

Our Ref: RWE.1  
Your Ref: EN010125  
Date: 24<sup>th</sup> April 2025

Planning Inspectorate  
Temple Quay House  
2 The Square  
BRISTOL  
BS1 6PN

BY EMAIL TO: [DoggerBankSouth@planninginspectorate.gov.uk](mailto:DoggerBankSouth@planninginspectorate.gov.uk)

Dear Sir/Madam,

**The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17**  
**Application by RWE Renewables UK Dogger Bank South (West) Limited and RWE Renewables UK**  
**Dogger Bank South (East) Limited for an Order Granting Development Consent for the Dogger Bank**  
**South Offshore Wind Farms**  
**Request for further information**

**Landowners: East Yorkshire Concrete Products Limited/Mr A D Robinson**  
**Mr M W Mewburn**  
**Mr J Mewburn**

We act for the above landowners and submitted verbal representations at the Compulsory Acquisition Hearing on 7<sup>th</sup> April 2025 and the Issue Specific Hearing on the 9<sup>th</sup> April 2025. We have represented clients in respect of the following projects involving onshore electricity cabling, considered similar to the Project:

- Dogger Bank A and B
- Hornsea 4
- ELG 2
- Dogger Bank South
- Dogger Bank D

Voluntary agreements have been successfully agreed (to date) in relation to the Hornsea 4 and EGL2 projects.

Please accept this letter as our response to the relevant Action Points noted below which were recorded at the Hearings. The following abbreviations have been used in this response:

|                                |   |
|--------------------------------|---|
| <i>'The Book of Reference'</i> | <i>APP-31 4.2 Book of Reference – Volume 4 (as amended)</i>                                 |
| <i>'The Project'</i>           | <i>Dogger Bank South Offshore Wind Farms</i>  |
| <i>'DBAB project'</i>          | <i>The project approved under the Dogger Bank Croyke Beck Offshore Wind Farm Order 2015</i> |
| <i>'Voluntary Agreement'</i>   | <i>The legally binding Option and Deed of Grant offered by the applicants to landowners</i> |

## Compulsory Acquisition Hearing 7<sup>th</sup> April 2025 Action No 4

We respond as follows to the applicant's response (REP2-057):

### Rep1-073.5

The applicants have not provided the relevant technical details regarding the installation of the On-shore Export Cable Corridor and in particular have not addressed the following issues raised during the initial Project discussions, through the LiG Group and subsequently:

1. Justification for the extent of the land area identified as 04-17 and 04-19 in the Book of Reference over which temporary possession is required, nor why the boundaries of these areas cannot be amended to create less interference for the landowner.
2. Justification as to why the Order limits shown as 04-024 in the Book of Reference cannot be amended and moved eastwards to run along the field boundary to reduce the impact on the landowner, avoid severing part of the field and avoid sterilising a greater area of the field once the cables have been installed. This request was submitted to Dalcour Maclaren at an early stage, but no response was provided.
3. No information has been provided to justify why cables cannot be installed at a greater depth as has been committed to by similar projects nor why the Project will not commit to maintaining the depth of the cables for the duration of the Project to ensure that they do not interfere with the use of the land in the future. Maintaining the depth of the cables has already been committed to by other similar projects impacting land owned by the directors of East Yorkshire Concrete Products Limited and the applicant's land agents have knowledge of the other projects having acted on the Dogger Bank A and B project and the Hornsea 4 project.
4. No detailed information has been provided by the applicants regarding the installation of suitable land drainage in the Order Limits during and post construction, nor how any impediments to draining adjoining land as a consequence of the cables will be addressed through the construction process or how the land between the cables will be drained if the easements are not contiguous. The applicants have also not responded to confirm who will be responsible for repairing, maintaining and replacing the land drainage installed in the Order Limits for the duration of the Project.

