

**From:** [REDACTED]  
**To:** [Mona Offshore Wind Project](#)  
**Cc:** [REDACTED]  
**Subject:** Application by Mona Offshore Wind Limited for an Order Granting Development Consent for the Mona Offshore Wind Farm -response to ExQ2.6.10 at Deadline 6  
**Date:** 20 December 2024 17:14:31  
**Attachments:** [Response to ExQ2.6.10 - Awel y Môr Offshore Wind Farm Limited.pdf](#)

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Dear Planning Inspectorate,

**Application by Mona Offshore Wind Limited for an Order Granting Development Consent for the Mona Offshore Wind Farm (Planning Inspectorate reference EN010137)**

**Interested Party Reference number: 20048441**

Please find attached Awel y Môr Offshore Wind Farm Limited's response to ExQ 2.6.10, including annexed protective provisions, being provided at Deadline 6 in accordance with the examining authority's request in its ExQ2.

Yours faithfully,

Oliver Spencer

**Oliver Spencer**

Senior Legal Counsel | Unit Offshore Wind | Regulatory

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**APPLICATION BY MONA OFFSHORE WIND LIMITED FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE MONA OFFSHORE WIND FARM (PROPOSED DEVELOPMENT)**

**RESPONSE TO EXAMINING AUTHORITY'S FURTHER WRITTEN QUESTION 2.6.10 ON BEHALF OF AWEL Y MÔR OFFSHORE WIND FARM LIMITED**

<b>ExQ2</b>	<b>Question to:</b>	<b>Question:</b>	<b>Response:</b>
<b>2.6 Compulsory Acquisition (CA) and Temporary Possession (TP)</b>			
Q2.6.10	<i>Awel y Môr Offshore Wind Farm Limited (and others)</i>	<p><b>Planning Act 2008 (PA2008) s127 and s138 cases to satisfy the Secretary of State</b></p> <p>These matters will be explored further at hearings during the week commencing 9 December 2024, at which your presence will be requested. At Deadline 6, either in response to this question or as a written statement of oral representations given at a relevant hearing, can you:</p> <ul style="list-style-type: none"> <li>• Provide an update with regards to agreeing outstanding matters with the Applicant; and</li> <li>• Provide any comments you wish to make, with reasoning, on the s127 and s138 cases (as appropriate) that will have been submitted by the Applicant at Deadline 5.</li> </ul>	<p>Further to the joint position statement provided at Deadline 5 (REP5-084) the Applicant and Awel y Môr Offshore Wind Farm Limited (<b>AyM</b>) have continued to discuss the form of protective provisions required to be included in the draft development consent order for the protection of AyM.</p> <p>Substantial progress has been made and the protective provisions are now in agreed form, save in respect of one matter relating to the land parcels containing the mean of access from the public highway and the private road to the Bodwelyddan substation. These land parcels are within the Order limits of The Awel y Môr Offshore Wind Farm Order 2023 (<b>Awel y Mor DCO</b>) and overlap with the powers sought by the Applicant as part of the Proposed Development, as shown on Sheet 3 of the Overlay plans (REP1-019).</p> <p>The relevant Work Nos. are Work Nos. 39 and 41 in the Awel y Môr DCO. The corresponding and overlapping works in the draft development consent order for the Proposed Development are Work Nos. 30 and 38.</p> <p>Work Nos. 39 and 41 comprise a construction access to AyM's works in the vicinity of the Bodwelyddan Substation and the only operational means of access to them. It is therefore of fundamental importance to AyM that its powers to use the access and private road during construction and operations are not impeded.</p>

