

**RWE Renewables UK Dogger Bank
South (West) Limited**

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South (East) Limited**

**Dogger Bank South Offshore
Wind Farms**

**Network Rail Statement of Common Ground
(Revision 2)**

Submission for Deadline 4

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Contents

1	Introduction	6
1.1	Background	6
1.2	Approach to SoCG	7
2	Consultation and Engagement	8
2.1	Introduction	8
2.2	Consultation and Engagement Summary	8
3	Agreement Log	14
3.1	Overview	14
3.2	General	15
4	Summary	19

Tables

Table 2-1 - Summary of pre-application and post-application consultation with NRIL	8
Table 3-1 - Agreement logs position status key	14
Table 3-2 - General Topics agreed, in discussion or not agreed with NRIL	15

Glossary

Term	Definition
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for one or more Nationally Significant Infrastructure Project (NSIP).
The Applicants	The Applicants for the Projects are RWE Renewables UK Dogger Bank South (East) Limited and RWE Renewables UK Dogger Bank South (West) Limited. The Applicants are themselves jointly owned by the RWE Group of companies (51% stake) and Masdar (49% stake).
The Projects	DBS East and DBS West (collectively referred to as the Dogger Bank South Offshore Wind Farms).

Acronyms

Acronym	Definition
BAPA	Basic Asset Protection Agreement
DBS	Dogger Bank South
DCO	Development Consent Order
ExA	Examining Authority
NRIL	Network Rail Infrastructure Limited
PINS	Planning Inspectorate
RR	Relevant Representation
SoCG	Statement of Common Ground

1 Introduction

1.1 Background

1. The Application is for development consent for the Applicants to construct and operate the proposed Projects under the Planning Act 2008. Further description of the Projects is available in **Chapter 5 Project Description, Figure 5-1** [APP-072].
2. This Statement of Common Ground (SoCG) has been prepared between RWE Renewables UK Dogger Bank South (West) Ltd and RWE Renewables UK Dogger Bank South (East) Ltd, ('the Applicants') and Network Rail Infrastructure Limited ('NRIL') to set out the areas of agreement and disagreement between the two parties in relation to the proposed Development Consent Order (DCO) application for the Dogger Bank South ('DBS') West Offshore Wind Farm and DBS East Offshore Wind Farm, collectively known as DBS Offshore Wind Farms (herein 'the Projects').
3. In drafting this SoCG, the Applicants have had regard to the Planning Act 2008: Examination stage for Nationally Significant Infrastructure Projects (Ministry of Housing, Communities and Local Government and Department for Levelling Up, Housing and Communities, 2024).
4. The need for a SoCG between the Applicants and NRIL is set out within the Rule 6 letter issued on 24th September 2024 by the Planning Inspectorate post-application of the Projects DCO.
5. This SoCG is intended to provide the Examining Authority (ExA) with a clear summary of discussions between the parties and has been structured to reflect topics which are of interest to NRIL, and which have been raised within **NRIL's Relevant Representation** [RR-010] to the Dogger Bank South Offshore Wind Farm DCO that has been submitted to the Planning Inspectorate pursuant to the Planning Act 2008.
6. It is the intention that this document will facilitate further discussions between the Applicants and NRIL and will provide the ExA with a clear overview of the level of common ground between both parties. This document will be updated throughout the Examination process.

1.2 Approach to SoCG

7. This SoCG has been developed during the pre-examination and examination phases of the Projects in accordance with discussions between the Applicants and NRIL.
8. The structure of this SoCG is as follows:
 - **Introduction:** background to the development of the SoCG.
 - **Consultation:** a summary of consultation to date.
 - **Agreement Log:** a record of the Applicants' position alongside NRIL's position.

2 Consultation and Engagement

2.1 Introduction

9. NRIL is a statutory undertaker responsible for maintaining and operating the railway infrastructure and associated estate. It owns, operates, maintains and develops the main rail network.
10. NRIL has identified that the Projects' development boundary interfaces with NRIL's operational railway between Beverley and Arram railway stations on the Hull Bridlington and Seamer railway line.
11. NRIL has been consulted on the Projects throughout the pre-application stage, as well as via non-statutory and statutory consultation under Section 42 of the Planning Act 2008.

2.2 Consultation and Engagement Summary

12. **Table 2-1** summarises the consultation that the Applicants have undertaken with NRIL as statutory or non-statutory consultation during the pre-application and post-application phases.

