquisition Hearing (**CAH1**) was held on 17 June 2025. The hearing was convened to allow the Examining Authority (ExA) to hear evidence and ask questions in relation to the compulsory acquisition and temporary possession powers sought in the draft Development Consent Order (**DCO**). It also provided an opportunity for Affected Persons (**APs**) to make oral representations.
- 1.1.2 The Applicant notes that each Interested Party (**IP**) making an oral submission was requested to provide a written summary note to the ExA for Deadline 6 (24 June 2025).
- 1.1.3 The ExA has requested post-hearing actions or further information from the Applicant in relation to a number of points raised at CAH1 (the “action items”).

## 1.2 Purpose of Document

- 1.2.1 This document sets out the Applicant’s response to the action items requested by the ExA. The ExA’s requests and the Applicant’s corresponding responses are set out in the table below, against the relevant CAH1 agenda items.
- 1.2.2 Action items are either addressed in substance in this document, or this document cross-references to where a detailed response can be found in the package of documents submitted by the Applicant at Deadline 6.

### 1.3 Actions List for CAH1 and the Applicant's Response

Agenda Item	Action items/Additional Question	Applicant's Response
<b>Part 1</b>		
<b>3.1 The statutory conditions and general principles applicable to the exercise of powers of compulsory acquisition sought in relation to the provision of the onshore export cable corridor and substation for the proposed North Falls Offshore Windfarm, the substation and cable ducting for the proposed Five Estuaries Offshore Windfarm and connection to National Grid's proposed East Anglia Connection Node</b>		
<p>Whether the purpose for which Compulsory Acquisition powers are sought would comply with section 122(2) of the Planning Act 2008 (PA2008); and</p> <p>Whether the Secretary of State could be satisfied that the land proposed to be acquired is no more than is reasonably necessary for the purposes of the Proposed Development?</p>	None.	-
Whether all reasonable alternatives to Compulsory	The ExA requested that the Applicant provide further information on how coexistence could be achieved between the Strutt & Parker	To date, the Applicant has only had sight of the Phase 1 proposals as set out on plans included within Strutt & Parker (Farms) Ltd's Deadline 4 post hearing submission

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Acquisition have been explored?	Farms proposal and the North Falls project, including planting and access road arrangements, at Deadline 6.	<p><b>REP4-091.</b> Information can therefore only be provided specifically in relation to this submission and how such proposals could coexist with the rights and restrictions required by the project.</p> <p><b>REP4-091</b> shows that the Project's only interaction with Phase 1's Option B proposals is over plots 05-026 and 06-003 as shown in 5.3.1 Land Plans <b>[AS-018]</b>. The landowner's Phase 1 proposed land use over these plots is public open space and landscaping, which could include some planting.</p> <p>The Book of Reference <b>[REP5-010]</b> confirms that Plot 05-026 is subject to Rights – C (Cable Route Onshore) and plot 06-003 is subject to Rights – D (Operational and Maintenance Access). The full rights and restrictions for Rights C and D are set out in Table 1.1 Categories of new rights and restrictive covenants within the Book of Reference <b>[REP5-010]</b>.</p> <p>The most relevant proposed restriction in Rights – C (Cable Route Onshore) <i>"prevents the planting or growing within the Land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the development nor make</i></p>

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		<p><i>it materially more difficult or expensive to access the relevant part of the authorised development.”</i></p> <p>The Applicant is confident that the reasonableness test within the restriction would not result in a scenario whereby Phase 1 would not be able to coexist with the project. As shown in Plate 5.20 of the Project Description <b>[APP-019]</b>, the cable route contains stockpiles at the extremities of the construction width. The location of these and size of these can be adjusted to avoid interaction with the proposed development. Furthermore, Sheet 6, page 9 of the Onshore Works Plans <b>[AS-019]</b> shows that the area of Works No. 6 has been widened to allow for micro-siting of the cable route once more detailed plans have been developed (subject to agreement with other stakeholders such as Affinity Water). Finally, as set out in Section 3.10.3 of the Outline Landscape and Ecological Management Strategy <b>[REP5-024]</b>, there is a restriction on planting canopy trees (trees &gt;5m in height) over a 6m width from each cable centre, however sub-canopy (i.e. hedgerow) trees and other planting will be acceptable above the cables. Given the level of overlap, there should be no issues with planting on this basis.</p> <p>Whilst there could be a small interaction with plot 06-003, this is not considered by the Applicant to be insurmountable as Rights D provides operational and maintenance access rights only. The Applicant also</p>