### Rep1 – 073.6

Land owned by East Yorkshire Concrete Products Limited was subject to the compulsory acquisition process under the Dogger Bank A and B project and the applicant's agent, Dalcour Maclaren, acted for the developer. We have referred Dalcour Maclaren to the Unilateral Undertaking ("UU") and draft Deed of Grant relating to the Dogger Bank A and B project implemented after the compulsory acquisition process was invoked. The UU contains a number of safeguards and provisions which protect the landowner from the impact of the project and we have requested that these be included in the Voluntary Agreement for the Dogger Bank South Project. To date the applicants have not responded regarding the provisions in the Dogger Bank A and B UU.

### Rep1-073.7

The applicants did not respond to any of the initial issues raised on behalf of the landowners regarding the route of the Project and the Order Limits. As a consequence, the applicants have failed to address issues which could easily have been resolved at an earlier stage, such as moving the Order Limits to adjoin the eastern edge of the field boundary in land identified as 04-24 in the Book of Reference, to avoid severing the field through the installation of the cables and consequently sterilising a greater area of the field than is necessary.

Representations were made to the applicants at an early stage regarding the excessive land take, severance of the land parcels and irregular boundaries in the land identified as 04-017, 04-018 and 04-019 in the Book of Reference. The applicants provided no response the representations.

### Rep1-73.10

In their submissions, the applicants have only committed to installing the cables to an indicative depth of between 1.3 m and 1.7 m from the restored surface level and referenced an average depth of 1.6 m. No information has been provided to confirm how the average depth has been arrived at or whether it is realistic.

Partners:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Associate Partners:

[REDACTED]

Page 2 of 8

Basing the depth on the restored surface level is also misleading, as the restored surface will settle as a consequence of the excavation works leaving the cables at a shallower depth than stated. Our client has direct experience of settlement issues from the Dogger Bank A and B project.

Agricultural operations such as mole draining are typically undertaken at a depth of 600 mm below the surface level (and deeper if the land drains are deeper). Based on the range of depths for the cables stipulated by the applicants and the issue of measuring depth from a restored surface, unless installed deeper, the Project could prevent normal agricultural operations from being undertaken.

Land drainage (field drains) in this area of East Yorkshire are typically installed at a depth of 900 mm below the surface, with an increased depth needed where fall is required into connected drains or ditches. As proposed by the applicants, the range of depths for the cable could directly interfere with existing or future land drainage schemes, thereby impacting on the productivity of the land and the ability of landowners to utilise their land effectively.

To avoid issues with the cables interfering with normal agricultural operations and land drainage, a commitment to install the cables and jointing bays at a minimum depth of 1.6 m from the original surface level of the land to the top of the cable duct is required. The original surface level of the land can be easily assessed by undertaking topographical surveys prior construction works commencing.

As noted other projects have committed to maintaining the depth of the cables and we have requested that the applicants provide a similar commitment in the Voluntary Agreement. To date the applicants have not responded on this point nor addressed it in their response to this representation.

#### **Rep1-073.10**

Limited contact or information has been received from the applicant's land agent.

The detailed assessment undertaken to arrive at the Agricultural Land Classification (ALC) Grade have not been shared by the applicants and cannot therefore be confirmed. The information provided at Rep 01-025 is an assessment instructed by the Project to justify their application. We are familiar with the requirements of ALC Assessments and have recent experience of land initially identified as Grade 3, being reclassified as Grades 1, 2 and 3a when an accurate ALC assessment was undertaken.

#### **Rep1-073.11**

As noted above, the applicant's response to this representation does not address the minimum depth requirements for the cable to avoid interference with agricultural operations nor the commitment required to maintain cable depths for the duration of the Project.

#### **Rep1-073.12**

The inclusion of a commitment to maintain the cables at a minimum depth has been requested in the legally binding Option and Deed of Grant. To date the applicants have refused to consider this request despite the Dogger Bank A and B project providing such a commitment and other projects addressing it in their Voluntary Agreements.