Table 2-1 - Summary of pre-application and post-application consultation with NRIL

Date	Form of Consultation	Topic	Summary of Consultation
Pre – Application			
24/04/2023	Email	Asset Protection Enquiry Questionnaire	Initial asset protection enquiry questionnaire submitted to assetprotectioneastern@networkrail.co.uk
24/04/2023	Email	Easement/Property Rights	Introductory email sent to NRIL's easements and wayleaves team to progress discussions on project requirements.
09/05/2023	Email	Asset Protection	Confirmation of contact details and meeting request from NRIL's asset protection team.
25/05/2023	Meeting	Project Introduction	The following topics were discussed during the call: <ul style="list-style-type: none"> Project overview;

Date	Form of Consultation	Topic	Summary of Consultation
			<ul style="list-style-type: none"> Network Rail asset protection enquiry processes and guidance; S.42 consultation; and Project consents and timescales
25/05/2023	Email to NRIL	Protective Provisions	Initial contact to NRIL's Town Planning/DCO team to request discussion on form of Protective Provisions for inclusion within DCO.
26/05/2023	Email from NRIL	Asset Protection Guidance	Asset protection general guidance and supporting standards documents provided to DBS by Alex Sapcote within NRIL ASPRO team.
26/05/2023	Email to NRIL	Schedule of Minimum Information	Submission of completed Schedule of Minimum Information forms to NRIL Easements and Wayleaves team.
05/06/2023	Letter	Statutory Consultation	Notification of statutory consultation period and information.
10/07/2023	Email to NRIL	Protective Provisions	Follow up email to NRIL to advise on Section 42 Consultation details and request discussion on Protective Provisions.
11/07/2023	Meeting	Clearance & Easement	Call with David Bradshaw to discuss DBS proposals, clearance process and next steps regarding easement discussions.
11/07/2023	Email from NRIL	Clearance & Easement	Email from David Bradshaw providing draft Heads of Terms and confirmation that business clearance submitted.
13/07/2023	Email to NRIL	Protective Provisions	Further email to NRIL's Town Planning/DCO team requesting discussion to progress form of Protective Provisions.
17/07/2023	Email from NRIL	Response to Section 42 Consultation	Response from NRIL to DBS Section 42 consultation, setting out NRIL requirements and contact details.

Date	Form of Consultation	Topic	Summary of Consultation
17/07/2023	Email from NRIL	Easement/Property Rights	Provisions of draft Network Rail approved plans and title for review
20/07/2023	Email to NRIL	Section 42 Response	Email to NRIL confirming receipt of Section 42 response and noting advice provided and follow up on Protective Provisions.
20/07/2023	Email to NRIL Email to DBS	Protective Provisions	Follow up email to new contact provided in S42 response requesting discussion on Protective Provisions.
28/07/2023	Email from NRIL	Protective Provisions	Request for further details of the DBS project and confirmation NRIL are seeking to instruct legal to progress Protective Provisions discussions.
08/08/2023	Email to NRIL	Protective Provisions	Follow up to request contact details for legal representative in relation to Protective Provisions.
14/08/2023	Email from NRIL	Clearance	Clearance certificates provided to DBS.
08/09/2023	Email from NRIL	Protective Provisions	Confirmation that Dentons were instructed by NRIL to progress Protective Provisions discussions.
10/09/2023	Meeting	Easement/Property Rights	Discussion on HoTs and commercial terms.
10/11/2023	Letter	Targeted Statutory Consultation	Targeted statutory consultation issued to NRIL.
06/02/2024	Email to NRIL	Design/Feasibility Requirements	Request for further information on input from NRIL into future feasibility studies and Basic Asset Protection Agreement (BAPA) requirements.
08/02/2024	Emails with NRIL	Design/Feasibility Requirements	Emails between NRIL and DBS regarding next steps for feasibility and confirming project details. Provision of advice and guidance/standards from NRIL in relation

Date	Form of Consultation	Topic	Summary of Consultation
			to feasibility design for UTX documents provided by NRIL's ASPRO team.
23/02/2024	Email from Dentons	Protective Provisions	Draft protective provisions provided.
28/02/2024	Meeting	Asset Protection	Call with NRIL ASPRO team to discuss BAPA process and project updates.
27/03/2024	Emails with NRIL	BAPA	Updates on progress of draft BAPA discussed.
09/04/2024	Email from NRIL	BAPA	Confirmation that draft BAPA to be provided in 3 weeks.
13/05/2024	Emails with NRIL	BAPA	Requested updates on BAPA progress. NRIL confirmed still in review.
10/06/2024	Meeting	Easement/Property Rights	Meeting with David Bradshaw to outline DBS position and provide offer on terms for property rights.
Post – Application			
26/06/2024	Email from NRIL	Easement/Property Rights	Initial confirmation HoTs were generally acceptable to NRIL.
01/07/2024	Email to NRIL	Easement/Property Rights	Further details issued outlining commercial position and comparable information.
10/07/2024	Email to NRIL	Easement/Property Rights	Further comparable information and justification issued.
23/07/2024	Letter	Section 56 Notice	Section 56 notification letter issued to NRIL.
26/07/2024	Email to Dentons	Protective Provisions	Email to Dentons with comments on the draft protective provisions.
05/08/2024	Emails with NRIL	Easement/Property Rights	Further discussions on comparable transactions and commercial values.