			<p>The draft development consent order for the Proposed Development would authorise the Applicant to compulsorily acquire rights in the land plots relating to Works No. 30 and 38 of the Proposed Development, including the extinguishment of any existing rights, as well as to take temporary possession of the land.</p> <p>The overlapping powers sought by the Applicant in the draft development consent order therefore have the potential to impede the delivery of Awel y Môr, a consented nationally significant infrastructure project. AyM will co-operate with the Applicant and other users of the private road during the construction phase of the respective projects to reduce impacts where practicable but cannot be placed in a situation where its ability to implement and operate its consented project is potentially impeded by the grant and exercise of the powers sought under the draft development consent order.</p> <p>A related matter concerns the scope of the intended use of Work Nos. 30 and 38 by the Applicant.</p> <p>At Deadline 5, the Applicant updated the draft development consent order (REP5-007) to revise the description of Works No. 30 and 38 as follows (emphasis added):-</p> <p><i>Work No. 30: permanent access <u>during construction, operation, maintenance and decommissioning</u>;</i></p> <p><i>Work No 38: permanent accesses <u>during construction, operation, maintenance and decommissioning</u>;</i></p> <p>These changes are of concern to AyM as the draft development consent order would authorise the Applicant to use the private road within Work Nos. 30 and 38 during the construction as well as the operational stage of the Proposed Development. This could give rise to significant delivery implications for the Awel y Môr project in the event that AyM's ability to use the private road within Work Nos. 30 and 38 is impeded or disrupted by construction vehicles serving the Proposed Development. The potential for wider use of Work Nos. 30 and 38 by construction vehicles associated with the Proposed Development would present an unacceptable risk of conflict with the Awel y Môr project.</p>
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			<p>AyM understands from comments made by the Applicant during the examination that it only intends to use the private road within Work No. 30 for a limited period during the construction of the Proposed Development in order to form the working area included in Work No. 28, following which its construction access will be taken through Work No. 27.</p> <p>However, AyM is not aware that, in the absence of agreed protective provisions, the proposed limited use of Work No. 30 during construction as described above is formally secured under the draft development consent order.</p> <p>AyM's position is that given the imperative of access requirements for the construction and operation of the Awel y Môr project, the outstanding matter regarding access should be addressed by including the form of protective provisions annexed to this response. These provisions provide that the Applicant may not acquire any rights in land within the Awel y Môr DCO Order limits without AyM's consent, and that AyM is able to regulate works relating to the access and private road to ensure that its use by the Applicant does not impede the delivery of the Awel y Môr project.</p> <p>Whilst as noted the matter of access is not currently agreed with the Applicant, AyM remains in dialogue with the Applicant with a view to reaching agreement on this matter in order that an agreed set of protective provisions may be included in the draft development consent order by the end of the examination.</p>
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**Annex overleaf – Protective provisions for the protection of Awel y Môr**

## **Annex– Protective provisions for the protection of Awel y Môr**

### **PART [ ]**

#### **For the protection of Awel y Môr**

**1.** The provisions of this Part apply for the protection of Awel y Môr unless otherwise agreed in writing between the undertaker and Awel y Môr.

**2.** In this Part—

“apparatus” means the cables, switchgear, structures or other infrastructure owned, occupied or maintained by Awel y Môr or its successor in title within the Awel y Môr Order Land;

“Awel y Môr” means an undertaker with the benefit of all or part of the Awel y Môr Order for the time being;

“Awel y Môr Onshore Works” means the proposed location within the Awel y Môr Order land for any electrical circuit(s), electrical substation infrastructure, construction compound(s) and other onshore infrastructure and works (whether temporary or permanent in nature) authorised by the Awel y Môr Order or by any planning permission intended to operate in conjunction with the Awel y Môr Order;

“Awel y Môr Order” means the development consent order made by the Secretary of State in relation to the Awel y Môr Offshore Wind Farm on 19th September 2023;

“Awel y Môr Order land” means Order land as defined in the Awel y Môr Order;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“Overlap area” means those parts of the Order limits that includes such parts of the Awel y Môr Order land comprising the land within plots 11-200, 11-201, 11-202, 11-203, 11-204, 11-205, 11-206, 11-207, 11-221, 11-222, 11-223, 11-224, 11-225, 11-226, 11-227, 11-231, 11-232, 11-234 and 11-235 shown on the land plans and described in the book of reference;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Awel y Môr Order land;

“specified works” means so much of any works or operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

- (a) within the Overlap area;
- (b) in, on, under, over or within 15 metres of the Awel y Môr Onshore Works or any apparatus; or
- (c) may in any way adversely affect any apparatus; and

“temporary works” so much of the specified works which are temporary works as set out within the Order.

