

Date: 28 April 2025
Our ref: 509952
Your ref: EN010164



Andrea Mageean – Lead member of ExA
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

Hornbeam House
Crewe Business
Park Electra Way
Crewe
Cheshire CW1
6GJ

T 0300 060 3900

VIA WEBSITE ONLY

Dear Andrea,

**Application by Xlinks 1 Limited for an Order Granting Development Consent for the Xlinks
Morocco-UK Power Project “Xlinks” – Rule 6 letter.**

Interested Party Reference number: 20055564

Thank you for your consultation dated 08 April 2025. The following constitutes Natural England’s formal statutory response to the Rule 6 Letter. Natural England is an Interested Party (IP) within the examination of the Xlinks Morocco-UK Power Project.

Please accept this letter as Natural England’s comments in relation to the contents of the Rule 6 letter and an overview of how Natural England proposes to provide our statutory advice to the Examining Authority (ExA) during the examination phase of the project.

1. Overview of Natural England’s engagement with the Examination

Natural England recognises the significant contribution NSIPs make to delivering the Government’s green energy ambitions and net zero target, and the importance of our advice in securing positive environmental outcomes.

Whilst Natural England remains committed to engaging in NSIP examinations and meeting our statutory obligations, the approach we will be taking, which we have discussed with the Planning Inspectorate for Offshore windfarm examinations and more widely, will involve:

- Only attending Issue Specific Hearings by exception and focusing our engagement where there is the greatest prospect of significant environmental risks being resolved.
- Having a narrower focus on our engagement in the Statement of Common Ground (SoCG) process, with a focus primarily on Principal Areas of Disagreement Summary Statements (PADSS) and our Risk & Issues Log.

In addition, we are also concerned that if there is submission of substantial new evidence, particularly if occurring late in the Examination process, this will put undue pressure on Natural England’s staff. Whilst we seek to meet Examination timeframes wherever possible, our concern is that our ability to do this will be affected if significant additional information is submitted. In these circumstances, Natural England will use its best endeavours, but we will provide advice to the Examining Authority on what we consider is achievable in the circumstances.

2. Attendance of the Preliminary Meeting

Thank you for your invitation to the Preliminary Meeting on the 20th May 2025. Natural England will not be attending, but hope this letter will suffice in providing our input into this meeting.

3. Accompanied Site Inspections (ASI)

Natural England does not plan to attend any site inspections, noting we are not permitted to provide advice during these visits.

4. Compulsory Acquisition Hearings (CAH)

Natural England does not plan to attend any Compulsory Acquisition Hearings, as these fall outside of our remit.

5. Issue Specific Hearings (ISH)

Natural England will only attend hearings by exception, targeting those ISHs that have the greatest likelihood of resolving significant environmental risks. In such instances our attendance will be virtual. We highlight that where Natural England does not attend hearings, this should not be construed as a lack of concern on outstanding issues, as opposed to the likelihood of these being resolved.

Natural England would be pleased to respond to any questions from the ExA that arise from the hearings at a subsequent deadline.

As regards the first set of hearings, to date we are not aware of any significant progression of key issues since the submission of our Relevant Representations, and we are not aware of any new information from the Applicant that is proposed to be discussed in the initial hearings. Therefore, we will not be attending ISH 1 on 21st May 2025.

6. Engagement with the Applicant

During the Examination Natural England will, where possible, engage with the Applicant to ensure issues are progressed. Natural England will focus our engagement on key issues where the proposals are being amended in response to concerns, or where new or updated assessments present an opportunity for issue resolution.

7. Statement of Common Ground (SoCG), Principal Areas of Disagreement Summary Statements (PADSS) and other progress tracking documents.

Natural England will submit our own Risk and Issues log at Deadline 1, and updates to the log will be provided at all subsequent Deadlines. This will include any relevant points regarding ongoing engagement with the Applicant. We hope this will be of assistance to the ExA in understanding Natural England's current outstanding issues and on demonstrating progress on issue resolution. We also hope that the log and our PADSS will assist the Applicant in drafting or updating their SoCGs as required by the ExA.

