

WRITTEN REPRESENTATION FOR SPR EA1N and EA2 PROJECTS (DEADLINE 1)



Draft DCOs

Interested Party: SASES **PINS Refs:** 20024106 & 20024110

Date: 30 October 2020

Issue: 2

Summary

1. The draft DCOs have a significant number of major flaws as follows.
 - There are serious omissions particularly in the Requirements.
 - The parameters of the authorised projects are either excessive or absent.
 - There is a lack of effective control over SPR and National Grid in key areas.
 - The consequences of two projects in a single DCO where one of those projects (the National Grid connection hub NSIP) is also the subject of another DCO are not properly addressed.
 - There is no requirement to consult the local community in matters which directly affect it.
 - A secret and exclusionary dispute resolution mechanism is proposed.
2. The key points are set out in greater detail below. Please note the order in no way indicates the relative importance of these issues. There is also attached a detailed analysis of the DCOs setting out all representations in greater detail and suggesting how the deficiencies in the DCOs might be addressed.
3. This written representation focuses on the onshore works and no comment is made at this stage on the DCO in respect of the offshore works.
4. The following issues need to be addressed and rectified together with the issues raised in the detailed analysis which is attached.

Onshore preparation works

5. Onshore preparation works are widely defined and include important works such as site clearance, demolition work, pre-planting of landscaping works, ecological mitigation, footpath creation, highway alterations etc. However because of the way the DCO is drafted (see definition of “commence”) these seem to be excluded from the control mechanisms set out in Part 3 of Schedule 1 – Requirements.

Right to build operational access road granted four times

6. The 8m(27ft) wide and 1.7km (1.1mile) long operational access road is part of both the SPR NSIPs and the National Grid connection hub NSIP. Accordingly the rights granted to build a single road are granted four times. It is assumed given the further works that will be necessary at the National Grid connection hub for the other offshore energy projects (Nautilus, Eurolink, extension projects etc – see Written Representations concerning Cumulative Impact) that this road will in fact become part of the National Grid connection

hub NSIP. The interrelationship between the two DCOs and the National Grid connection hub NSIP needs to be clarified.

Excessive flexibility with regard to maintenance

7. Whilst SPR and National Grid have a right to maintain their authorised projects but they have no obligation to do so. Further maintenance includes the right to “alter” the authorised project which represents an unwelcome extension to their rights.

Absence of an obligation to consult the community

8. In a number of areas where the conduct of the works will have a direct effect on the community (for example highway and footpath closures, use of watercourses) and where greater detail needs to be agreed with the local planning authority there is no obligation to consult the local communities affected.

The use of a secret and exclusionary dispute resolution mechanism

9. Whilst arbitration has its place in the resolution of commercial disputes it is not appropriate given the public interest in ensuring NSIPs are properly conducted. Further given the additional expense arbitration can involve this will only operate to further exclude members of the community from seeking redress in the event of non-compliance with the DCOs.

Excessive flexibility to determine generating capacity

10. There is a history, despite the need for renewable energy, of the generating capacity of offshore wind farms being reduced by developers. However when this happens there is no commensurate reduction in the size of the infrastructure or land take onshore - see Written Representations concerning the Rochdale Envelope/Design. Despite EA1N and EA2 being described to have a generating capacity of 800MW and 900MW respectively the DCOs only require a 100MW windfarm to be constructed. In the absence of any requirement to reduce the scale of onshore infrastructure in the case of reduced generating capacity this 100MW figure should be replaced by a range of 750MW to 800MW in the case of EA1N and 850MW to 900MW in the case of EA2.

Lack of clarity in respect of requirements compliance

11. The rights to construct and operate the National Grid connection hub will undoubtedly be transferred to National Grid which will have a separate contractual relationship with its building contractor. Whilst in respect of some of the requirements it can be clearly identified which of SPR and National Grid will have responsibility, that is not true for all requirements (for example, implementation and maintenance of landscaping, control of noise, control of artificial light) To avoid any confusion there should be a clearly identified list of requirements for the SPR NSIP and a separate clearly identified list of requirements for the National Grid connection hub NSIP.

Seven year time limit

12. SPR and National Grid have up to 7 years in which to commence the works under each DCO. This is excessive.

Parameters are excessive or non-existent

13. Written Representations have been made in respect of the use of the Rochdale Envelope and substation design. No justification has been made for the parameters set out in the DCOs nor is there any requirement to design the onshore infrastructure efficiently from an engineering perspective, the focus is on aesthetics only contrary EN-1, EN-3 and EN-5. Furthermore the National Grid substation is not subject to the outline onshore substation design principles statement and the remainder of the National Grid connection hub cable sealing ends etc is not subject to any design control nor is there any parameter in respect of their areas.
14. Given the impact of the onshore infrastructure on the landscape, heritage assets and flood risk these parameters need to be independently verified and any detailed design subject to an independent review both from the perspective of aesthetics and engineering efficiency to reduce the area and height of all the onshore infrastructure located at Friston – see further written representations on the Rochdale Envelope.
15. There are no parameters associated with the operational access road width, length etc nor is there any control over its design, drainage, fencing etc.
16. There are a number of other parameters in Paragraph 12 of Part 3 of Schedule 1 but there does not seem to have been any independent justification that these parameters are reasonable.
17. There is no requirement to reduce the size of the grid connection works if only one SPR substation is built

Consecutive construction periods, excessive construction hours and inadequate OCoCP

18. The Applicant has the flexibility to decide whether to build the projects concurrently or consecutively. This is the effect of separate DCOs for projects which are identical onshore for practical purposes. This has simply created yet greater uncertainty and has the potential for prolonging an extremely disruptive construction process. The Applicant should not be permitted to build the cable routes consecutively. Both must be built at the same time. Whilst that might involve a small element of financial risk that is more than offset by the benefits. In terms of construction at the substation site a mechanism needs to be introduced into both the DCOs to minimise consecutive construction. This cannot be left at the discretion of the Applicant.
19. Friston and most of the onshore cable route is a tranquil rural area with a number of elderly and retired residents who spend a significant amount of time in their homes and gardens. Any construction work will have a significant impact on the quiet enjoyment of their property and their lives. In such circumstances weekend working is not acceptable nor is working until 19:00 hours. Working hours should be 08:00 to 16:00 with no weekend or bank holiday working. Furthermore there should be no construction traffic outside of these hours. In addition there are a number of circumstances in which SPR and National Grid can work outside of these hours. On the basis the current drafting these rights could be used if the need for extra working was caused by mismanagement of the works.

20. There is insufficient detail in the OCOCOP in a number of areas - see Written Representations concerning Noise - see Written Representations concerning Construction both Substation and Onshore Cable Corridor.

Absence of flood risk strategy

21. There is a serious flood risk at the Friston site (see Written Representations concerning Flood Risk) and yet there is no requirement to develop and agree a strategy to address this risk.

Requirements in respect of operational noise inadequate

22. As set out in the Written Representations concerning Noise, the Environmental Statement on this topic is defective. As a result the requirements concerning operational noise are inadequate and fail to address the reality of all the noise impacts resulting from the onshore substation and the National Grid connection hub, which is omitted from the requirements in respect of noise.