



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

DEADLINE 3 – COMMENTS ON APPLICANT'S SUBMISSIONS MADE AT DEADLINE 2

Morgan and Morecambe Offshore Wind Farms Transmission Assets DCO Examination

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1.0 INTRODUCTION

1.1 This Statement sets out BAE Systems' comments on submissions made by the Applicants at Deadline 2, in particular:

- Draft Development Consent Order (Document C1/F04 / Examination Library Ref: REP2-004) and Schedule of Changes to the Draft Development Consent Order including Draft Deemed Marine Licences (Document S_S51_2/F03 / Examination Library Ref: REP2-051);
- Strategy for Wildlife Hazard Management Plan F01 (Document S_D2_14 / Examination Library Ref: REP2-047);
- Site Selection of the Environmental Mitigation and Biodiversity Benefit Areas (Document S_D2_13 / Examination Library Ref: REP2-046);
- Outline Ecological Management Plan (Document J6/F02 / Examination Library Ref: REP2-019);
- Onshore Biodiversity Benefit Statement (Document J11/F03 / Examination Library Ref: REP2-021); and
- Response to Written Representations from Statutory Consultees and Other Organisations" (Examination Library Ref: REP2-031).

1.2 Where the above documents are revisions of documents submitted at earlier deadlines, BAE Systems' comments focus on the changes made to those documents.

2.0 DRAFT DEVELOPMENT CONSENT ORDER AND SCHEUDLE OF CHANGES TO DRAFT DEVELOPMENT CONSENT ORDER

2.1 BAE Systems has the following comments to make on the changes made to the Draft Development Consent Order (dDCO) submitted at Deadline 2:

Schedule 2A and Schedule 2B, Requirements – Project A and Project B Requirement 5 – Detailed Design Parameters Onshore

2.2 As set out in its comments on the Applicants' responses to the Deadline 1 Action Points (see Section 3.0 of BAE Systems' "Deadline 2 – Comments on Submissions Made at Deadline 1" (Examination Library Document Ref: REP2-052)), BAE Systems has requested that the detailed design parameters (onshore) which are included in the dDCO Requirements refer to maximum heights above ordnance datum ("AOD"), rather than finished ground level. AOD provides a fixed reference point which is needed to inform the aviation safeguarding assessments to which BAE Systems has referred in its submissions to date and because

finished ground levels are not currently known or identified in the dDCO.

2.3 We note that the detailed design parameters (onshore) contained in the dDCO submitted by the Applicants at Deadline 2 (Requirement 5 of both Schedule 2A and Schedule 2B) still refer to maximum heights above finished ground level. BAE Systems request the following amendments to Requirement 5 (Detailed Design Parameters Onshore) for both Project A (Schedule 2A) and Project B (Schedule 2B):

2.4 Schedule 2A, Requirement 5:

"5. (1) In relation to Work No. 21A-

- (a) The highest part of any building must not exceed ~~15 XXXm~~ above ~~finished ground level~~ **ordnance datum**;*
- (b) The highest part of any external electrical equipment, excluding lightning rods, must not exceed ~~15 XXXm~~ above ~~finished ground level~~ **ordnance datum**;*
- (c) The total area of the fenced compound (excluding its accesses) must not exceed 80,000 m²; and*
- (d) The total number of lightning rods within the fenced compound area must not exceed 14 and the height of any lightning rods must not exceed ~~30 XXXm~~ above ~~finished ground level~~ **ordnance datum**."*

2.5 Schedule 2B, Requirement 5:

"5. (1) In relation to Work No. 21B-

- (a) The highest part of any building must not exceed ~~15 XXXm~~ above ~~finished ground level~~ **ordnance datum**;*
- (b) The highest part of any external electrical equipment, excluding lightning rods, must not exceed ~~15 XXXm~~ above ~~finished ground level~~ **ordnance datum**;*
- (c) The total area of the fenced compound (excluding its accesses) must not exceed 29,700 m²; and*
- (d) The total number of lightning rods within the fenced compound area must not exceed 8 and the height of any lightning rods must not exceed ~~30 XXXm~~ above ~~finished ground level~~ **ordnance datum**."*

2.6 The Applicants will need to confirm the maximum heights AOD for insertion in sub-paragraphs 5(a), (b) and (d) above.

Schedule 2A, Requirement 12: Ecological Management Plan and Schedule 2B, Requirement 12: Ecological Management Plan

