



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

BAE SYSTEMS' RESPONSE TO EXAMINING AUTHORITY WRITTEN QUESTIONS 2

Morgan and Morecambe Offshore Wind Farms Transmission Assets DCO Examination

**Prepared by
DLP Planning Ltd
Liverpool**

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1.0 INTRODUCTION

- 1.1 This document provides BAE Systems' response to the Examining Authority's Written Questions 2 (ExQ2). Responses are provided in **orange text** underneath the text of the questions in Table 1 below.

2.0 BAE SYSTEMS' RESPONSE TO EXAQ2

Table 1: BAE Systems' Response to ExAQ2

ExQ2	Question to:	Question:
1.	General and cross-topic questions	
1.1	General and cross-topic matters	
Q2:1.1.7	The applicants and any interested party	<p>Critical national priority</p> <p>Paragraph 4.2.15 of NPS EN-1 says that where residual non-habitats regulations assessment or non-Marine Conservation Zone (MCZ) impacts remain after the mitigation hierarchy has been applied, these residual impacts are unlikely to outweigh the urgent need for CNP infrastructure. It goes on to say that the exception to this presumption of consent are residual impacts onshore which present an unacceptable risk to, or unacceptable interference with, human health and public safety, defence, replacement habitats or unacceptable risk to the achievement of net zero.</p> <p>a) Without prejudice to the position of any party, are there any issues in this case that might potentially fall into this category of the exceptions to this presumption of consent? For example, might the issue of bird strike effects on aviation at BAE Warton aerodrome potentially fall into this category in the event of there being an "unacceptable risk"?</p> <p>Warton Aerodrome has a major role in military aircraft production, assembly, training and testing, central to the UK's sovereign combat air capability and therefore its operations, including protecting aircraft movements from a range of national security risks (such as protection from terrorism, espionage and state threats). This status is reflected in BAE Systems' relationship with the Defence Infrastructure Organisation (DIO).</p>

		<p>BAE Systems is unable to confirm whether the potential impacts on operations at Warton Aerodrome arising from the Transmission Assets will result in an “<i>unacceptable risk to</i>” or constitute an “<i>unacceptable interference with</i>” the aforesaid operations; as the requisite assessment work, particularly in relation to bird strike risk, is still to be undertaken and the findings scrutinised.</p> <p>BAE Systems has been working collaboratively with the Applicants since Issue Specific Hearings 2 and 3 to seek to progress the above-mentioned workstream. The Applicants are in the process of preparing a draft Wildlife Attractants Habitat Risk Assessment (dWAHRA) which will underpin and feed into the Bird Strike Risk Assessment for Warton Aerodrome. These assessments, in combination, will inform the mitigation, management and monitoring measures to be secured through the Wildlife Hazard Management Plan – subject of a Requirement to be included in the draft Development Consent Order (dDCO)).</p> <p>Until the requisite assessments are complete and the availability of mitigation has been considered in detail, BAE Systems is unable to definitively confirm whether the exception contained in paragraph 4.2.15 of NPS EN-1 applies. That said, whilst BAE Systems must reserve its position until the aforesaid work is undertaken, it is considered unlikely that there will be an unacceptable risk to / or interference with operations at Warton Aerodrome and the Aerodrome’s ability to perform its defence role (with specific regard to bird strike) provided appropriate mitigation measures can be identified and put in place.</p> <p>b) Are there any further submissions any party wishes to make on the potential application of CNP policy in this case (should it be required)?</p> <p>BAE Systems recognises that the provision of nationally significant low carbon infrastructure is a critical national priority and is supportive of activity aligned to NPS EN-1. Accordingly, BAE Systems is working collaboratively with the Applicants to identify and undertake the steps required for both the Transmission Assets and ongoing operations at Warton Aerodrome to safely coexist.</p>
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4. Aviation and radar		
Q2:4.1.1	BAE Systems	<p>National Policy Statement (NPS) for energy (EN-1)</p> <p>Paragraph 5.5.5 of NPS EN-1 states that “it is essential that aerodromes, aircraft, air systems and airspace operators work collaboratively with energy infrastructure developers essential for net zero. Aerodromes can have important economic and social benefits, particularly at the regional and local level, but their needs must be balanced with the urgent need for new energy developments, which bring about a wide range of social, economic and environmental benefits.” Have BAE met this directive bearing in mind the difficulties in sharing the documents requested by the applicants?</p> <p>BAE Systems acknowledges the above-mentioned directive contained in paragraph 5.5.5 of NPS EN-1. However, it is noted that this paragraph also states that <i>“UK airspace is important for both civilian and military aviation interests. It is essential that new energy infrastructure is developed collaboratively alongside aerodromes, aircraft, air systems and airspace so that safety, operations and capabilities are not adversely affected by new energy infrastructure”</i>.</p> <p>As stated in response to Q2:1.1.7, Warton Aerodrome needs to be protected from a range of national security risks (such as terrorism, espionage and state threats).</p> <p>Some of the data requested by the Applicants is highly sensitive / classified and BAE Systems are therefore unable to release this information, in particular, given that the Applicants exist as part of wider corporate structures which poses a risk that the information could be shared further. BAE Systems has strived to be constructive in its negotiations with the Applicants regarding the non-disclosure / confidentiality agreements required and has sought to accommodate the Applicants’ suggestions and proposed amendments. However, where this has not been possible, a detailed rationale has been provided and a pragmatic compromise and/or route to resolution has been offered.</p> <p>Unfortunately, agreement between the parties is currently outstanding and it isn’t possible for the non-disclosure / confidentiality agreements to be entered into at this stage. The Applicants and BAE Systems remain in dialogue and are committed to getting to an agreed position as soon as possible.</p>