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		<p>remains open to negotiating an alternative operational and maintenance access route with Strutt &amp; Parker (Farms) Ltd through voluntary agreement.</p> <p>The above is based on Phase 1 proceeding in accordance with the proposals set out within the "Proposed Development" section of <b>REP4-091</b>. As this development has not yet been consented, there remains the opportunity for Strutt &amp; Parker (Farms) Ltd to amend the proposals in order to remove the minor existing interactions with North Falls.</p>
Whether having regard to section 122(3) of the PA2008 there is a compelling case in the public interest for the land to be acquired compulsorily and the public benefit would outweigh the private loss?	None.	-
<b>3.2 Consideration of duties under the Equality Act 2010</b>		
The Applicant to provide an update in relation to compliance with any duties under section 149 of the Equalities Act 2010.	The ExA requested that the Applicant provide further reasoning at Deadline 6 to support the conclusions of the Equality Impact Assessment ( <b>EqlA</b> ) and explain how the proposed mitigation within the EqlA would address the identified risks.	As set out in Section 9.3 of the EqlA submitted at Deadline 1 <b>[REP1-049]</b> , to mitigate any disproportionate effects on older people resulting from potential severance effects along Link 24, a designated Local Community Liaison Officer will be appointed and will act as a point of contact for the local community, providing a mechanism for people to report any concerns, queries or complaints relating to



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		<p>traffic flows and severance effects in their community. Provision of a Local Community Liaison Officer is set out in Section 1.2.6 of the Outline Code of Construction Practice [REP5-022], secured by Requirement 8 of the Draft DCO [REP5-008].</p> <p>The Local Community Liaison Officer will ensure that there is a good level of awareness of the upcoming construction works and that a clear mechanism is in place for any disturbance to dwellings or use and operation of any community facilities, health or transport assets used by older people to be reported.</p> <p>The Local Community Liaison Officer will provide a direct and accessible point of contact within the community along Link 24, specifically within LSOA 'Tendring 014A'. The Local Community Liaison Officer will facilitate clear, timely, and responsive communication tailored to the needs and concerns for all members of the community, including older people.</p> <p>The World Health Organisation's (WHO) work on the UN Decade of Healthy Ageing (2021-2030) (WHO, 2022) emphasises the importance of interpersonal interactions as a way for older people to sustain their independence as they age. This is in part driven by digital exclusion, whereby older people are less likely to be online and may lack basic digital skills (Age UK, 2024). The appointment of a dedicated officer providing trusted and responsive</p>

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		communication is therefore an appropriate and inclusive form of mitigation for this protected group.
<b>3.3 Sections 127 and 138 of the PA 2008 – the acquisition of statutory undertaker's land and the extinguishment of rights and removal of apparatus of statutory undertakers</b>		
<p>The current position in relation to negotiations with Statutory Undertakers; and</p> <p>Whether protective provisions have been agreed with all Statutory Undertakers.</p>	<p>In relation to Network Rail Infrastructure Limited, the ExA noted receipt of a late submission outlining outstanding issues, including lift and shift provisions, termination, notice of termination, and consideration amount <b>[AS-053]</b>. The Applicant will respond to this submission at Deadline 6.</p>	<p><b><u>Option for easement and property agreement</u></b></p> <p>The Applicant considers the matters outlined by Network Rail Infrastructure Limited to be commercial in nature and related to ongoing discussions concerning the Heads of Terms for the property agreement. Negotiations remain ongoing and the Applicant most recently responded to Network Rail on 23 June 2025 on securing the necessary land rights including these commercial points.</p> <p>Further details on the status of these negotiations is provided within the Applicant's Land Rights Tracker <b>[Document Ref: 8.4, (Rev 4)]</b>.</p> <p>The Applicant is confident that with positive engagement between the parties, these outstanding items can be resolved and the land rights secured by voluntary agreement.</p> <p><b><u>Protective provisions and Framework Agreement</u></b></p> <p>In addition to the property agreement, a Framework Agreement and Protective Provisions are also being negotiated.</p>

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		<p>The Applicant issued an updated version of the Framework Agreement to Network Rail for review on 17 June 2025. Discussions are ongoing in respect of this agreement and the related bespoke protective provisions.</p> <p><b><u>Asset Protection Agreement</u></b></p> <p>Discussions are ongoing between the Applicant and Network Rail in relation to the preparation of an asset protection agreement.</p> <p>The Applicant is compiling the necessary information to respond to the request issued by Network Rail on 22 May 2025 to make an application to Network Rail's Asset Protection team (ASPRO).</p>
<p>In the event that agreement is not reached with all Statutory Undertakers, whether the relevant tests for the exercise of powers pursuant to sections 127 and 138 PA2008 would be met.</p>	<p>The ExA requested that the Applicant submit a response explaining how the tests under sections 127 and 138 of the Planning Act 2008 would still be met with case-specific justification for each statutory undertaker where a representation has been made and agreement has not been reached.</p>	<p>The Applicant has continued discussions with the statutory undertakers identified regarding protective provisions where agreement has not yet been reached as set out in the Applicant's Land Rights Tracker [<b>Document ref: 8.4, (rev 4)</b>].</p> <p>The Applicant has addressed each statutory undertaker where a representation has been made and agreement has not been reached below.</p> <p><b><u>National Highways Limited</u></b></p> <p>Negotiations between the Applicant and National Highways are significantly progressed and the Applicant is awaiting confirmation that the form of bespoke protective provisions and associated side agreement are now</p>

