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For the attention of Richard Riggs,

Re: 23/06010/EIA, Scoping opinion for 65 turbine wind farm and associated infrastructure, Walshaw Moor Estate, Widdop Road, Heptonstall, Hebden Bridge, Calderdale.

Thank you for consulting the RSPB on the above scoping opinion request and for the extension to the response deadline. The RSPB supports the deployment of renewables to help combat the climate crisis and aid the UK in reaching net zero greenhouse gas emissions. In order to achieve this, there is an urgent need to maximise onshore wind deployment, but wind farms must be carefully sited to avoid negative impacts on sites and species of conservation importance.

The proposal to develop a wind farm on Walshaw Moor is highly inappropriate, given the sensitivity of this location, with important peatland habitat, significant wildlife interest and protected wildlife sites. Based on the information available to us at this time, we have significant concerns about a wind farm in this location and we consider that the proposed development would likely lead to:

- Damage to and permanent loss of SAC and SSSI habitats
- Indirect impacts on SAC and SSSI habitats through modifications to features such as hydrology and other functionality
- Direct habitat loss and degradation of habitats upon which SPA and SSSI bird species rely
- Significant displacement and disturbance of SPA and SSSI birds
- The potential for collision mortality for SPA and SSSI bird species

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The RSPB is part of BirdLife International, a Partnership of conservation organisations working to give nature a home around the world.

- The potential for the release of stored carbon from deep peat during construction works and storage and disposal of excavated peat

Our current view is that these effects would be so significant that the project would lead to adverse impacts on the integrity of the designated sites, and it would therefore need to address the Habitats Regulations derogations. Given this is not the only location that a wind farm could be located in England or indeed in the UK, we consider that less damaging alternative sites for wind farm development will be available.

Please see Appendix 1 for more detailed comments on our concerns regarding this proposed development.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. Aspin', is positioned above the printed name.

Katrina Aspin

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Appendix 1 – RSPB’s Comments on Scoping Report for Walshaw Moor Wind Farm

Designated Sites and Legislative Requirements

The proposed development would be within the South Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC) designated under the Conservation of Habitats and Species Regulations 2017 (as amended) (“the Habitats Regulations”).

The Habitats Regulations set out the sequence of steps to be taken by the competent authority when considering authorisation for a project *likely to have a significant effect on a European Site and its qualifying features before deciding to authorise that project*.

Due to the nature, scale and location of the proposed development it is the RSPB’s view that there would be likely significant effects on all of the qualifying features of the SPA and SAC. Therefore, an Appropriate Assessment will be required under the Habitats Regulations before the application for consent can be determined. Below we summarise the relevant tests under the Habitats Regulations.

- **Step 1:** consider whether the project is directly connected with or necessary to the management of the European Site and its qualifying features (regulation 63 (1)). If not –
- **Step 2:** consider, on a precautionary basis, whether the project is likely to have a significant effect on the European Site and its qualifying features, either alone or in combination with other plans or projects (the Likely Significance Test) (regulation 63 (1)).
- **Step 3:** make an appropriate assessment of the implications for the European Site and its qualifying features in view of its conservation objectives with the aims and objectives of the requirements including the National Sites Network management objectives (reg 16A) to also be considered. There is no requirement or ability at this stage to consider extraneous (non-conservation e.g. economics, renewable targets, public safety etc) matters in the appropriate assessment (regulation 63 (1)).
- **Step 4:** consider whether it can be ascertained that the project will not, alone or in combination with other plans or projects, adversely affect the integrity of the European Site and its qualifying features, having regard to

the manner in which it is proposed to be carried out, and any conditions or restrictions subject to which that authorisation might be given (the Integrity Test) (regulation 63 (6)).

- **Step 5:** In light of the conclusions of the assessment, the competent authority shall agree to the project only after having ascertained that it will not adversely affect the integrity of the SPA, alone or in combination with other plans or projects (regulation 63 (5)).
- **Step 6:** only if the competent authority is satisfied that, there being no alternative solutions and the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to (regulation 64(2)), may be of a social or economic nature), they may agree to the plan or project notwithstanding a negative assessment of the implications for the European site (regulation 64 (1)). We note that the blanket bog feature of the South Pennines SAC constitutes a priority natural habitat under Regulation 64(2). Therefore, the competent authority must have due regard to the opinion of the appropriate authority with regard any other imperative reasons of overriding public interest being considered (regulation 64(2)(b)).
- **Step 7:** in the event of the no alternative solutions and imperative reasons of overriding public interest tests being satisfied, the competent authority must secure that any and all necessary compensatory measures are taken to ensure that the overall coherence of the National Site Network is protected (regulation 68) taking account of the National Site Network management objectives (reg 16A).

The Application must include sufficient information to allow the competent authorities to carry out Appropriate Assessments, as required. From the information available at this stage, we do not believe an Appropriate Assessment could conclude, beyond reasonable scientific doubt, that the proposal would avoid an adverse impact on site integrity.

Consent should normally be refused, unless the derogation tests of the Habitats Regulations described above are to be considered. If that is the case, then the Applicant should be required to submit full details of its derogation case as part of the application. Alternative solutions should include not only different locations, scales or design of development, or different processes but also alternative ways to meet the need. We consider there are alternative solutions to delivering low carbon energy at this scale out with SPAs and SACs within

England. Given we consider that the 'alternative solutions' test could not be passed, the project would not be expected to be able to move beyond this stage.

The proposed development site is also notified under the Wildlife and Countryside Act 1981 as a Site of Special Scientific Interest (SSSI). Therefore the EIA must, additionally, fully consider the impacts on the protected features of the SSSI.

SPA and SAC Conservation Objectives

The above designations are in place due to the presence of internationally important habitats, including blanket bog, wet heath and dry heath, and the SPA bird community that these habitats support, including two Annex 1 species (Merlin and Golden Plover) as well as the associated breeding bird assemblage, the majority of which breed on the proposed development site.

The Council should consider the site conservation objectives and associated Supplementary Advice for both the SPA¹ and SAC². This is in addition to the SSSI favourable condition requirements underpinning the SPA and SAC designations. Below we have listed a selection of relevant targets set out in Natural England's supplementary advice for the SPA and SAC. Natural England's detailed advice should be sought on which targets are relevant to the proposal.:

SPA targets:

- Restore management or other measures (whether within and/or outside the site boundary as appropriate) necessary to restore the structure, function and/or the supporting processes associated with breeding Merlin and Golden Plover and their supporting habitats.
- Restore the size of the breeding Merlin and Golden Plover populations whilst avoiding deterioration from its current level as indicated by the latest mean peak count or equivalent.
- Restore the extent, distribution and availability of suitable breeding habitat which supports breeding Merlin and Golden Plover for all necessary stages of their breeding cycle (courtship, nesting, feeding).
- Maintain a high proportion of open and unobstructed terrain to maintain safe passage within and around Merlin/Golden Plover nesting and feeding areas.

- Restrict and reduce the frequency, duration and/or intensity of disturbance to nesting, feeding and/or communal roosting birds so that the Merlin and Golden Plover populations are not significantly disturbed during the breeding period.
- Restore a high proportion of short to tall vegetation within nesting habitat for Merlin and Golden Plover.
- