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By email only:

The applicant
Natural England (NE)
Marine Management Organisation
(MMO)
Harbour Energy
Spirit Energy
The Crown Estate (TCE)

Your Ref:

Our Ref: EN010121

Date: 10 April 2025

Dear Sir/Madam

The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17

Application by Morecambe Offshore Windfarm Ltd for an Order Granting Development Consent for the Morecambe Offshore Windfarm Generation Assets

Request for further information

I am writing on behalf of the Examining Authority (ExA) under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 to request the following information.

This letter has been drafted following submission of documentation at deadline (D) 5a which has now been published. The examination library will be updated shortly. The ExA hopes that there is sufficient clarity as to document references to allow interested parties to respond.

R17.2.1 – To the applicant and NE

On 27 March 2025 the High Court issued its decision in *New Forest National Park Authority v SoSHLG and another* [2025] EWHC 726 (Admin). This considered the implications to the changes to the National Parks and Access to the Countryside Act 1949, and Countryside and Rights of Way Act 2000 from section 245 of the Levelling Up and Regeneration Act 2023 in ground 2 of the grounds of appeal.

The applicant and NE are asked for any comments that they may wish to give in light of this judgment in relation to matters pertinent to this application in respect of protected landscapes.

R17.2.2 – To the applicant

In paragraph 21.91 of chapter 21 of the ES [REP5-016] the applicant has set out what it considers to be the relevant percentages of the Morgan and Morgan Transmissions Assets (M&MTA) project that relate to the transmission infrastructure of the proposed development. In paragraph 21.92 these have been expressed as an average.

It would appear that the figure in paragraph 21.92 has been calculated by adding the four percentage figures in paragraph 21.91 together and then dividing by four. However, this 'average of an average' is not statistically correct. To derive the percentage of a total in this way requires first to sum the underlying figures (not the percentages), in this case the GHG from the individual elements, and then calculate the average of the whole.

In paragraph 21.90 the applicant refers to the relevant chapter of the M&MTA project environmental statement which sets out the GHG emissions from the relevant elements. The applicant is requested to set out accurately the GHG emissions of those elements of the M&MTA project associated with the proposed development based on their actual proposed emissions and recalculate the percentage in a statistically robust way, and amend chapter 21 as necessary.

R17.2.3 – To the applicant

Paragraph 19.267 of chapter 19 of the ES 'Human health' [REP1-040] summarises the conclusions reached in respect of the potential population health implications associated with impacts on water quality. The conclusions reached state the effects would be 'negligible adverse (not significant)' for all phases of the development (ie. construction, operation and maintenance, and decommissioning phases). However, these impacts only appear to have been considered and assessed for the construction and decommissioning phases and not the operation and maintenance phase as they are not identified within section 19.6.3 and table 19.20.

Please could the applicant check and amend the ES chapter as necessary.

R17.2.4 – To the applicant and MMO

In paragraph 6.23 of his decision letter on the proposed Rampion 2 Offshore Wind Farm Extension project (Rampion 2) the Secretary of State considers a similar objection from the MMO in relation to the provision in the dDCO relating to the transfer of the benefit of the order (article 7 in relation to the proposed development [REP5a-002], article 5 in relation to Rampion 2). In paragraph 9.1 first bullet point of the decision letter the Secretary of State also notes an amendment to the drafting which he used in making the order.

The applicant and MMO are asked to respond to these conclusions, with the MMO specifically asked whether it is still maintaining its case that the transferring of the deemed marine licence should be excluded from the provisions of the relevant article.

R17.2.5 – To the applicant

As noted within NEs 'Appendix B11 – Comments on Offshore Ornithology' [REP5a-069], please can the applicant update/ correct the following within chapter 12 of the ES so that it:

- (a) correctly indicates the mortality rate for great black-backed gull within Table 12.17 so that it reads 0.0969 rather than 0.093 and so is consistent with that in Table 12.48
- (b) amend paragraph 12.465 as it states that the cumulative impacts would increase mortality by 0.71% whereas the data presented in the EIA Technical Note at D1 [REP1-080] was 9.37%

R17.2.6 – To NE

In NE's Deadline 5a submission 'Appendix B12 – Comments on Lesser Black Backed Gull Compensation Quantum' [REP5a-070] it has set out a calculation as to the area of scrub clearance at Steep Holm. The derivations of all the numerators used are set out with the exception of that for philopatry.

