

**Wendy McKay**

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Our Ref: 20048269  
PINS Ref: EN010119  
Date: 23 July 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 07, as well as providing a closing statement.

**1. Highways****REP7-031 7.16 Outline Construction Traffic Management Plan (Rev 4) (Clean)**

The Council notes the text on management of employee arrival included at paragraph 60, which is acceptable. The matter is considered closed.

**REP7-051 9.99 Applicant's Response to ExA's Third Written Questions (ExQ3) (Rev 0)**

Q1.0.1 With regards to the Applicant's response to Q1.0.1, and the implications of reduced working hours, ECC as the Highways Authority would make the following comments with regards to traffic impacts:

- For Point (i), the Highways Authority would agree that extending the length of the build programme would increase the likelihood of impacts overlapping with other projects and increasing the period where significant effects would occur as a result. The Highways Authority would also agree that the exact implications of this would only be determined through reassessment of an updated traffic profile. The Highways Authority would also note that any impacts that had been considered acceptable due to being short term would need to be reconsidered as part of any updated

assessment, albeit it is not considered likely that this would alter any conclusions drawn to date assuming an increase of 8 months only.

- For Point (ii), the Highways Authority would agree that further restrictions on the working hours would result in increases in the project's hourly traffic flows across the remaining hours of the day. The Highways Authority would not accept an increase in HGV movements through Thorpe Le Soken during the school start and finish times as a result of any change to the working hours, but recognise that this might result in additional impacts during other hours, as a result of the constraints on timing of HGV movements. This would need to be reviewed if any change to working hours was required.

With regards to the movement of employees, reducing the work hours would result in employees travelling during the network peak hours and this this would have impacts on the operation of the highway network, as vehicles would be travelling during busier hours where junctions are most likely to experience capacity issues. The Highways Authority would agree with the Applicant's summary of potential mitigation options that may be needed. However, only further work would determine what the level of impacts would be and any required mitigation. The Council support the principle of demand management and avoiding traffic impacts during network peak hours.

- For Point (iii), the Highways Authority agrees with the Applicant's summary i.e. that
  - Compressing HGV movements into fewer hours would result in an increase in HGV movements during other hours.
  - Increasing the number of daily and hourly HGVs has the potential to give rise to additional significant environmental effects.

Only further work would determine what the level of impacts would be of an adjustment to the working hours, which has not been assessed to date, but would need to be reviewed if any change to working hours was required.

- In summary, in terms of traffic impacts, reducing the working hours would potentially result in significant impacts. It is the Highways Authority preference for traffic to travel outside of peak periods (hence the requirement at paragraph 61 of the OCTMP that no more than 20% of the peak daily light vehicle demand would travel during the peak hours), and subsequently reduce traffic impacts during the busiest periods. If the working hours were to be reduced, then it would require updating of the transport assessment to identify any further significant impacts and associated mitigation or controls.

**Q9.3.2 Protective Provisions:** With reference to ECC's SoCG [REP6-074] Item 2.7 Transport, point 10, could you provide an update in respect of the progress with agreeing the Framework Highways Agreement?

Following a call with the Applicant on July 14<sup>th</sup> to discuss the Framework Highways Agreement (FHA), the applicants of North Falls and Five Estuaries are willing to enter into a side agreement regarding costs associated with highways approvals. To secure this obligation to enter into such an agreement prior to the commencement of any works to the

public highway, the Outline Construction Traffic Management Plan (OCTMP) will be updated to reflect this at Deadline 8. The commitment within the OCTMP needs to ensure that all reasonable costs associated with ECC officer input, meetings and including any review of highway works and access designs are covered by the Applicant.

**Q17.0.1 Outline Construction Traffic Management Plan (OCTMP):** With reference to ECC's comments on any submissions received at the previous deadline [REP6-081], ECC has proposed the following statement for inclusion in the final CTMP: "The final CTMP will set out the details of how employee vehicles arriving before 7AM will be managed".

The Council are happy with the updated wording in the OCTMP at paragraph 60. This matter is considered closed.