As noted above, the applicants proposal to provide a vague commitment to installing the cables at an insufficient depth in the proposed Option and Deed of Grant risks the cables interfering with future uses of the land and normal agricultural operations. A commitment to install and maintain the cables at an acceptable depth of **1.6 m** from the **original surface level** is required in the legally binding Option and Deed of Grant. To date the applicants have refused this request.

The Outline Drainage Strategy (document reference 8.12) only provides vague commitments and fails to address the impact of the cables on the repair, maintenance and replacement of existing land drainage systems, the inability to drain adjoining land in the future as a consequence of the cables once installed and the ability to effectively drain in between the cables if the cable easements are not contiguous.

A commitment is needed from the applicants that sufficient land drains will be installed in the Order Limits post construction and the repair, maintenance and replacement of the post construction drains will be undertaken by the applicants (or the Ofo) for the duration of the Project.

### Rep1-073.13

As noted above, the applicants have not addressed the issue in their response to the representation. The legally binding Option and Deed of Grant offered by the applicants through the Voluntary Agreement process does not address the issue.

In the absence of the Voluntary Agreement sufficiently protecting landowners on these issue, we sought clarification from the applicants on how the matter will be addressed under the compulsory acquisition process. Via email dated the 9<sup>th</sup> May 2024 the applicants responded as follows:

*"As is commonplace with offshore wind DCO's DBS will be seeking permanent rights in the order for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised projects. The DCO will set out the various rights sought and will be available once it is submitted to PINS at the end of this month.*

*However for certainty, if we are unable to reach a voluntary agreement by the time the order is made (if consented circa Q4 2025) then we will look to serve a General Vesting Declaration which will automatically vest a high level number of rights and restrictions in title to enable the OFTO operator to construct, maintain and ultimately decommission the projects.*

*If this occurs we will no longer seek a voluntary Deed of Easement and rely on the rights automatically vested under the GVD. This is very different to the Notice to Treat / Notice of Entry you may have had experience of. For clarity a form of Deed of Grant won't be sought under GVD, the rights sought in the DCO will be vested against title as set out in each class of right in the application."*

Based on the information submitted to PINS to date, the draft DCO and in particular the proposed compulsory acquisition rights do not address the impact on landowners in respect of cable installation depth and maintaining the cables at a minimum depth nor the other landowner issues and safeguards noted in these representations.

The legally binding Unilateral Undertaking provided by the Dogger Bank A and B project addressed these issues and before considering granting compulsory acquisition rights to the applicants similar commitments are needed. The applicants have clearly stated that if compulsory acquisition rights are granted then they will abandon the Voluntary Agreement process and seek to progress the Project with no regard for the impact on landowners.

### Rep1-073.14

It will take several years for the nutrients, fertility and organic matter of the disturbed soils to be restored and our clients have direct experience of the negative impact which this can cause to their land from the Dogger Bank A and B project. The Dogger Bank A and B project took an unnecessary long period of time to reinstate the Works Corridor, impacting on the landowners' ability to recommence farming their land. Soil handling was an issue during the Dogger Bank A and B project as the developer did not comply with the code of construction practice and the Agricultural Liaison Officer (ALO) employed by the developer had no ability to address this with the developer or the contractor. On this project soils were mixed and not handled correctly with work undertaken in unfavourable weather conditions. As a consequence, soils have been badly damaged and not restored satisfactorily.

A commitment is needed from the applicants that they take detailed soil tests prior to construction commencing, will restore the Order Limits within 12 months of construction work commencing and will properly compensate landowners for the loss of nutrients, fertility and organic matter in the soils, as well as other relevant heads of claim under the compensation codes.

A commitment is also need from the applicants whereby if an issue arises during the construction process which is not satisfactorily addressed by the applicants or the ALO, then it can be promptly referred (by the landowner or occupier) to an independent expert whose decision will be binding.

