



For and on behalf of  
**BAE Systems**  
Interested Party Reference No.  
**20053944**

## **DEADLINE 2 – COMMENTS ON SUBMISSIONS MADE AT DEADLINE 1**

### **Morecambe and Morgan Offshore Wind Farms Transmission Assets DCO Examination**

**Prepared by  
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<b>CONTENTS</b>	<b>PAGE</b>
<b>1.0 Introduction .....</b>	<b>4</b>
<b>2.0 The Applicants' Deadline 1 Cover Letter .....</b>	<b>4</b>
<b>3.0 The Applicants' Response to Hearing Action Points due at Deadline 1.....</b>	<b>6</b>
<b>4.0 The Applicants' Hearing Summary of the Issue Specific Hearing 1: Day 1.....</b>	<b>10</b>
<b>5.0 The Applicants' Hearing Summary of the Issue Specific Hearing 1: Day 2.....</b>	<b>10</b>

## 1.0 INTRODUCTION

1.1 This Statement sets out BAE Systems' comments on submissions made by the Applicants at Deadline 1. It provides comments on the following submissions:

- The Applicants' Deadline 1 Cover Letter (Document S\_D1-1 / Examination Library Ref: REP1-001)
- The Applicants' Response to Hearing Action Points due at Deadline 1 (Document S\_D1\_5 / Examination Library Ref: REP-037)
- The Applicants' Hearing Summary of the Issue Specific Hearing 1: Day 1 (Document S\_D1\_2 / Examination Library Ref: REP1-034)
- The Applicants' Hearing Summary of the Issue Specific Hearing 1: Day 2 (Document S\_D1\_3 / Examination Library Ref: REP1-035)

1.2 BAE Systems' comments on these documents below also make reference to other Examination Library documents, where the above-listed documents contain cross references to such documents.

1.3 BAE Systems also notes that the Defence Infrastructure Organisation (DIO) has provided comments at Deadline 1 (Examination Library Reference REP1-075). The DIO objects to the proposed development on the bases that there is currently insufficient information to allow necessary assessments to be completed for the determine whether the development could result in an increased risk of bird strike and the degradation of aviation safety in general. These comments echo BAE Systems submissions at various stages of the Examination.

## 2.0 THE APPLICANTS' DEADLINE 1 COVER LETTER

2.1 The Applicants' covering letter to in respect if their Deadline 1 submissions states the following in relation to the engagement undertaken with BAE Systems:

*"The Applicants met with ..... BAE Systems on Monday 12 May and again on Monday 19 May, in relation to agreeing a strategic approach to resolving concerns related to potential bird strike associated with the proposed ecological mitigation areas. A proposal has been discussed with Blackpool Airport and BAE Systems and submitted to both stakeholders for consideration."*

2.2 In relation to the above comment, the Applicants have not provided BAE Systems with a substantive proposal for resolving the organisation's bird strike risk concerns. A high level strategy note has been provided the day before Deadline 2. This provides an overview of

the steps that would be taken to formulate a “Wildlife Hazard Management Plan”. The document received contains an outline of how the Applicants will identify baseline bird population data and very high level information on what will be included in a management plan. No information has been provided on how the appropriateness of mitigation measures will be assessed. Therefore, there is still disagreement between BAE Systems and the Applicants over the need for a Bird Strike Risk Assessment and the potential changes to bird numbers, concentrations and flight paths that need to be considered in such an assessment, and the extent of mitigation that may need to be considered in a Mitigation Plan.