## **2. Public Rights of Way (PRoW)**

### REP3-024 7.17 Outline Public Rights of Way Management Plan (Rev1) (Tracked)

ECC thanks the Applicant for the clarity on the proposed wording at 4.1.1 Managed crossings, this matter is now closed.

## **3. Landscape**

When viewing the North Falls proposal on its own, the proposed landscaping buffer along the northern side of Ardleigh Road proposed by Five Estuaries would not be provided. This would provide a prominent view of the North Falls substation from a public perspective which would not be adequately mitigated by the proposed landscape buffer within the North Falls DCO boundaries. There is currently nothing in the submission to ensure effectively screening planting would be provided along Ardleigh Road.

### REP7-028 7.14 Outline Landscape and Ecological Management Strategy (Rev 6) (Tracked)

At para 204 the Councils request that for clarity, newly inserted bullet point 3 should be revised to read

- Drawings showing the locations of planting and bunding *to include proposed finished levels and contours showing earthworks and mounding*

The Councils propose that the following text is included in Appendix A. Figure 1 to reflect the current position with the EQRP:

*The Landscape Mitigation Plan is subject to change through the Essex Quality Review Panel and subsequent iterations of the Design Guide process.*

### REP7-049 9.93 New visualisation (VP9) at Barn Lane - Grange Road Part 2 of 2 (Rev 1) (Tracked)

Item 6 Table 1: Sensitivity is not wholly dependent on designation and should not be presented in assessments as if it is.

Table 1 Construction and Operational impacts – acknowledges that impacts from this viewpoint are significant adverse from construction through to Year 15. This could also be true at other points along the PRoW as users move along it. This data therefore supplements that in the original LVIA and provides further justification for additional mitigation or compensation beyond the red line as advocated by the Design Council.

#### **4. Green Infrastructure**

##### REP7-028 7.14 Outline Landscape and Ecological Management Strategy (Rev 6) (Tracked)

ECC acknowledges that the previous corrections raised have been made to the OLEMS.

#### **5. Noise Investigation Protocol**

ECC and TDC maintain their position as set out in REP6-081. As indicated in previous submissions and on the SoCG, this matter is not agreed.

#### **6. Tourism**

The Councils could not agree to the applicant's response in REP7-053 and maintain the position as set out in REP6-081 that there would be adverse tourism impacts during construction stage. As indicated in previous submissions and on the SoCG, this matter is not agreed.

This proposal will be coming forward in combination with 3 other NSIPs and all onshore works will cover a wide area of the Tendring District. The proposed onshore cable route nearly bisects the whole administrative area, particular across the main roads leading to the seafront, which is the core drawing factor of the District's tourism industry. The cumulative nature of these substantial projects and the un-committed timing of construction timeframe between projects will result in an unusual and unprecedented lengthy construction period which is not comparable to any other development proposals. The prolonged period of construction works will not only cause inconvenience in travel and deliveries but would also act as a deterrent to tourists visiting the district as a whole. It is unreasonable to expect the Local Planning Authorities to monitor the tourism impacts due to these private proposals. There is no reason why the applicant together with the other NSIPs within such a close proximity, who all have the pressing timeline to be in operation around 2030, could not be committed to jointly monitor the situation prior to commencement and during construction, to ensure that any adverse impacts would be appropriately mitigated. The Councils do not believe this is an unreasonable request.

In terms of any survey bias as raised by the applicant, this could be controlled through proper procurement and to be further discussed on the methodology and assumptions to be applied in such monitoring study, which should be governed by industry practice and available guidance and should not be a consideration to avoid conducting any qualitative assessment.

## 7. Skills and Employment

### REP7-057 9.108 Addendum to the Outline Skills and Employment Plan (Rev 0)

The Addendum of OSEP summarised the suggestions from the Councils, Suffolk County Council and Interested Parties, but failed to provide a firm commitment or even some minimum targets of measures in relation to skills and employment. It still fails to address the Councils' concerns raised at the ISHs. There is currently nothing in the DCO submission to ensure that sufficient mitigations will be provided and transform into the claimed employment and business benefits.