- 2.7 Regarding Requirement 12 (Schedule 2A and Schedule 2B of the dDCO), BAE Systems welcomes its inclusion at sub-paragraph (1)(c) as one of the parties with whom the Local Planning Authority (“LPA”) is required to consult in the process of approving the ecological management plan (“EMP”). However, the correct BAE entity is BAE Systems (Operations) Ltd and not BAE Systems Plc.
- 2.8 At the point Requirement 12 is being discharged, a detailed Wildlife Hazard Management Plan (“WHMP”) (which is in accordance with the outline WHMP) should have been prepared and included as an appendix to the EMP (subject of Requirement 12). Furthermore, it needs to be clear from the requirement wording that in consulting with BAE and the other stakeholders identified, confirmation of their express and written agreement to the EMP (or, in the case of BAE and BAOL, the detailed WHMP) is required to be obtained by the LPA. We request that Requirement 12 is amended to take account of these points.
- 2.9 We also query whether sub-paragraph (3) of the Requirement should reference the approved EMP rather than the outline EMP.
- 2.10 The following amendments are therefore requested to Requirement 12 at both Schedule 2A and Schedule 2B:

*“No stage of the Project A [and Project B] onshore works or Project A [and Project B] intertidal works may commence until for that stage a written ecological management plan in accordance with the outline ecological management plan as appropriate for the relevant stage, has, following consultation **and agreement** with-*

(a) Natural England

(b) The Environment Agency where works have the potential to impact wetland habitats; and

(c) BAE and BAOL in respect of the ~~outline~~ wildlife hazard management plan;

Been submitted to and approved by the relevant planning authority.”

3.0 STRATEGY FOR WILDLIFE HAZARD MANAGEMENT PLAN

- 3.1 At various points throughout the document (including paragraphs 1.1.1.2 and 1.5.1.5), the Applicants refer to bird strike risk mitigation and management measures being incorporated into BAE Systems’ existing Wildlife Hazard Management Plan (“WHMP”) for Warton

Aerodrome. It is entirely unclear how this is intended to work in practice. The mitigation and management measures required to be implemented in respect of bird strike risk and the “additive” effect introduced by the authorised development and the creation of the environmental mitigation areas and the biodiversity benefit sites need to be identified in the first instance. There will then need to be agreement between the Applicants and BAE Systems as to an appropriate assignment of responsibilities for the funding, implementation, and monitoring of the said measures. Only at this stage will it be possible for BAE Systems to confirm whether it is possible and appropriate for the mitigation and management measures identified to be incorporated into its existing WHMP (noting that this is a document which BAE Systems is required to keep under review in accordance with the terms of its operating licence, granted by the Civil Aviation Authority).

3.2 The Applicants make numerous references (including at paragraphs 1.1.1.3 and 1.1.1.6) to “management measures” and “management” of the environmental mitigation areas and biodiversity benefit sites. BAE Systems understand this to mean “reactionary” or “adaptive” management (i.e. actions that are undertaken if ongoing monitoring identifies wildlife activity that could increase bird strike risk). The WHMP also needs to consider “preventive” measures. These are measures that are implemented upfront or as part of the construction phase of the authorised development that would remove or minimise and adequately manage any increase in bird strike risk which the authorised development is assessed to give rise to. The identification and securing of such measures should be prioritised over (and supplemented by) “reactionary” measures.

3.3 Paragraph 1.1.1.7 sets out an outline strategy for developing a WHMP, comprised within 4 bullet points covering aspects such as baseline evidence gathering, undertaking, or updating risk assessments, and identifying mitigation measures. BAE Systems has the following comments on this proposed process:

- (i) The third bullet point of the outline strategy refers to the review and update of Warton Aerodrome’s existing bird strike risk assessment following a “wildlife attractant habitat risk assessment” which we understand the Applicants are proposing to undertake. Clarification of the precise scope and content of this preliminary assessment is required. However, BAE Systems understands that it is the Applicants’ intention to submit a “baseline bird report” and the findings of its “wildlife attractant habitat risk assessment” at Deadline 3. BAE Systems reserves

its position pending its review of these documents.