		<p>The ExA will be aware that the impacts on Warton Aerodrome, including in respect of bird strike risk, were initially scoped out of the Applicants' Environmental Impact Assessment (contrary to paragraph 5.5.41 of NPS EN-1 and Civil Aviation Publication (CAP) 772 guidance). These impacts remain to be assessed, as well as the availability of suitable mitigation measures to address them.</p> <p>BAE Systems can report positive progress since Issue Specific Hearings 2 and 3, following engagement with the Applicants on their dWAHRA which is being submitted at Deadline 5.</p> <p>The dWAHRA will inform the Bird Strike Risk Assessment required in respect of Warton Aerodrome, the results of which will (in turn) inform the mitigation, management and monitoring measures to be secured through the Wildlife Hazard Management Plan. It is understood that the Applicants intend to append the dWAHRA to the Wildlife Hazard Management Plan. Discussions between BAE Systems, DIO, and the Applicants regarding the details of the dWAHRA are ongoing, as are the pathways for carrying out the Bird Strike Risk Assessment (one of which would involve BAE Systems undertaking the Bird Strike Risk Assessment at the Applicants' expense).</p> <p>BAE Systems remains committed to working collaboratively with the Applicants to identify a robust mechanism for managing (and where possible avoiding any increase) in bird strike risk at Warton Aerodrome by the swiftest and most efficient means possible.</p>
Q2:4.1.2	BAE Systems	<p>NPS-EN-1 and bird strike risk</p> <p>The applicants have referred regularly during the examination to paragraph 5.5.16 of the NPS which provides that "The CAA (Civil Aviation Authority) makes clear that the responsibility for the safeguarding of General Aviation aerodromes lies with the aerodrome operator."</p> <p>a) Notwithstanding the lack of a detailed assessment from the applicants, can BAE Systems set out evidence which quantifies the potential risk from the proposed development of bird strike to aviation operations at the aerodrome? From the information currently available to the Examination, what is the level of harm that BAE Systems considers would be likely to arise from the proposed development?</p>