Natural England advises that it will still be necessary for the Applicant to reflect any additional commitments in updated Named Plans, Technical Notes, DCO/dML conditions etc., and where appropriate Environmental Statement (ES) chapters. These documents will be the focus of our review and written submissions at each Deadline, and they provide a clear audit trail of commitments through the Examination that is readily available in the post consent phase. Should these documents not be updated, Natural England has concerns that any responses and commitments made by the Applicant are unlikely to be translated effectively into the post consent phases.

8. Response to Deadlines

Throughout the examination it is anticipated that numerous documents will be submitted and published on the PINS website. Natural England will screen all documents; however, we will only conduct detailed review and provide feedback on documents deemed relevant to our statutory function and the issues we have raised. We will advise the ExA in writing at each Deadline of which documents we have reviewed. If there is a document Natural England has not reviewed that the ExA wishes to have our advice on, then please inform us as soon as possible and we will endeavour to review ahead of the next Deadline or

advise at which Deadline comments can be expected. Any documents not listed within our Deadline responses should be assumed to have not undergone detailed review by Natural England.

9. Submission of Additional Information

Provision of large amounts of new or updated information during the Examination presents major challenges for consultees, particularly when engaged with multiple overlapping cases. Whilst Natural England will always make best endeavours to respond to submissions in a timely fashion, it cannot be guaranteed that all documents submitted will be reviewed by the following Deadline. Regularly updated information from the Applicant regarding the predicted submissions and arrival times can help manage this to some extent and we encourage the ExA to seek this.

Furthermore, Natural England will not provide a response to documents allowed to be submitted into Examination 'between' Deadlines. Should there be documents submitted between Deadlines, we suggest these are issued at the next appropriate Deadline, and we will respond at the following Deadline, or if time does not allow the subsequent Deadline.

10. Submissions of other parties

We highlight that Natural England does not intend to comment on any direct responses by the Applicant or other IPs on our representations unless new technical information is included.

More generally, Natural England will not respond on the submissions of other parties unless we become aware of a fundamental point of clarity which is required. Our focus will be on providing advice under our remit on nature conservation concerns, rather than advising on the merits of the submissions of others.

11. Report on the Implications for European Sites (RIES)

Natural England notes that only submissions up to Deadline 3 will be considered in the RIES. As a result, the RIES will not take account of updated advice on various Habitats Regulations Assessments (HRA) aspects beyond that point. Natural England recommends that the RIES is updated before it is included alongside the ExA report to the Secretary of State (SoS), so that a full account of the Examination's consideration of HRA matters is presented in one place.

Nevertheless, as previously advised to PINS and BEIS, Natural England does not consider consultation on the RIES adequately discharges the statutory requirement to consult Natural England on Appropriate Assessments.

12. Draft Examination Timetable

- Natural England notes that the first set of ExA's written questions (ExQs) currently has no publication date, but does have a response date of D2 18th June. It would be helpful if these could be received before or as soon after D1 in order for us to respond on D2.
- Natural England highlights that there is less than 10 working days between D5 and D6 (28th October). Given that D6 is the last deadline and SoCG and final statements are all required for that deadline, we would request a greater duration between the deadlines, especially given the examination does not close until 20th November.
- We also note that there are only 6 deadlines, which we have noticed for complex cases is insufficient. It may be that the ExA may consider additional deadline/s during examination, but based on our experience on recent offshore windfarm examinations our specialist resource/engagement is fixed/secured on the basis of the Rule 8 letter deadlines. Therefore, limited advice is likely to be provided at these additional deadlines, and subsequent ones depending on the number of additional submissions from the Applicant.