- (ii) Following receipt and review of the Applicants' wildlife attractant habitat risk assessment, but before any update is made to Warton Aerodrome's existing bird strike risk assessment, the design of the environmental mitigation areas and biodiversity benefit sites should be reviewed and consideration given to whether alterations aimed at reducing the attractant risk can be made. This is an additional step which ought to be built into the Applicants' outline strategy for developing a WHMP

- 3.4 Paragraph 1.4.1.1 states *"The oEMP will also set out the principles of the ongoing monitoring strategy in relation to the delivery of the ecological mitigation (i.e. not with an aviation perspective, but whether the ecological mitigation sites are performing ecologically / ornithologically as intended)."* We assume this means that the Outline Ecological Management Plan ("oEMP") will require a system of monitoring to ensure that the environmental mitigation areas are functioning" correctly and providing the necessary mitigation for the loss of habitat / disturbance / displacement elsewhere. However, there will also need to be monitoring to ensure that the environmental mitigation areas are not changing and/or causing or contributing to an increase in bird strike risk. Clearly the balance which is required to be struck between ecological and aviation interests is a delicate one.
- 3.5 Paragraph 1.5.1.2 makes reference to Requirement 12 in the dDCO. Please see our comments at paragraphs 2.7 to 2.10 above on the drafting of this Requirement.
- 3.6 Paragraph 1.5.1.4 refers to "adaptive" management measures (in this regard, see our comments in paragraph 3.2 above) and gives as an example changes to the ecological mitigation areas layout, maintenance scaring tactics (etc.). The Applicants' comments with the regard to the implementation of "adaptive" management measures ought to apply in equal measure to the biodiversity benefit sites.

4.0 SITE SELECTION OF THE ENVIRONMENTAL MITIGATION AND BIODIVERSITY BENEFIT AREAS

- 4.1 Paragraph 1.2.1.2 sets out the "overarching guiding principles" for the selection of the environmental mitigation areas and biodiversity benefit sites. The principles listed are all ecology-related. Paragraph 1.2.1.3 goes on to state that, in addition to the overarching

guiding principles, site specific factors, such as *“surrounding land uses and proximity to aviation infrastructure”*, were considered and that they are explained in the following sections of the document. However, there is limited information provided on how aviation impacts were taken into consideration or the level of weighting given to such impacts in the site selection process.

- 4.2 Paragraph 1.2.1.9 refers to the 13km wildlife hazard management zone around Warton Aerodrome (as referred to in BAE Systems' Relevant Representations (Examination Library Ref: PDA-008)) and states that, due to the extent of this zone, it was not possible to locate the environmental mitigation and benefit areas outside it and still meet the Applicants' site selection guiding principles. No information has been provided however on why this is the case or what would be the implications of locating the environmental mitigation and benefit areas outside of the 13km zone (i.e. how this would impact on their effectiveness and their ability to meet their intended objectives).
- 4.3 Whilst there may be a requirement for the Applicants to try and locate the environmental mitigation areas within a certain distance of the land where habitat loss / disturbance is going to occur; given that securing a biodiversity net gain is not mandated for NSIP applications and there are no rules concerning minimum distances and proximity of areas of habitat creation / enhancement, we question why location of the biodiversity benefit sites outside of the 13km wildlife hazard management zone around Warton Aerodrome has not been considered.
- 4.4 BAE Systems considers that considerably more information is required regarding the Applicants' site selection process and that the Site Selection statement is updated to address the following:
- What specific safety considerations and policy requirements, including the potential for increased risk to aviation and defence activities, were considered as part of the Applicants' site selection process and what weighting were they attributed?
 - With regard to the above-mentioned considerations, what analysis / assessment has been undertaken by the Applicants in respect of them?
 - Was consideration given to the potential for the environmental mitigation areas and biodiversity benefit sites to alter bird migration patterns and the implications for aviation interests / infrastructure within proximity of the authorised development?

- In selecting the location and size of the environmental mitigation areas and biodiversity benefit sites, what consideration (if any) was given to the design of the areas and wildlife attractant risk having particular regard to the aviation interests / infrastructure within proximity of the authorised development?

4.5 Noting the comments at paragraph 4.3 above, BAE Systems would like to understand what weighting the Applicants have attributed to aviation impacts in the site selection process for the biodiversity benefit sites. Paragraph 4.6.6 of National Policy Statement EN-1 (referred to in paragraph 1.5.1.1 of the Applicants' Site Selection statement) encourages NSIP energy proposals to seek opportunities to provide net gains "*where possible*". However, this is not a requirement (legal or otherwise), nor is it needed to mitigate the impacts of the authorised development which have been identified through the environmental impact assessment process. Given this context, BAE Systems contends that consideration ought to have been given by the Applicants to locating the biodiversity benefit sites outside of the 13km wildlife hazard management zone around Warton Aerodrome, as well as to not providing them at all.

5.0 OUTLINE ECOLOGICAL MANAGEMENT PLAN

5.1 The oEMP has been updated to include additional information on the purpose, design, and management of the environmental mitigation areas. BAE Systems welcomes this but remains of the view that the details provided with regard to design are high level in nature and, as a consequence, not sufficiently detailed. This makes it difficult to accurately assess how the habitat proposed to be provided could impact the risk of bird strike within the area of Warton Aerodrome.