It is disappointing that the applicant is unwilling to commit, before the close of examination, to some minimum targets which the Councils could begin to influence partners to start initial preparation, considering operational details and speed up their delivery.

## 8. Emergency Planning

### REP7-026 7.13 Outline Code of Construction Practice (Rev 5) (Tracked)

The Councils note that the OCoCP has been updated with the additional text required under section 1.8.2 Flood Warning and Evacuation Plan (FWEP). The Applicant has clarified that the Flood Warning and Evacuation Plan would be prepared with the final CoCP to be submitted to and agreed by the discharging authority. There are various documents referred within the OCoCP required to be liaised with the Councils and relevant stakeholders. The Councils would like to stress that the draft FWEP will need to be shared with the relevant parties prior to discharge of the requirement of final CoCP to ensure that it can be signed off in a timely manner.

## 9. Legal/dDCO

| Provision   | ECC's comments   |
|---|--|
| Schedule 1 Part 4<br><br>Requirement 17(2)<br><br>Amendment for requirement to read:<br><br><b><i>(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.</i></b> | <p>The requested amendment requires the applicant to consult and agree with Five Estuaries (VE) and National Grid (NG) a noise investigation protocol, as this was not included in the NF dDCO.</p> <p>This provision is necessary to minimise the impact of multiple NSIPs on residents by having a consistent and collaborated noise investigation protocol to be agreed by NF, VE and NG.</p> |

## **Requirement 21 - BNG**

Both Councils note that, on 11 July 2025, the Secretary of State has invited comments on an amended BNG condition within the Five Estuaries DCO. As the two projects are of similar nature and in close proximity, the Councils request the same wording to also apply to North Falls DCO:

*(1) No stage of the authorised project within the onshore Order limits (excluding any onshore site preparation works) may commence until—*

*(a) a biodiversity net gain strategy for that stage which accords with the outline biodiversity net gain information comprising the Onshore Biodiversity Net Gain Indicative Design Stage Report has been approved in writing by the relevant planning authority in consultation with Natural England; and*

*(b) at least 10% of the total number of biodiversity units as required for that stage of the development (calculated using a biodiversity metric 7 approved by the relevant planning authority in consultation with Natural England) have been secured and where appropriate proof of purchase provided in accordance with the approved biodiversity net gain strategy and to the satisfaction of the relevant planning authority in consultation with Natural England.*

*(2) The location for delivery of biodiversity units is to follow a prioritisation exercise, as described in the Onshore Biodiversity Net Gain Indicative Design Stage Report, with priority given to areas inside the proposed Order limits, or within Tendring District or same National Character Area within Essex.*

*(3) The biodiversity net gain strategy for each relevant stage must be implemented as approved.*

*(4) Any remaining shortfall in biodiversity units identified following detailed design will be secured prior to construction works being completed.*

*(5) Any biodiversity net gain strategy under sub-paragraph (1) may cover one or more stages of the onshore works.*

## **10. Closing Statement**

### **Location**

Both Councils firmly believe that there are clear and demonstrable reasons why Ardleigh, as the onshore substation location, is completely unacceptable. Should the application receive consent, it will introduce large-scale industrial infrastructure into a flat, open agrarian landscape. This will permanently change the physical nature of this quiet rural area, within the setting of the Dedham Vale National Landscape. Whilst the NFOW DCO is assessed as a

stand-alone project, it is wholly reliant on the East Anglian Connection Node element of the National Grid Norwich to Tilbury project. Combined with this proposal from Five Estuaries, and the forthcoming Tarchon interconnector, this could result in four new substations near Ardeleigh. The cumulative impact of these developments would significantly alter the rural character of Ardeleigh and the neighbouring localities both during the construction and operational phases.

### **Design**

The Councils note the on-going works between the 2 windfarms regarding the Joint Design Guide and the involvement of Essex Quality Review Panel (EQRP). As stated in the revised Design Vision (REP5-005), the final Joint Design Guide will feed into the tender process and the Councils want to stress that it should not be simply a tender document for appointing contractors. To ensure good design is adopted and followed through from the Joint Design Guide into the detailed design proposal, the Councils request that the EQRP should be involved to comment on any draft proposals prior to confirmation of the final design of the substations and other elements listed in Requirement 5 of the dDCO.