		<p>BAE Systems is not in a position to quantify the potential risk from the Transmission Assets of bird strike to aviation operations at Warton Aerodrome without the necessary assessments (as referred to in response to Q2:1.1.7) being undertaken. However, positive progress is being made in this regard following recent discussions with the Applicants and DIO in respect of the Applicants' dWAHRA.</p> <p>The dWAHRA takes a qualitative approach to the assessment of risk based on the likelihood of bird populations increasing and/or bird movement patterns changing (i.e. whether it would be unlikely, possible, highly possible, etc.) compared to the existing baseline, rather than assessing potential changes in actual bird numbers. The next stage of the assessment process is to consider how the attractant risk may impact on bird strike rates through a Bird Strike Risk Assessment – whether undertaken by the Applicants or by BAE Systems (in collaboration with DIO) at the Applicants' expense.</p> <p>Only at this stage can BAE Systems (with the support of DIO) aim to “quantify” the risk from the Transmission Assets of bird strike and the resultant level of harm that may be caused to operations at Warton Aerodrome. BAE Systems and DIO will, in light of the results of the Bird Strike Risk Assessment (by which time it is hoped that a non-disclosure / confidentiality agreement will be in place), make recommendations where possible to enable the Applicants to manage risk appropriately and to minimise harm.</p> <p>b) At what point does an increased risk arising from potential bird strike become unacceptably harmful. How is this usually quantified by BAE systems?</p> <p>BAE Systems is accountable for flight safety and operations and adheres to all relevant legislation / regulatory requirements in this regard as follows:</p> <ul style="list-style-type: none"> • CAP 772 and 738; • The Town and Country Planning Act 1990; and • The Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002 (as amended and updated 22 December 2016).
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		<p>The term “<i>unacceptably harmful</i>” is not a descriptor or parameter used by BAE Systems. Instead, risks are assessed on a case-by-case basis and are the subject of regular review. When undertaking risk assessments in relation to bird strike, BAE Systems consider all factors, including how likely harm is, how severe the impact could be and whether appropriate safeguards are in place, as well as other conditions such as weather, aircraft performance and flight purpose.</p> <p>c) Provide further information on how BAE Systems generally approaches bird strike risk, including that which may arise from other proposed developments?</p> <p>BAE Systems update their risk analysis to flight and aerodrome operations frequently, considering all variables against known wildlife behaviours, such as patterns of migration, day-to-day behaviours and other factors as described in the response to item (b) above.</p> <p>BAE Systems uses a blend of leading and lagging indicators to assess both dynamic and predicted bird strike risk. Other factors such as tide times, weather, migratory and seasonal adjustments to bird species, as well as sunrise and sunset are also captured and assessed against recorded instances of bird strike.</p> <p>The type of bird species is a relevant consideration when assessing the strike risk, with the risk increasing significantly with birds of a larger mass, for example, pink footed geese. Therefore, the habitats, behaviours and migration patterns of these birds are all important matters which are required to be taken into consideration.</p> <p>Subject to on-going discussions, does BAE Systems consider that the outstanding matters would be capable of being dealt with post any consent granted through the Development Consent Order (DCO) requirements and relevant control/ management plans? If so, is any further or amended drafting required in the draft DCO and other documents?</p>
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		<p>BAE Systems (supported by DIO) remains committed to working collaboratively with the Applicants to identify a robust mechanism for managing (and where possible avoiding any increase) in bird strike risk at Warton Aerodrome by the swiftest and most efficient means possible.</p> <p>Critical to this is securing, via the DCO, a requirement for the carrying out of a Bird Strike Risk Assessment (informed by a Wildlife Attractants Habitat Risk Assessment) and for the putting in place of a Wildlife Hazard Management Plan for Warton Aerodrome, which is intended to be dynamic and to respond to changing circumstances over the operational lifetime of the Transmission Assets and associated offshore wind farm.</p> <p>BAE Systems has previously provided comments on the dDCO submitted by the Applicants at Deadline 3 (REP3-009). An update to these comments is being provided at Deadline 5, noting the revised version of the dDCO which the Applicants submitted at Deadline 4 (REP4-007 – see BAE Systems’ separate submission in this regard, together with its comments on certain of the management plans submitted by the Applicants at Deadline 4 (REP4-026, 055 and 085)).</p>
Q2:4.1.3	BAE Systems	<p>Bird Strike Risk</p> <p>The CAA published CAP772 which addresses wildlife hazard management at aerodromes. This refers to a 13km zone and suggests that safeguarding systems could be put in place which could influence land use and any development surrounding the aerodrome such that the strike risk does not increase and, where practicable, is reduced.</p> <p>a) Provide details of the distances from key parts of the aerodrome including the runways to the environmental areas being proposed by the applicants and how the relationship and distance between each environmental mitigation or benefit area to the aerodrome effects the bird strike risk in each case? Please also explain how these environmental areas relate to the flightpaths to and from the aerodrome and how these may affect the risk of bird strike?</p>