#### **Rep1-073.15**

The applicants have provided no detail to confirm how the Works Corridor will be reinstated, nor how the reinstatement works address the lost fertility, nutrients and organic matter as a consequence of the soils being disturbed.

The inclusion of the wording “as soon as reasonably practical” for reinstatement works in the Option and Deed of Grant (as drafted) is vague and provides no firm commitment by the applicants to an acceptable timeframe or acceptable longstop date. As noted, our clients have experienced issues with such wording on the Dogger Bank A and B project, where the developers sought to delay reinstatement and hand-back of the land to landowners in an attempt to secure their agreement to less than adequate compensation. This must be prevented on this Project.

We have requested that the applicants include a long-stop date in the Option and Deed of Grant in relation to the reinstatement of the Works Corridor following installation of the cables or the undertaking of any subsequent repair/renewal works. Re-instatement within 12 months and prior to the next cropping season following cable installation has been requested.

As drafted the Option and Deed of Grant provide no redress mechanism for landowners to challenge the timeframe for reinstatement and hand-back of the land post construction. Such delays can have a major impact on landowners and the operation of their businesses, for example by frustrating their ability to sell or let their land, plan succession/bequests or secure finance against the land as the value will be negatively impacted until satisfactorily reinstated.

#### **Rep1-073.16**

Reinstatement of the land in the Works Corridor and hand-back to landowners is easily achievable within twelve months if the Project is planned and implemented effectively. Based on experience from the Dogger Bank A and B project the substantive reinstatement works can be undertaken immediately following the installation of the cable ducts and the top soil restored and returned to agricultural use. It should be possible to do this within 12 months of construction work commencing to mitigate the impact on landowners and occupiers. If an extension to this period is needed it should be agreed with the landowners/occupiers as their preference may be to proceed with reinstatement in a shorter timeframe, despite the season, to enable them to establish a following crop or progress with their business.

Retaining 50% of the haul roads between the Jointing Bays and Temporary Construction Compounds (TCCs) is excessive and unnecessary bearing in mind the applicants have already suggested that the land will be reinstated within 2 years and ideally 1 year as noted above.

Retaining haul roads for up to 6 years is financially convenient for the Project and an unnecessary burden on landowners/occupiers. Haul roads for the Dogger Bank A and B project were removed within a much shorter period. The circumstances of landowners/occupiers could change dramatically in 6 years such as through death and burdening their land for such a long period is an unnecessarily long impediment.

#### **Rep1-073.17**

The applicants have provided no firm commitment on the timescale for restoring land and returning it back to landowners in their response. There is no longstop date provided for the completion of works. Without amendment, the applicants will be entitled to temporarily occupy land for an undefined land and will have no obligation on them to return land to landowners promptly. Landowners could be denied access to their land for several years which is not acceptable.

Based on the proposed construction works (the installation of cable ducts), restoration of the land can be undertaken immediately once the ducts have been installed and there is no genuine reason why the land should remain unrestored for prolonged periods.

A commitment is needed from the applicants whereby land will be restored and returned to landowners within 12 months of construction work commencing on their land.

Land parcel 04-17 severs a small area of the field and irrespective of whether access is provided into the severed parcel it would not be economic for the landowner to farm this land whilst land parcel 04-17 is occupied by the applicants.

#### **Rep1-073.18**

The reference to 'Completion Notice' in the landowners' representation refers to the legally binding UU provided by the Dogger Bank A and B project. Based on the applicants email response dated 9<sup>th</sup> May 2024 noted at Rep1-073.13 above, the applicants are seeking to avoid a similar legal commitment.

As noted, the current draft of the legally binding Option and Deed of Grant does not address this issue and the applicants have refused to consider the amendments requested. When considering the applicant's request for compulsory acquisition rights, the timeframe for restoring land and handing it back to landowners needs to be considered.