13. Other matters

Natural England recognises that acceptance of additional submissions prior to examination is at the ExA discretion, but we note there may be benefits in sharing advice ahead of the start of examination on the premise of aiding issue resolution. Therefore, we have included Natural England's advice on the Applicant's DCO/dML (Ref. Appendix A accompanying this letter) within our Pre-Examination Procedural response for the ExA's consideration.

We hope these comments assist the ExA at the Preliminary Hearing. For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely

[REDACTED]
Higher Officer – Sustainable Development
Devon, Cornwall and Isles of Scilly Team
Tel: [REDACTED]
Email: [REDACTED] [@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk)



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES
2010

Xlinks Morocco-UK Power Project "Xlinks"

Appendix A Natural England Pre-Examination Procedural Deadline

**Natural England's advice on the Applicants Development Control Order/deemed
Marine Licence (DCO/dML) and Explanatory Memorandum**

For:

The construction and operation of Xlinks Power Project, located within the Celtic Sea with
landfall within North Devon

Planning Inspectorate Reference EN010164

28 April 2025

Appendix A – Natural England’s advice on the Applicants Development Control Order/deemed Marine Licence (DCO/dML) and Explanatory Memorandum

In formulating these comments, the following documents have been considered:

- [APP-016] 3.1 Draft Development Consent Order
- [APP-017] 3.2 Explanatory Memorandum
- [APP-057] 6.1.3 Environmental Statement Volume 1, Chapter 3: Project Description

1. Natural England’s Advice and Recommendations

A summary of Natural England’s key concerns in relation to the draft development Consent Order (DCO) is set out in Table 1. Our detailed advice and recommendations are presented in further detail in Table 2. This information is provided in advice of the start of examination to aid issue resolution.

NB: An explanation on the RAG status used is included in Table 3.

Table 1 Summary of Key Issues – DCO/dML

NE Ref	Summary of Key Concerns	Natural England's Recommendations to Resolve Issues.	Risk
A1	The DCO includes an outdated arbitration clause which allows for arbitration against the Marine Management Organisation, Secretary of State and Trinity House.	Natural England advises that this is amended to match more recent decisions such as Hornsea Project 3, Norfolk Vanguard or Norfolk Boreas.	
A2	The DCO and deemed Marine Licence (dML) do not provide any maximum for the amounts of cable protection or dredge/disposal granted within this licence.	The maximum scope of the construction envelope should be secured within the DCO and dML as a matter of good licensing practice.	

Table 2 Natural England's Detailed Advice and Recommendations – DCO/dML

Natural England's Key Considerations	Natural England's Advice				
Relevant and Written Representations	NE Ref	Ref	Comment	Recommendation	Risk (RAG)
Development Consent Order					
Development Consent Order	A3	Article 58	Whilst not directly related to Natural England, the issue of arbitration does have implications for Natural England and as such we have previously worked closely with the MMO to resolve this matter on other cases. Therefore, Natural England highlights that this article allows for arbitration against both the Marine Management Organisation, Trinity House and the Secretary of state. The use of arbitration to fetter the decision-making power of these organisations was disputed during the Hornsea Three, Norfolk Boreas and Norfolk Vanguard Examinations and the Secretary of State in all three cases determined that arbitration should not apply to these organisations. That arbitration provision has been used on all offshore PINS related projects since.	Natural England requests this article be amended to match those applied on the Hornsea 3, Boreas and Vanguard DCOs.	
	A4	General	Natural England notes that at no point within the DCO or dML has the maximum volume and area of cable protection or dredge/disposal been defined. These volumes are an important maximum to identify as they outline a significant proportion of the environmental impact of the project. They are included as a standard within offshore developments with	Natural England advises that the requirements and dML should be updated to outline the maximum volumes and area of cable protection, dredge and the maximum volumes of disposal.	