		<p>BAE Systems undertakes and surveys the area surrounding Warton Aerodrome (within the 13km wildlife hazard safeguarding zone), with a report produced and published on an annual basis. It also produces and publishes a technical safeguarding map, which is lodged with the relevant Local Planning Authorities and which can be provided to the Applicants to support their ongoing assessment work and subsequent proposals for mitigation.</p> <p>Please confirm what existing information do BAE Systems have they on previous bird strike instances or situations where take-offs or landings have been delayed or aborted due to bird strike risk.</p> <p>BAE Systems has maintained a record of all reported instances of bird strike identified within the vicinity of Warton Aerodrome for the past six years. These instances qualify as mandatory occurrences that must be reported to the CAA, including the type of bird species encountered in order to support risk mitigation. This information is highly sensitive as it relates to the operations and management of risk at Warton Aerodrome. Accordingly, the information cannot be disclosed into a public forum.</p>
Q2:4.1.8	BAE Systems	<p>Mitigation areas</p> <p>In their reply [REP3-056] to Q4.1.6 to ExQ1, the applicants state that “the new pond creation areas at Moss Side and the Morgan Onshore Substation are intended as mitigation for the loss of existing ponds; therefore, there will be no net gain in standing water, but rather a redistribution within the 13 km safeguarding radius of the Warton Aerodrome.” Can BAE respond to this?</p> <p>BAE Systems and DIO have provided initial comments to the Applicants on the high-level design considerations for the environmental/ecological and biodiversity benefit areas, including the proposed ponds at Moss Side and the Morgan onshore substation site, with the aim of reducing attractant risk.</p> <p>Regarding the ponds in particular, it is considered that a series of smaller ponds, rather than a single large body of water, would be less attractive to birds, but provide a suitable habitat for other forms of wildlife. Furthermore, the creation of steep banks, tall planting on pond margins and the absence of islands can reduce attractant risk.</p>

		<p>BAE Systems and DIO have advised that management measures such as weed control and regular removal should also form part of any habitat management regime.</p> <p>Other recommendations (all of which have been communicated to the Applicants as part of discussions in respect of the dWAHRA) include:</p> <ul style="list-style-type: none"> • Taking steps to prevent scrapes from becoming waterlogged / ponding after rainfall events. • Avoiding flowering meadow planting and implementing a detailed mowing / grass length policy (having regard to the Long Grass Policy contained in CAP722). • Moss and other vegetation removal (such as Buddleia) on buildings and hardstanding (i.e. at the substation sites in particular). • Netting of ponds. • Avoiding fruiting and nut / berry bearing trees, shrubs and hedging. • Exercising caution with regard to the use of falconry as a mitigation measure as it can cause birds to disperse into the sky, increasing strike risk. • Preparing a detailed waste management policy and the covering of stockpiles during the construction phase of the Transmissions Assets. <p>BAE Systems (in collaboration with DIO) will continue to discuss habitat design and management measures with the Applicants in order to inform the ongoing development of the dWAHRA.</p>
Q2:4.1.9	BAE Systems and Defence Infrastructure Organisation	<p>Initial objection</p> <p>This was referred to in Q4.1.16. of ExQ1 [PD-008], as the Defence Infrastructure Organisation (DIO)/ Ministry of Defence (MOD) were initially objecting to the application but was reviewing the later documentation. Please can there be an update as to their position?</p> <p>BAE Systems understands that the MOD's objection to the application for development consent for the Transmission Assets remains in place pending the provision of further information regarding the detailed design of the environmental/ecological and biodiversity benefit areas and the completion of a Bird Strike Risk Assessment for Warton Aerodrome.</p>