#### **Rep1-073.19**

The personnel described in the applicants' response to monitor the construction process and reinstatement are all employees or contractors for the applicant, including the ALO. Based on experience from the Dogger Bank A and B project, a mechanism to allow recourse to an independent third party with the power to impose appropriate sanctions or redress on the applicants is needed to protect the position of landowners/occupiers. Otherwise, genuine issues are not addressed appropriately with a consequential impact on landowners/occupiers.

#### **Rep1-073.20**

The legally binding UU and deed of grant relating to the Dogger Bank A and B project includes a number of safeguards to protect the interests of landowners and occupiers, in addition to the concerns regarding cable depth and maintaining depth, as noted above. These issues were raised with the applicants through the LiG meetings and subsequently in relation to the proposed Option and Deed of Grant to ensure uniformity with the DBAB Unilateral Undertaking. The issues are summarised below:

##### **Compensation**

Preserving the ability for landowners/occupiers to claim for consequential losses as a consequence of the Project in accordance with the compensation code.

##### **Indemnity for the Landowner/Occupier**

The provision (by the applicants) of an indemnity for landowners and occupiers against any issues associated with the use of the cables, negligence of the Developer/Operator or breach of covenant to fully indemnify landowners/occupiers against costs, fees, charges etc. involved with pursuing the developer over a breach of their obligations.

##### **Cable Removal**

On decommissioning a provision for landowners to request that the cables (and associated apparatus) are removed to avoid any legacy issues which landowners would subsequently become liable for.

##### **Use of the Electric Cables**

A limitation on the use of the cables to the Dogger Bank South (East and West) Offshore wind farm only.

##### **Professional Fees**

Confirmation that professional fees will not be subject to an 'aggregation' clause to limit the amount payable by the applicants.

##### **Limitation of the Grantor's (Landowner's) Liability**

A limitation on the landowner's/occupiers liability to ensure that it is feasible for them to secure insurance to protect them against any liability/risk created as a consequence of the Project. Without this the Project risks putting landowners/occupiers out of business if an issue arises due to the scale of the Project and the quantum of the financial risk/liability it introduces to the land.

#### **Partners:**



#### **Associate Partners:**



VAT No: 746 462 220



We have also asked the applicants to address and confirm the following issues:

**Schedule of Condition**

The Schedule of Condition to be undertaken prior to entry and any intrusive surveys needs to include soil sampling and testing for organic matter (amongst other issues) and a topographical survey is needed for the Works Corridor to establish the surface levels prior to survey or construction works commencing.

**Construction**

A long-stop date for the construction period as noted.

**Surveys, Archaeological Trenches and Trial Pits**

A commitment is needed to ensure that if cropping of the land or a particular field is frustrated due to multiple survey trenches/trial pits then crop loss over the whole area/field as the works effectively frustrate the landowners'/occupiers ability to farm the whole field. This is needed to address issues already experienced on the land close to land-fall when initial surveys for the Project were undertaken.

**Abortive Professional Costs**

Taking into account the outstanding issues and the commitment shown by clients to date in respect of pursuing a Voluntary Agreement, reimbursement of client's abortive professional costs has been requested to protect them in the event that a Voluntary Agreement is not been achieved, bearing in mind the applicants comments in the email dated 9th May 2024 noted at Rep1.73.13 above.

**Compensation for Landowner's and Occupier's time**

Our clients operate substantial and complex businesses. A commitment has been requested from the applicants to reimburse our clients for their time committed to the Project proposals, the Inquiry process and considering the Option and Deed of Grant, at a rate which reflects their position in the business, level of responsibility and complexity of the issues being considered (subject to the provision of detailed records for the time accrued). The applicants have refused this request.

**Easement Strip**

To mitigate the impact on landowners we have requested confirmation from the applicants that the easements in the Deed of Grant for the respective cables will be contiguous. If not, this will negatively impact the land, by sterilising the area in-between the easements and limiting the ability to effectively drain this area as noted. No such commitment has been provided by the applicants, nor any technical justification to demonstrate why this commitment cannot be provided.