- 2.3 BAE Systems has issued comments on the high level summary to the Applicants, stating that it omits a number of essential considerations, including an assessment of how bird strike risk may change as a result of the proposed development. BAE Systems’ Deadline 1 Representations (Examination Library Ref: REP1-112) provides a summary of what it would expect to see in a Bird Strike Risk Assessment and the types of mitigation that should be considered.
- 2.4 BAE Systems received a request from the Applicant one day before Deadline 2 for information to inform the baseline scenario in the above-referred to Wildlife Hazard Management Plan. The amount of information requested is significant and BAE Systems needs to consider whether there are any commercial sensitivities that may preclude the sharing of some information.
- 2.5 The Applicants’ Deadline 1 Covering Letter also states makes reference to the status of a Statement of Common Ground (SOCG) between the Applicants and BAE Systems. To clarify, the Applicants did provide BAE Systems with an outline SOCG ahead of Deadline 1. That SOCG covered numerous topics that were not of relevance to BAE Systems’ concerns or the discussions taking place between the Applicants and BAE Systems. BAE Systems considers that the outline SOCG was entirely unfit for purpose and requested that the Applicants provide a revised SOCG that focuses specifically on matters relating to the concerns raised by BAE Systems in its written representations and oral submissions (such as the need for various safeguarding assessments, bird strike risk, etc.). BAE Systems is committed to working towards a more detailed working draft of a SOCG with the Applicants ahead of Deadline 3.

### 3.0 THE APPLICANTS' RESPONSE TO HEARING ACTION POINTS DUE AT DEADLINE 1

3.1 The table below provides BAE Systems' comments on the Applicant's responses to relevant Action Points from Issue Specific Hearing 1 (ISH1).

ExA Action Point	Applicants' Response	BAE Systems' Comments
<u>ISH1_21</u>  Clarification on the AOD heights for both substations including the lightning rods	The Applicants response confirms that the heights referred to in the draft Development Consent Order (dDCO) and Volume 1, Chapter 3 of the Environmental Statement should be read as hights above finished ground level.	<p>BAE Systems made oral submissions during ISH in relation to inconsistencies in the submitted application documents over the proposed maximum heights of the substations and lightning rods (relating to whether stated heights are above finished ground level or above ordnance datum (AOD)) and requested that clarification is provided on the heights AOD. Heights AOD are considered necessary because they provided a fixed reference point (which will be needed for the necessary aviation safeguarding assessments that will need to be undertaken) and because finished ground levels are not identified in the application or the dDCO.</p> <p>The Applicants' response to ISH1_21 provides clarification of heights above finished ground level, not AOD. ISH1_21 requires the Applicants to clarify heights AOD. This clarification has not been provided.</p>
<u>ISH1_39</u>  Applicants to	The Applicants' response states that site selection for the mitigation and	During the meeting between the Applicants and BAE Systems on 19

ExA Action Point	Applicants' Response	BAE Systems' Comments
explain the site selection for the mitigation areas and biodiversity benefit sites and additional detail on those areas such as target species	biodiversity benefit sites was one of the topics discussed with BAE Systems on 19 May 2025.	<p>May 2025, the Applicants only provided BAE Systems with a high level overview of the site selection process. Details were not provided on how aviation impacts were considered in the site selection process, and what weight was given to them, or the alternatives that were considered. Details of target species was also limited.</p> <p>The meeting focused on the mitigation areas, with no information provided on how the biodiversity benefit sites were identified, why they have been proposed, or what factors were considered in the identification of the location of these sites.</p> <p>The Applicants have stated their intention to provide further details at Deadline 2. BAE Systems will review any submission made and provide comments at Deadline 3.</p>
<u>ISH1_40</u>  Applicants to provide an update with reasons on why aviation safeguarding assessments are not being	<p>The Applicants' response states the following:</p> <ol style="list-style-type: none"> <li>I. Warton Aerodrome is responsible for technical safeguarding of Obstacle Limitation Surfaces (OLS) and Communications and Navigation and Surveillance (CNS). BAE Systems is</li> </ol>	<p>BAE Systems' comments on the Applicant's responses are as follows:</p> <ol style="list-style-type: none"> <li>I. BAE Systems would be responsible for undertaking OLS, CNS and Instrument Flight Procedure (IFP) safeguarding assessments. However, as the Applicants are the party who would be</li> </ol>