**3.** The consent of Awel y Môr under this Part is not required where the Awel y Môr Order has expired without the authorised development having been commenced pursuant to any requirement of Schedule 2 to the Awel y Môr Order.

**4.** Where conditions are included in any consent granted by Awel y Môr pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Awel y Môr.

**5.** The undertaker must not under the powers of this Order—

- (a) acquire, extinguish, suspend, override or interfere with any rights that Awel y Môr has in respect of any apparatus or the Awel y Môr Onshore Works;

- (b) acquire the Awel y Môr Order land or acquire any new rights or impose restrictive covenants or exercise any powers of temporary use over or in relation to the Awel y Môr Order land, without the consent of Awel y Môr, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

6.—(1) The undertaker must not under the powers of this Order carry out any specified works without the consent of Awel y Môr, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if Awel y Môr does not respond within 56 days then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and not less than 56 days before beginning to construct any specified works, the undertaker must submit plans of the specified works to Awel y Môr and must submit such further particulars available to it that Awel y Môr may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by Awel y Môr.

(4) Any approval of Awel y Môr required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus within the Overlap area or the Awel y Môr Onshore Works or for securing access to any apparatus within the Overlap area or the Awel y Môr Onshore Works.

(5) Where Awel y Môr requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to Awel y Môr's reasonable satisfaction.

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

7.—(1) The undertaker must give to Awel y Môr written notice of completion not more than 14 days after the completion of any specified works.

(2) The undertaker is not required to comply with paragraph 6 or sub-paragraph (1) of this paragraph in a case of emergency, but in that case it must give to Awel y Môr notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonable practicable subsequently and must comply with paragraph 6 in so far as is reasonably practicable in the circumstances.

8. The undertaker must at all reasonable times during construction of the specified works allow Awel y Môr and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

9.—(1) After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from Awel y Môr requiring the undertaker to do so, remove the temporary works, in, on, under, over, or within the Overlap area.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Awel y Môr may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

10. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus or the Awel y Môr Onshore Works is materially obstructed, the undertaker must provide such alternative means of access to such apparatus or the Awel y Môr Onshore Works as will enable Awel y Môr to maintain or use the apparatus or access the Awel y Môr Onshore Works no less effectively than was possible before the obstruction.

11. Subject to paragraph 10, the undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Awel y Môr to the Awel y Môr Onshore Works.

12. To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order within the Overlap area request up-to-date written confirmation from Awel y Môr of the location of any apparatus or the Awel y Môr Onshore Works.

**13.** The undertaker and Awel y Môr must each act in good faith and use reasonable endeavours to co-operate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

**14.** The undertaker must pay to Awel y Môr the reasonable expenses incurred by Awel y Môr in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the Awel y Môr Onshore Works.

**15.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, use, maintenance or failure of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Awel y Môr, or Awel y Môr becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Awel y Môr in making good such damage or restoring the service or supply; and
- (b) indemnify Awel y Môr for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Awel y Môr, by reason or in consequence of any such damage or interruption or Awel y Môr becoming liable to any third party as aforesaid.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Awel y Môr, its officers, servants, contractors or agents.

(3) Awel y Môr must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Awel y Môr must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 15 applies. If requested to do so by the undertaker, Awel y Môr shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 15 for claims reasonably incurred by Awel y Môr.

(5) The fact that any work or thing has been executed or done with the consent of Awel y Môr and in accordance with any conditions or restrictions prescribed by Awel y Môr or in accordance with any plans approved by Awel y Môr or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

**16.** Any dispute arising between the undertaker and Awel y Môr under this Part must be determined by arbitration under article 46 (arbitration).