Natural England's Key Considerations	Natural England's Advice				
Relevant and Written Representations	NE Ref	Ref	Comment	Recommendation	Risk (RAG)
			cabling, see East Anglia Two DCO for an example.		
	A5	Schedule 2 requirements 6,7 and 9	These requirements detail ecological mitigation. However, Natural England notes they do not require the local planning authority to consult with the Relevant Statutory Nature Conservation Body (SNCB) on their sufficiency prior to approval.	Natural England advises that these requirements are amended to require consultation with the relevant SNCB prior to approval.	
	A6	Schedule 2 requirement 10	This requirement refers to consultation with Natural England. This should be amended to the relevant SNCB. This responsibility currently resides with Natural England. However, for plans and projects with long lifespans this amendment would future proof the DCO against potential changes.	Natural England advises that the requirement is amended as detailed.	
	A7	Schedule 2	Natural England notes that there are no requirements within this schedule to secure any commitments to delivering, monitoring and maintaining any Biodiversity Net Gain (BNG).	Natural England recommends that consideration is given to including a requirement to secure BNG.	
	A8	Schedule 9 Part 2 Condition 14 (1) (c)(hh)	Within the ES project description mitigation table 3.18 OFF03 commitment OFF03 states to avoid/minimise impacts to geogenic and biogenic reefs the final cable route will be micro-sited. However, this condition provides for micro-siting around geogenic reef only.	Natural England advises that this condition should be amended to state micro siting around both geogenic and biogenic reef features. And preferably all habitats protected under Section 40/41 of NERC (2006)	

Table 3 Natural England's risk attribution and determination of the potential to resolve both risks and issues identified with the NSIP Application and associated documents:

Structure / Framework	Risk
Purple: Note for Examiners and/or competent authority. May relate to DCO/DML	
<p>Red: Natural England considers that unless these issues are resolved it will have to advise that (in relation to any one of them, and as appropriate) it is not possible to ascertain beyond reasonable scientific doubt that the project will not affect the integrity of an SAC/SPA and/or significantly hinder the conservation objectives of an MCZ and/or damage or destroy the interest features of a SSSI and/or have significant adverse effect on the statutory purpose of a national landscape and/or comply fully with the Environmental Impact Assessment requirements.</p> <p>Addressing these concerns may require the following:</p> <ul style="list-style-type: none"> • new baseline or survey data; • significant revisions to baseline characterisation and/or impact modelling; • significant design changes; • significant mitigation; and/or • Compensation/Measures of Equivalent Environmental Benefit <p>Natural England considers that issues given Red status are so complex, or require the provision of so much outstanding information, that they are unlikely to be resolved during the Examination, and respectfully suggests that they be addressed prior to a decision being made. NB: Project showstoppers may occur in instances where mitigation measures are unable to avoid/reduce impacts to acceptable levels, and the compensation measures presented are unlikely to offset the predicted damage. For example: where rare and irreparable protected features may be impacted.</p>	
<p>Amber: Natural England does not agree with the Applicant's position or approach and consider that this could make a material difference to the outcome of the decision-making process for this project.</p> <p>Natural England considers that these matters <u>may</u> be resolved through:</p> <ul style="list-style-type: none"> • provision of additional evidence or justification to support conclusions; and/or • revisions to impact assessment methodology and/or assessment conclusions; and/or • minor to moderate revisions to impact modelling; and/or • well-designed mitigation measures that are adequately secured through the draft DCO/dML and/or • amendments to draft plans 	

<p>If these issues are not addressed or resolved by the end of the Examination, then they may become a Red risk as set out above.</p>	
<p>Yellow: Natural England doesn't agree with the Applicant's position or approach. We would ideally like this to be addressed but are satisfied that for this project it is unlikely to make a material difference to our advice or the outcome of the decision-making process. However, we reserve the right to revise our opinion should further evidence be presented.</p> <p>It should be noted by interested parties that just because these issues/comments are not raised as significant concerns in this instance, it should not be understood or inferred that Natural England would be of the same view in other cases or circumstances.</p>	
<p>Green: Natural England is in broad agreement with the Applicant's approach and has no significant outstanding concerns. As above, we reserve the right to revise our opinion should new evidence be presented.</p>	