To date the applicants have either not responded to the issues raised or refused to consider them as part of a Voluntary Agreement.

Our clients remain committed to entering into a Voluntary Agreement but the applicants approach to the issues raised and the application of compensation penalties because the Voluntary Agreements have not been executed is frustrating this process.

Recently the applicants have withdrawn part of the compensation payable under the Voluntary Agreements because our clients have yet to sign them, despite the fact that the applicants have failed to address the issues noted above. This is not the conduct of an applicant genuinely seeking to achieve Voluntary Agreements as purported through the Inquiry process.

**Rep1-073.21**

As noted we await responses to a number of issues from the applicant and their land agent, which were raised at the outset of the Project and with the applicant directly through the LiG process. The only recent contact we have received from the applicant's land agent is to withdraw part of the compensation offered through the Voluntary Agreement to penalise our clients for raising issues with the Voluntary Agreements.

## Issue Specific Hearing 9<sup>th</sup> April 2025 Action Nos 47 and 49

### Land Parcels 04-17 and 04-19

Temporary possession of land parcel 04-17 unnecessarily severs part of the field creating a small area of land which cannot be viably farmed (even if access is provided) with modern farm machinery.

The boundaries of land parcel 04-19 also create unworkable field boundaries which are difficult to farm with modern farm machinery.

Both of these issues were raised with the applicants' land agent at an early stage, but no response provided. The boundaries of the land required are unnecessarily irregular and the layout of the land required for temporary possession could be amended to avoid impacting on the landowners ability to farm the adjoining and severed land.

### Land Parcel 04-24

As noted under Rep1-073.5 above, the Project dissects the existing field and severs the eastern section creating a smaller land parcel whilst construction work is underway, which will be more difficult and costly to farm, impacting on the viability of farming enterprise.

At the outset of the Project, representations were made to the applicant's land agent for the Works Corridor to be moved to the east so that it adjoined the eastern boundary of this field. No response was received to these representations and a technical justification has not been provided by the applicants setting out why the Works Corridor cannot be moved as requested. We are not aware of any engineering or environmental impediment which would prevent the Works Corridor from being moved to adjoin the eastern boundary of the field, thereby preventing any land from being severed.

### Land Parcels 06-18, 06-21 and 06-025

Our client who owns the above land (Mr M Mewburn) is a minerals operator and part of these land parcels are included in a Minerals Safeguarding Zone. This was raised by the applicant's land agent during the initial meeting regarding the Project and followed up with written representations. No response was received from the applicants or their land agent to these initial representations.

The terms of the Voluntary Agreement proposed by the applicants would make it impossible to work the minerals underneath the cables, any minerals in between the cables (if the easements are not contiguous) and potentially the minerals to either side of the cables if undermining the cables is to be avoided. We have sought confirmation from the applicants via their land agent that landowners with a mineral resource sterilised by the Project will be compensated, subject to the provision of appropriate evidence. The applicants have refused to do this as part of the Voluntary Agreement.

Compensating for the sterilisation of mineral resources in this manner is a normal head of claim for compensation in such circumstances and the applicants approach to this issue is preventing progress being made on a Voluntary Agreement.

## Issue Specific Hearing 9<sup>th</sup> April 2025 Action Nos 49

Please note my comments above regarding Rep1-073 and cable depth, together with maintaining cable depth.

We are happy to provide more information on the above representations if needed. The applicant's land agents are in possession of the Unilateral Undertaking and Deed of Grant for the Dogger Bank A and B project. If the Planning Inspectorate require a copy, one can be forwarded to assist the Inquiry on the basis that it is treated as redacted information.

Yours faithfully,

[Redacted Signature]

[Redacted Name]

FOR AND ON BEHALF OF ALNWICK FARMING & PROPERTY CONSULTANTS

Email: [Redacted]@alnwickfpc.co.uk | Mobile: [Redacted]

#### Partners:

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

#### Associate Partners:

[Redacted]

Page 8 of 8