### **Landscape and Visual Impacts**

The Councils still have concerns on the landscape and visual impacts caused by the development and our detailed comments are provided at our responses to Section 14 of ExQ3.

The Councils maintain their position that when judging the North Falls substation in isolation, there would be significant residual negative effects at a Site level in terms of landscape and visual issues. These effects are magnified when judged cumulatively with Five Estuaries, Tarchon and the proposed N2T.

### **Tourism**

Whilst both Councils accept that the impacts on tourism of the NFOW application in isolation is unlikely to be significant in EIA terms, the NFOW project if granted consent will not proceed in isolation. As such the cumulative impacts of all four NSIPs within the Tendring District on Tourism require monitoring and if found to be negative, a mitigation package will be required.

### **Grampian Requirement**

The Councils maintain the position set out in ExQ2 that the legal test for a Grampian condition is met, i.e. it is reasonable, necessary, relevant to planning, related to the development, precise and enforceable. Such requirement is crucial in order to prevent unnecessary detrimental localised impacts in the event that the Norwich to Tilbury (N2T) Project does not receive consent. This requirement is also supported by Suffolk County Council.

The suggested Grampian requirement is specifically worded to require a consent granted for the N2T project, which would not hinder the North Falls project timeline as the applicant

indicated that the earliest construction would commence under any scenario is 2027. Currently, the N2T project has the following timeline:

- Submission: August 2025
- Acceptance: September 2025
- Preliminary meeting: before December 2025
- Examination: January to June 2026
- Recommendation: September 2026
- Decision: December 2026

As there are various technical surveys and investigation required pre-commencement, and the applicant is required to discharge a list of requirements, the Grampian requirement would not impose unnecessary delay for these to be discharged in the interim period.

The Councils proposed wording was submitted at Deadline 7 (REP7-073) and is repeated here:

*No part of the:*

*(a) onshore site preparation works except for operations consisting of pre-planting of landscaping works, ecological mitigation works, archaeological investigations, intrusive and other environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, and the temporary display of site notices or advertisements may take place; and*

*(b) authorised development may commence,*

*until evidence of development consent being granted for National Grid's East Anglian Connection Node substation which will connect the North Falls development to the grid.*

### **Framework Highway Agreement (FHA)**

While ECC accepts, in this instance, the current approach to insert wordings within the OCTMP as a side agreement has not been reached between parties, in relation to the FHA. We would like to stress the importance of a FHA instead of multiple fragmented side agreements between the Highways Authority and the Contractors further down the line.

ECC have previously entered into a FHA with other DCOs, and our strong preference is for a similar joined-up and expedient approach. The purpose is for the FHA to be read alongside the Protective Provisions (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 has worked as a halfway house between the PPs and the s278. However, in the absence of the FHA we need the PPs and a s278 to be signed, which is a more lengthy and resource-intensive process.

The FHA-model has been used in Essex previously, as preceded 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, which they are familiar with and therefore give them confidence in timeframes and outcomes. They are also often not set up to follow ad-hoc processes, which result in negative impacts on programmes.

There are omissions from the PPs in respect of ECC as the Highway Authority, if the PPs are included in the DCO as recommended. Some of the omissions are ancillary to the DCO and would fit within a FHA, which sets out the details of how the order is exercised. For example, the engagement between the highway authority and the applicant (submission of a works programme, process for review of structures, a general duty to cooperate and for resolution of disputes, as well as information required for approval of designs). ECC may also require indemnities including levels and types of insurances to be held by a contractor undertaking highway works; and require defined consequences of the applicant failing to make good or reinstate the road during the maintenance period; and the highway authority's fees (not for profit). These would be included in a FHA to ensure that the development operates pursuant to the DCO and is in line with the procedure for ECC as Highway Authority.

Yours sincerely

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