Date	Form of Consultation	Topic	Summary of Consultation
13/08/2024	Email from NRIL	Asset Protection	Email confirming primary contact going forward.
30/08/2024	Email from NRIL	Easement/Property Rights	Confirmation that HoTs agreed.
04/09/2024	Meeting	Framework Agreement/Protective Provisions and Easement/Property Rights	Meeting between NRIL and DBS to discuss DBS project updates, next steps relating to a Framework Agreement, NRIL Protective Provisions, Property Rights and BAPA requirements.
25/09/2024	Email from Dentons	Framework Agreement	Draft Framework Agreement provided.
27/09/2024	Email from Dentons	Protective Provisions	Further comments on draft protective provisions.
08/10/2024	Email to NRIL	SoCG	First draft SoCG provided to NRIL for consideration.
14/10/2024	Email from Dentons	Property Agreement	Draft Easement provided.
05/11/2024	Email/Letter from NRIL	BAPA	Provision of estimated costs and BAPA to DBS for review and signature.
05/12/2024	Email from NRIL	SoCG	Comments received from NRIL on the draft SoCG.
11/12/2024	Email to Dentons	Framework Agreement and Protective Provisions	Comments provided on the Framework Agreement and PPs.
11/12/2024	Email to NRIL	SoCG	Updated draft SoCG issued to NRIL for review.
08/01/2025	Email from Dentons	Framework Agreement and Protective Provisions	Further comments received from Dentons on the Framework Agreement and Protective Provisions.
21/02/2025	Email from Dentons	Property Agreement	Latest drafts of the deed of easement and option for the grant of easement provided.

Date	Form of Consultation	Topic	Summary of Consultation
06/03/2025	All parties call	Property Agreement	All parties call on deed of easement and option for the grant of easement
06/03/2025	Email from Dentons	Framework Agreement and Protective Provisions	Update on property agreement and seeking update on Framework Agreement and Protective Provisions.
13/03/2025	Email from Burges Salmon	Framework Agreement and Protective Provisions	Email to Dentons to confirm instructions are being sought on Framework Agreement and Protective Provisions.
04/04/2025	Email from Burges Salmon	Framework Agreement and Protective Provisions	Email to Dentons with comments on Framework Agreement and Protective Provisions.
08/04/2025	Email from Dentons	Framework Agreement and Protective Provisions	Further comments received from Dentons on the Framework Agreement and Protective Provisions.
23/04/2025	Email from Burges Salmon	Framework Agreement and Protective Provisions	Email to Dentons with further comments on Framework Agreement and Protective Provisions and request for an all parties call to finalise documents.

3 Agreement Log

3.1 Overview

13. The following sections of this SoCG summarise the level of agreement between the parties for each topic.
14. In order to easily identify whether a matter is 'agreed', 'not agreed' or 'under discussion', a colour coding system red, amber, green (RAG status) is used respectively within the 'position status colour' column as set out in **Table 3-1**.

Table 3-1 - Agreement logs position status key

Position Status	Position Status Colour
The matter is considered to be agreed between the parties.	Agreed
The matter is neither 'agreed' or 'not agreed' and is a matter where further discussion is required between the parties, for example where relevant documents are being prepared or reviewed.	Under discussion
The matter is not agreed between the parties, however the outcome of the approach taken by either the Applicant or Network Rail is not considered to result in a material impact to the assessment conclusions. Discussions have concluded.	Not agreed – No material impact
The matter is not agreed between the parties and the outcome of the approach taken by either the Applicant or Network Rail is considered to result in a materially different outcome on the assessment conclusions.	Not agreed – material impact