		<p>However, the Applicants, DIO (on behalf of the MOD) and BAE Systems are engaged in proactive discussions regarding the documentation required (including a fully worked up WAHRA) to enable the above-mentioned Bird Strike Risk Assessment to be carried out.</p>
Q2:4.1.13	BAE Systems	<p>Emerging OWHMP The applicants submitted an oWHMP [REP3-065]. This seeks to explain how the mitigation measures within the outline Ecological Management Plan [REP4-059] and the Onshore Biodiversity Benefit Statement [REP-067] would manage the risk of bird strike. BAE indicated in their D4 submission [REP4-127] that the oWHMP was being reviewed by the DIO, which represents the MOD in the examination. BAE confirmed that it will provide more detailed comments on the oWHMP once the DIO has concluded its review. The ExA awaits these comments?</p> <p>As already stated, discussions between the Applicants, DIO (on behalf of the MOD) and BAE Systems are ongoing in respect of the dWAHRA – initial comments have already been provided to the Applicants and more extensive feedback will follow submission of the dWAHRA at Deadline 5. Formal submission of the dWAHRA into the examination will enable DIO to seek the advice of its bird strike/subject matter specialists and to share this advice with BAE Systems (who, in turn, will feedback to DIO on the operational considerations arising from the advice received).</p> <p>As stated in the response to Q2:4.1.1, the dWAHRA will inform the Bird Strike Risk Assessment required in respect of Warton Aerodrome, the results of which will (in turn) inform the mitigation, management and monitoring measures to be secured through the Wildlife Hazard Management Plan. It is understood that the Applicants intend to append the dWAHRA to the outline Wildlife Hazard Management Plan (oWHMP). Accordingly, these documents need to be considered together. BAE Systems understands that DIO will ask its bird strike/subject matter specialists to provide detailed comments on the oWHMP following Deadline 5.</p> <p>Accordingly, it is hoped that the parties will be in a position to provide the ExA with a more comprehensive update at the forthcoming Issue Specific Hearings in October.</p>

Q2:4.1.19	The applicants and BAE Systems	<p>Collaborative working</p> <p>Paragraph 5.5.5. of NPS EN-1 expects the parties to work collaboratively. The applicants have regularly stated that are committed to working with BAE. However, it would appear from submissions made from both parties at issue specific hearing 1 and issue specific hearing 2 and in the written representations that both parties have taken entrenched positions with little chance of agreement during the remaining weeks of this examination. This issue has taken up considerable time since the examination opened and both parties are encouraged to do all they can to move this discussion forward so that matters of disagreement are overcome or narrowed as far as possible during the examination. Please consider and comment?</p> <p>Whilst there remains a considerable amount of work still to be done to understand the full extent of the risk from the Transmission Assets to operations at Warton Aerodrome (including in respect of bird strike), BAE Systems considers that positive progress has been made since Issue Specific Hearings 1, 2 and 3 and that the production by the Applicants of a dWAHRA constitutes a significant step forward.</p> <p>BAE Systems (in collaboration with DIO) is engaging regularly with the Applicants outside of the examination to keep discussions moving forwards with the immediate focus being on agreeing the contents of the dWAHRA and the oWHMP, as well as the wording of a suitable Requirement in the dDCO to secure the approval of the detailed version of the WHMP. An appropriate pathway for carrying out the Bird Strike Risk Assessment required in respect of Warton Aerodrome can then be identified and the assessment undertaken to inform the ultimate mitigation, management and monitoring strategy from a bird strike risk perspective for Warton Aerodrome.</p> <p>BAE Systems (supported by DIO) remains committed to working collaboratively with the Applicants to securing this end objective and to reaching a mutually agreeable position by the swiftest and most efficient means possible.</p>
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