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		<p>agreed. On this basis, the Applicant proposes not to make submissions in response to this action item in respect of National Highways as it anticipates that the objection will be withdrawn prior to the end of the Examination.</p> <p><b><u>Network Rail Infrastructure Limited</u></b></p> <p>The Applicant refers to the protective provisions contained in Schedule 14, Part 5 of the draft DCO and Network Rail's preferred protective provisions submitted at Deadline 3 [REP3-066].</p> <p>The Applicant inserted updated protective provisions in favour of Network Rail into the draft DCO at Deadline 5 including the requested paragraphs relating to electromagnetic interference (see [REP5-008]).</p> <p>The Applicant submits that the material elements of the protective provisions are agreed save in respect of paragraph 46 as shown in [REP3-066]. These agreed provisions ensure that Network Rail's approval is required for any works that may affect the railway or any of Network Rail's apparatus or property. As a result there will be no serious detriment to Network Rail's undertaking.</p> <p>In respect of paragraph 46, Network Rail has requested provisions that place a restriction of a significant number of powers in the draft DCO (including the power to maintain the authorised development, compulsory acquisition of land and the power to temporarily use land to carry out the authorised development) in respect to any railway property</p>

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		<p>(as defined within the protective provisions) without the prior consent of Network Rail.</p> <p>Network Rail have also proposed a restriction on the Applicant's ability to acquire, use, acquire new rights over or seek to impose any restrictive covenants over any railway property or extinguish any existing rights of Network Rail over third party property without the consent of Network Rail.</p> <p>These restrictions are in addition to the requirement for the Applicant to obtain approval from Network Rail on the technical aspects of any works.</p> <p>Whilst discussions are ongoing, the Applicant and Network Rail have not yet agreed the terms of a voluntary property agreement for the necessary rights to construct, use and maintain the Project on, or in respect of, railway property (see the update on negotiations contained in the Applicant's Land Rights Tracker submitted at Deadline 6 [Document ref: 8.4, (rev 4)]).</p> <p>In the absence of voluntary agreement, any restriction on the use of the compulsory acquisition powers and other powers under the draft DCO would result in a material impediment to the delivery of the Project.</p> <p>As mentioned above, the protective provisions require the technical details to be approved by Network Rail prior to carrying out any works that may affect railway property. Accordingly, the Applicant's position is that the use of</p>

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		<p>compulsory acquisition powers and other relevant powers under the draft DCO will not result in any serious detriment to Network Rail's undertaking.</p> <p>The Secretary of State has previously determined that the use of compulsory acquisition powers in respect of statutory undertakers' land and rights can be acceptable to ensure the deliverability of a NSIP where it has not been possible to reach agreement on the terms of a voluntary property agreement provided that the technical details of any works are approved by the statutory undertaker (see, for example, paragraphs 6.6 to 6.23 of the Secretary of State's decision letter for the Immingham Open Cycle Gas Turbine Order 2020<sup>1</sup>).</p> <p>The Applicant's position is that the protective provisions contained in Schedule 14, Part 5 are sufficient and will ensure there will be no serious detriment to the carrying out of Network Rail's statutory undertaking.</p>
<b>3.4 Section 135 of the PA 2008 – Crown Land</b>		
The Applicant to provide an update in relation to the engagement with the Crown Estate to voluntarily acquire the	None.	-

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<sup>1</sup> Secretary of State for the Department for Business, Energy & Industrial Strategy, Planning Act 2008: Application for development consent for the VPI Immingham Open Cycle Gas Turbine Plant, South Killingholme, North Lincolnshire (7 August 2020). [Accessible at: this [link](#) (Accessed: 23 June 2025)].

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necessary interests/rights over the Crown Land within the Order Land and the seeking of consent from the Crown Estate pursuant to section 135 PA2008.		
<b>3.5 Potential risks or impediments to the Proposed Development</b>		
The Applicant to provide an update in relation to any consents or licences that are or may be required in order for the Proposed Development to be constructed and subsequently operate including the approval of the Required Navigation Performance Instrument Flight Procedures (RNP IFPs) by the CAA.	None.	-
<b>Part 2</b>		
<b>3.6 Representations from parties who may be affected by the compulsory acquisition provisions in the draft DCO</b>		