3.2 General

Table 3-2 - General Topics agreed, in discussion or not agreed with NRIL

SoCG ID	The Applicants' Position	Network Rail's Position	Position Status
Project Engagement			
1.	<p>The Applicants have adequately consulted with the Network Rail throughout all stages of the Projects to date and the summary of Consultation (section 2.2 of this SoCG) is a fair and accurate record of pre-application consultation.</p> <p>NRIL did not raise any issue on this subject throughout discussion or within their Relevant Representation. It is therefore considered by the Applicant that the matter is agreed.</p>		
Compulsory Acquisition & Land Rights			
2.	<p>The Draft DCO (Revision 4) [AS-130] includes powers to acquire compulsorily new rights across Network Rail property.</p> <p>Good progress has been made in relation to a voluntary property agreement required for DBS cables to cross underneath the railway. Heads of Terms have been agreed and negotiations on an Option for Easement are</p>	<p>In their Relevant Representation [RR-010] NRIL stated that it objects to any compulsory acquisition of rights over operational railway land and objects to the seeking of powers to carry out works in the vicinity of the operational railway until relevant agreements have been entered into by RWE.</p>	

SoCG ID	The Applicants' Position	Network Rail's Position	Position Status
	<p>progressing however there are some key outstanding points of disagreement which, as currently drafted, the Applicants consider pose a significant risk to the deliverability of the Projects, including a right to terminate the Option agreement on 12 month's written notice in favour of Network Rail and an obligation on the Applicants withing the Deed of Easement to cease operating / cut off supply should Network Rail require in the event of an emergency or if Network Rail are undertaking works to the railway..</p> <p>The parties are in the process of negotiations in respect of the Framework Agreement, and a draft Basic Asset Protection Agreement has been issued by NRIL which is currently under review.</p>	<p>Option for an Easement is currently being negotiated. A number of points remain outstanding to be agreement in respect of the option agreement and deed of easement, particularly pertaining to NRIL's termination rights, repair and maintenance of the apparatus and assignment of the deed of easement. It was discussed that the Applicant would provide further details on the design of the HDD which Network Rail could discuss with its asset protection department. Subject to those discussions, the Applicant would then propose alternative drafting acceptable to the Applicant.</p> <p>However, for the asset protection agreements, NRIL require the Applicant to enter into a Framework Agreement which requires the parties to enter to the relevant asset protection agreement prior to carrying out the works.</p>	
Protective Provisions			

SoCG ID	The Applicants' Position	Network Rail's Position	Position Status
3.	Protective Provisions for the benefit of Network Rail have been included in Part 5 of Schedule 15 to the Draft DCO (Revision 4) [AS-130]. The Applicants consider that the form of protective provisions included within the Draft DCO provide sufficient protection to NRIL's undertaking and interests. Discussions are ongoing between parties to reach agreement.	In their Relevant Representation [RR-010] NRIL stated that it welcomes the inclusion of its protective provision in its favour in the submission draft of the DCO. However, the protective provisions included in the draft order are not the agreed version or Network Rail's standard protective provision and therefore NRIL require their standard protective provisions on the face of the Order.	
Asset Protection			
4.	NRIL's ASPRO team have been engaged since 2023 and have provided relevant standards and guidance to inform design. There is no objection in principle to the proposal for trenchless crossings in this location. Business and Technical Clearance certificates were issued to the Applicants in July 2023.	In their Relevant Representation [RR-010] NRIL stated that clearance is a two-stage process by which Network Rail's technical and asset protection engineers review a proposal before clearance can be granted for a proposal to proceed. The clearances were granted subject to conditions, which RWE have been notified of. As the proposed route of the electricity cable is via an under track crossing a BAPA will need to be entered into to install the UTX cable(s)..	
Transfer of Benefit			

SoCG ID	The Applicants' Position	Network Rail's Position	Position Status
5.	<p>The Applicants consider that Article 5(8)(e) is an appropriate provision to include in the Draft DCO (Revision 4) [AS-130 and AS-131] to allow for the transfer of the benefit of the Order where the timeframe for compensation claims has passed.</p> <p>The Protective Provisions in favour of NRIL included in Part 5 to Schedule 15 of the Draft DCO (Revision 4) [AS-130] will remain in place where any such transfer occurs. These will need to be complied with irrespective of the person who has the benefit of the Order.</p>	<p>In their Relevant Representation [RR-010] NRIL stated that it is concerned that Article 5(8)(e) of the Draft DCO (Revision 4) [AS-130] enables the benefit of the provisions of the Order to be transferred or leased to any person without the approval of the Secretary of State where the timeframe for all compensation claims has passed and all claims have been settled. Network Rail request that Article 5(8)(e) is deleted.</p>	

4 Summary

15. This SoCG has outlined the consultation and engagement that has taken place between the Applicants and NRIL during the pre-application and Examination phases. The agreement logs present the position reached at the point of Deadline 4 between the Projects and Network Rail in relation to relevant onshore matters.
16. This SoCG will be updated as discussions progress and made available to PINS as requested through the DCO examination phase.

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