5.2 The development of a robust WHMP will require the provision of more detailed information regarding the Applicants' habitat design and management proposals. It may be the Applicants' intention to provide this further information at Deadline 3. Should this be the case, BAE Systems will review the information provided along with the Applicants' "baseline bird report" and "wildlife attractant habitat risk assessment" (see paragraph 4.3(i) above).

6.0 ONSHORE BIODIVERSITY BENEFIT STATEMENT

6.1 In a similar manner to the oEMP, the Onshore Biodiversity Benefit Statement has been updated to include further detail, albeit of a high level, on the design of the biodiversity benefit site at Lea Marsh Fields. BAE Systems' comments in relation to the oEMP (see paragraphs 5.1 and 5.2 above) also apply to the Onshore Biodiversity Benefit Statement.

7.0 RESPONSE TO WRITTEN REPRESENTATIONS FROM STATUTORY CONSULTEES AND OTHER ORGANISATIONS

- 7.1 The Applicants have submitted a “Response to Written Representations from Statutory Consultees and Other Organisations” [Examination Library Document Ref: REP2-031]. BAE Systems has had particular regard to Section 2.17 (Table 2.15) and Section 2.3 (Table 2.3) which addresses the written representation submitted by the Defence Infrastructure Organisation) and would like to make the following comments in response:
- 7.2 Concerning the matter of “Bird Strike Mitigation”, the Applicants have referred to the “Site Selection of the Environmental Mitigation and Biodiversity Benefit Areas” statement. They have also referred to certain “adaptive management measures”, the details of which are to be outlined in a “mitigation hierarchy”. The details of this mitigation hierarchy are still to be provided and will be considered by BAE Systems once they have been submitted to the examination or otherwise made available to BAE Systems by the Applicants. In the meantime, the ExA is directed to BAE Systems comments under Section 5.0 and in paragraphs 3.2 and 3.6 above.
- 7.3 Regarding the comments made in respect of the Applicants’ commitment to updating the oEMP to provide further detail on the design and habitat mitigation measures that are proposed for each of the environmental mitigation and biodiversity benefit areas, this further detail is yet to be provided and does not form part of the updated oEMP which the Applicant submitted at Deadline 2 (note BAE Systems’ comments under Section 5.0 above). It may be the Applicants’ intention to provide a further updated version of the oEMP at Deadline 3.
- 7.4 The Applicants, once again, make repeated references to the incorporation of the mitigation / management measures secured within the detailed WHMP (which will be an appendix to the environmental management plan (subject of Requirement 12 of the dDCO)) into Warton Aerodrome’s existing WHMP. BAE Systems comments in this regard are contained in paragraph 3.1 above. Furthermore, the matter of disclosure of Warton Aerodrome’s existing WHMP and the pre-conditions which are required to be observed in respect of any information sharing are detailed in BAE Systems’ response to the ExA’s WQs 4.1.3 and 4.1.5.
- 7.5 The Applicants have included commentary regarding Blackpool Airport’s bird strike data and the review they have undertaken in respect of the same. They reference the current wildlife

baseline and the implications for bird strike risk were the ecological mitigation and biodiversity benefit areas to act as an attractant. BAE Systems must reserve its position pending receipt of the Applicants' "baseline bird report" and "wildlife attractant habitat risk assessment". It is BAE Systems' understanding that the Applicants intend to submit both of these items at Deadline 3.

- 7.6 Turning to Warton Aerodrome's safeguarding requirements, BAE Systems' notes the Applicants' reference to further details being forthcoming in respect of above surface infrastructure works such as site, positioning and height data and would ask that this information is provided as soon as possible. Furthermore, comment is made regarding a proposal to "supplement" and "correct" the wording of draft Requirement 5 of the dDCO so that the details of the location and maximum heights of certain structures / buildings / elements of infrastructure are stipulated. So far as BAE Systems is aware, these amendments (aimed at securing alignment with the project description parameters) are yet to be made to the dDCO. However, it may be that the Applicants are intending to make them at Deadline 3. For BAE Systems other comments in respect of draft Requirement 5, see Section 2.0 above.
- 7.7 The Applicants' comments regarding the solar farm at Barrows Lane, Warton are noted. An update in respect of ongoing discussions concerning the Protective Provisions for electricity undertakers would be welcomed. In the meantime, BAE Systems will engage further with the Applicants in respect of this matter with a view to agreeing an appropriate position statement/s, the details of which can be recorded in the Statement of Common Ground to be entered into between the parties.

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