ExA Action Point	Applicants' Response	BAE Systems' Comments
provided.	<p>therefore responsible for undertaking those safeguarding assessments.</p> <p>II. BAE Systems is also responsible for undertaking a bird strike risk assessment.</p> <p>III. The Applicants are confident that there would be no effect regarding OLS and CNS due to the presence of overhead pylons that would be higher than the proposed substations and lightning rods.</p> <p>IV. The Applicants are working with BAE Systems regarding appropriate mitigation for potential bird strike associated with the ecological mitigation areas.</p>	<p>creating a change in the area that means that such safeguarding assessments are necessary, BAE Systems will be requesting that the Applicants reimburse BAE Systems for the costs of undertaking those assessments.</p> <p>II. It is not BAE Systems' responsibility to undertake a bird strike risk assessment. That is the responsibility of the Applicants. BAE Systems (and now the Ministry of Defence (MOD) Defence Infrastructure Organisation (DIO) (see its written representations at Deadline 1 (Examination Library Ref: REP1-075)) have raised concerns over the potential for increased bird strike risk and objected to the proposed development on the basis that insufficient information has been provided to demonstrate potential aviation impacts, including bird strike risk. It is the Applicants' responsibility to demonstrate that increased risk would not occur or can be</p>

ExA Action Point	Applicants' Response	BAE Systems' Comments
		<p>mitigated. BAE Systems considers that the response provided by the Applicants does not provide a full justification for why the Applicants propose that a Bird Strike Risk Assessment is not necessary.</p> <p>III. Whilst the Applicants may be confident that there would be no OLS or CNS impacts, safeguarding assessments still need to be undertaken in line with the requirements of the Civil Aviation Authority's CAP738.</p> <p>IV. See the above comments on the Applicants' Deadline 1 Covering Letter (Examination Library Ref: REP1-001). There are still significant areas of disagreement between BAE Systems and the Applicant on the extent of assessment and mitigation that needs to be considered.</p>
<p><u>ISH1_41</u></p> <p>BAE Systems to provide an update on</p>	<p>Whilst this Action Point was posed to BAE Systems, the Applicants have also provided a response.</p>	<p>BAE Systems submitted a response to this Action Point at Deadline 1 (Examination Library Ref: REP1-111).</p> <p>BAE Systems' comments on the</p>

ExA Action Point	Applicants' Response	BAE Systems' Comments
process with various matters listed in its closing submission to the Morgan Offshore Wind Project Examination.		Applicants' response to this Action Point will be provided separately by BAE Systems legal advisors, Eversheds Sutherland, at Deadline 2.

#### 4.0 THE APPLICANTS' HEARING SUMMARY OF THE ISSUE SPECIFIC HEARING 1: DAY 1

- 4.1 Point 112 on page 26 of the Applicant's summary of ISH1 Day 1, makes reference to BAE Systems' request during Day 1 of ISH1 for clarity to be provided over the measurements for the maximum height of the substation buildings and lightning rod.
- 4.2 In its summary of Day 1 of ISH1, the Applicant has confirmed that the measurements will be updated in the dDCO at Deadline 2 to maximum metres above finished ground level.
- 4.3 As summarised in BAE Systems' summary of its ISH1 oral submissions (Examination Library Document Ref: REP1-110), the dDCO should use a maximum height above AOD, rather than above finished ground level. This is because AOD provides a fixed reference point, which is essential to enable a robust safeguarding assessment to be undertaken.

#### 5.0 THE APPLICANTS' HEARING SUMMARY OF THE ISSUE SPECIFIC HEARING 1: DAY 2

- 5.1 Point 62 on page 14 of the Applicants' summary of Day 2 of ISH1 states the following:

*"..... BAE is responsible for safeguarding their systems [at Warton Aerodrome], therefore any assessment which needs to be undertaken in relation to building heights is the responsibility of BAE in order to demonstrate compliance with its CAA licence. Notwithstanding this, the Applicants confirmed that they are working with BAE in order to provide the information needed for them to undertake the safeguarding assessment. The Applicants noted that the proposed substations are in close proximity to existing*

*pylons which are 42 metres tall; the proposed substations will be a maximum of 30m tall so there is already taller infrastructure in the vicinity.”*