NE is asked to:

- (a) further justify the use of philopatry within the calculation, given that NE says the calculations "*may also need to take account*" of this concept
- (b) set out how the numerator has been derived
- (c) in responding, please signpost to any guidance requiring consideration of philopatry when compensating across the National Site Network

R17.2.7 – To the applicant

In the 'Outline Compensation Implementation and Monitoring Plan' document [REP5a-013] submitted at D5a the applicant notes that "*the Applicant is proposing to commence the measures at Steep Holm in 2025, ahead of a decision from the Secretary of State (SoS) as to whether such measures would be required*".

In light of this, does the draft DCO need a provision relating to anticipatory steps towards compliance with any provision within the order? The applicant is referred to article 25 of The A122 (Lower Thames Crossing) Development Consent Order 2025 as a precedent provision for potential drafting.

R17.2.8 – To Spirit Energy and Harbour Energy

At D5a both Spirit Energy [REP5a-076] and Harbour Energy [REP5a-078] provided draft protective provisions in their respective favours. Both Spirit and Harbour Energy are asked to provide them as Microsoft Word documents.

R17.2.9 – To Spirit Energy

Spirit Energy was specifically requested (ExQ3DCO3) to provide tracked change versions of the protective provisions when compared with those provided by the applicant but have not done so at D5a.

The question continued, in this case, if Spirit Energy "*feel unable to comment on these provisions, they should set out their own full set of protective provisions explaining in commentary why these are to be preferred on a provision by provision basis*".

Spirit Energy is again requested to answer this question, and explain why it has failed to do so to date.

R17.2.10 – To the applicant

In the minutes of the meeting between Spirit Energy and the applicant on 26 March 2025 ‘Minutes of Shared Understanding Meetings’ [REP5a-077], in responding to a question raised by Spirit regarding the minimum distances between wind turbine generators (WTG) it is stated “*The minimum spacing is 1060m between turbines. This is secured in the DCO: turbines cannot be closer than that. There is a micro-siting allowance of 55m, so we could take 110m off of that, so 950m*”.

- (a) Can the applicant clarify its position regarding the minimum spacing distances between intra-row and inter-row WTGs and whether the distances (as cited within Table 2 of Schedule 2, Requirement 2 of the dDCO and Schedule 6, Part 2, Condition 1) require revision to take into account any potential further reduction due to micro-siting?
- (b) If the separation distances cited could be further reduced as a result of micro-siting tolerances, does this have any implications on the conclusions of the ES particularly where assessments have relied upon the distances cited as embedded mitigation and the basis of the worst case scenarios used when carrying out those assessments? Please explain and give reasoning to support your position.
- (c) In any event, does the dDCO need amendment to make it clear whether the 55m micro-siting distance:
 - (i) does not affect the minimum spacing distances, or
 - (ii) can affect the minimum spacing distances?

R17.2.11 – To Spirit Energy and the applicant

In the D5a submission ‘The Applicant’s Comments on Spirit Energy’s Deadline 5 Submission Document Reference 9.65’ [REP5a-061], the applicant submits that Spirit’s calculations regarding the minimum take-off distances required for day VMC do not follow the required flight profile in the Rotorcraft Flight Manual (RFM). It is stated that this contrasts with previous submissions made to this examination [REP1-116, Figure 14A] and in connection with the Hornsea Three project examination library reference [REP7-093] (and could the applicant arrange for this latter document to be submitted into this examination).

Spirit Energy is asked to respond and explain its position and why a different stance may have been taken to the RFM and the basis for this and to provide an updated calculation which follows the RFM so as to reflect that used by the applicant.

R17.2.12 – To TCE

In its response to our written question ExQ3GEN1 within its D5a submission ‘The Applicant’s Response to ExA’s Written Questions 3 Document Reference 9.61’ [REP5a-056] the applicant advised that it had submitted a Change of Control declaration on 4 March 2025 which included appendices describing the financial standing and capabilities of the proposed transferee (CI V).

- (a) Please can TCE update and advise whether any necessary due diligence checks have been completed and, if so, whether it is content with the financial standing and capabilities of the proposed new ownership structure?
- (b) If these checks and processes have not been completed, please can TCE advise when TCE expects a decision would be made?

Concluding remarks

Responses to the above questions are requested to be submitted no later than **Deadline 6** which is at **23:59 hours on Tuesday 15 April 2025**. All parties are reminded that any submissions received after the close of the examination cannot be taken into account by the Examining Authority.

If you have any questions about the content of this letter, please contact the case team on the details above.

Yours sincerely

Robert Jackson

Robert Jackson
Lead Panel Member of the Examining Authority

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