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<p>The ExA will hear oral representations from:</p> <p>(a) APs including additional APs who have notified a wish to make oral representations at this CAH:</p> <p>Gwyn Church on behalf of The Executors of the Estate of the late Charles James Tabor</p>	<p>The ExA requested that the Applicant explore whether any further flexibility could be offered in relation to the right of way access requested by The Executors of the Estate of the late Charles James Tabor and provide an update at Deadline 6.</p>	<p>While the Applicant is seeking to accommodate the landowner's request to support their ongoing and future operational needs, the Applicant is unable to agree to a 12-metre-wide access at this time.</p> <p>The Applicant has offered a minimum reserved access width of 5 metres. As the landscaping proposals for the onshore substation evolve, the Applicant will explore opportunities to increase this minimum width where feasible while still providing the required flexibility to deliver an acceptable and effective landscaping design.</p> <p>The Applicant wrote to the landowner on 10 June 2025 regarding development of an <i>Onshore Substations Design Guide</i>, which includes the proposed landscaping scheme, inviting them to provide feedback on the draft guide during the formal review period scheduled to commence in August 2025. This process will provide the landowner with the opportunity to contribute towards the evolving design including specific input on how the proposed reserved access and its specification can be accommodated.</p> <p>While the commitment to a minimum width is less than the landowner's desired width, the Applicant considers the 5 metre-width to offer a reasonable and practical compromise affording continued agricultural access, including the passage of a combine harvester with the header towed behind while preserving the flexibility</p>



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		<p>needed to deliver a compliant and acceptable landscaping proposal for the co-located substations.</p> <p>The Applicant considers the 5 metre width appropriate and a 12 metre width to be unsuitable for the following reasons.</p> <ul style="list-style-type: none"> <li>• The creation of a 12-metre-wide access route to the south of the Barn Lane boundary would require the screening planting to be moved further into the onshore substation works area, which would affect the mitigation to views, as experienced by visual receptors using the PRoW (Viewpoint 2) (see Figure 30.2.2, ES Chapter 30 Figures Part 2 <b>[APP-084]</b>). It would also reduce the extent of the landscape and ecological mitigation area beyond the screening belt.</li> <li>• The outline landscape design shown in Figure 1 of the Outline Landscape and Ecological Management Strategy (OLEMS) <b>[REP5-024]</b> has been designed to maximise integration of the design within the wider landscape, creating networks of hedgerows that not only support the local landscape character, but also support Essex's green infrastructure ambitions by providing a network of integrated habitat across the site.</li> <li>• The increase of a 5 metre gap to a 12 metre gap does have an appreciable effect on aspects of design; for example, gaps in hedgerows / woodland</li> </ul>

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		<p>of 12 metres across may prevent certain bat species from using these features for commuting / navigation (JNCC, 2001).</p> <ul style="list-style-type: none"> <li>• In addition, the inclusion of the 12 metre wide access route would necessitate a wider zone to accommodate turning around the 132kV overhead line tower located within the onshore substation works area. Inclusion of this turning area would result in the loss of grassland area and potentially screening planting and hedgerow planting beyond.</li> </ul>
Gwyn Church on behalf of T Fairley & Sons Limited	The Applicant will continue to engage with T Fairley & Sons Limited on the subject of an injurious affection claim and provide further detail at Deadline 6.	<p>The Applicant continues to engage in constructive dialogue with T Fairley &amp; Sons Ltd and their representative Mr Church regarding the voluntary acquisition of land for the proposed substation, associated infrastructure and landscaping.</p> <p>On 20 June 2025 updated Heads of Terms were issued with revisions seeking to address the landowner's outstanding concerns and to progress negotiations toward voluntary agreement.</p> <p>In relation to the concerns raised regarding the ability to make a claim for injurious affection, the Applicant wishes to clarify that in the absence of voluntary agreement, the landowner would retain the right to make a claim under this head of claim in a compulsory acquisition scenario in line with the compensation code.</p>

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		<p>Further details on the status of negotiations is provided within the Applicant's Land Rights Tracker <b>[Document ref: 8.4 (rev 4)]</b>.</p> <p>The Applicant remains committed to securing a voluntary agreement with T Fairley &amp; Sons Ltd and is hopeful an agreement can be reached.</p>
<p>The ExA will hear oral representations from:</p> <p>Any section 102 of the PA2008 or Category 3 persons wishing to make oral representations</p>	N/A	N/A
<b>3.7 Representations from Statutory Undertakers</b>		
N/A		
<b>4 Any other matters relevant to the agenda</b>		
N/A		
<b>5 Close of CAH</b>		

## 2. REFERENCES

Age UK (2024) More than 1 in 3 over 65s (4.7 million) lack the basic skills to use the internet successfully. 2 April 2024. Available at:

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**NORTH FALLS**

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## **HARNESSING THE POWER OF NORTH SEA WIND**

*North Falls Offshore Wind Farm Ltd*

*A joint venture company owned equally by SSE Renewables and RWE.*

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