5.2 BAE Systems has the following comments to make on the above:

- BAE Systems confirm that is responsible for undertaking / instructing safeguarding assessments in relation to OLS, IFP and CNS. However, as the Applicants would be the parties making the change in the area that could affect such equipment, BAE Systems require the Applicants to be responsible for the costs of undertaking these safeguarding assessments and any necessary mitigation that may be required.
- BAE Systems is not currently in a position to instruct the necessary safeguarding assessments due to information gaps and the absence of any binding commitment on the part of the Applicants with regard to costs recovery. The ExA will be aware from BAE Systems’ response to Issue Specific Hearing 1 Action Point 41 (Examination Library Reference REP1-111) that there are a number of unresolved aviation related matters in respect of the offshore generating assets, with very slow progress having been made since the completion of the examination for each of those projects. Constructive dialogue between BAE Systems and the Applicants is critical to ensuring that there isn’t a similar outcome to the onshore transmission assets examination.
- Whilst BAE Systems acknowledge that there are structures in the area that are taller than the proposed substations and lightning rods, safeguarding assessments are still required under CAP738.

5.3 Point 63 on page 14 of the Applicants’ summary of Day 2 of ISH1 states the following:

*“..... engagement with BAE specifically is ongoing in order to agree the strategy for a bird strike mitigation plan. The Applicants emphasised that Warton Aerodrome does have an existing bird strike mitigation plan in place, therefore anything provided to them will be to implement along with their existing mitigation plan – the Applicants maintain that further assessment is not required. There are birds in the area already, and it is not proposed that new or additional birds would be introduced to the area.”*

5.4 BAE Systems has previously provided submissions (in its Deadline 1 Written Representations (Examination Library Ref: REP1-112) on the Applicants’ position that a Bird Strike Risk Assessment is not require based on the Applicant’s belief that the number of birds in the area would not increase. These submissions are that a Bird Strike Risk Assessment is essential for the following reasons:

- The Applicants have provided no evidence that overall bird numbers in the area will not change. An assumption has been made that because only mitigation habitat is provided, birds will be displaced from one area to another and there would be no increase. BAE Systems is concerned that this is an over-

simplification, and an assessment is essential to confirm if this is the case. The assessment should consider whether mitigation and biodiversity benefit sites that are not specifically providing bird habitat could unintentionally attract birds.

- It is not just the overall number of birds that gives rise to concerns for BAE Systems. Increases in concentrations of birds in close proximity to Warton Aerodrome and aircraft flight paths, particularly areas where aircraft may be operating at lower altitudes, is also of concern to BAE Systems, as are potential changes in bird flight patterns in the area (i.e. if the bird flight patterns could change resulting in more birds flying closer to the Aerodrome or across aircraft flight routes).

5.5 As referred to above, the responsibility for undertaking a Bird Strike Risk Assessment falls to the Applicants, not BAE Systems. Aviation impacts have been identified by the ExA as one of the principal issues for consideration during the Examination. This includes bird strike risk. It is the responsibility of the Applicants to undertake the necessary assessment work and to demonstrate that the proposed development would not give rise to any increased bird strike risk or that any change or worsening of the risk is capable of being appropriately managed and mitigated. The Applicants haven't done so, nor have they provided a reasoned justification for their position.

5.6 Whilst engagement between BAE Systems and the Applicants is ongoing in relation to aviation impacts, the parties have diametrically opposed positions - the Applicants do not agree with BAE Systems that a Bird Strike Risk Assessment is necessary, and so discussions are at a very early stage and it's not clear what (if any) common ground there might be.

5.7 Point 83 on page 18 of the Applicants' summary of Day 2 of ISH1 states the following:

*"The Applicants noted that the biodiversity benefit areas are not the same as the mitigation areas that have been noted by ... [Interested Parties] as requiring further consideration for bird strike and clarified that this will be discussed when the Applicants met with BAE / Blackpool Airport."*

5.8 BAE Systems has been clear in its previous representations that it has concerns over the potential for increased bird strike risk from both the mitigation sites and the biodiversity benefits sites. The Bird Strike Risk Assessment that BAE Systems considers that Applications should undertake, and any proposed mitigation measures, also needs to consider the potential for greater bird strike risk from both the mitigation sites and biodiversity benefit sites.

5.9 BAE Systems has also stated in previous submissions that consideration needs to be given



to whether the biodiversity benefits should be provided at all if there is the potential that they could result in an increase in bird strike risk. A Bird Strike Risk Assessment is essential to understanding this.

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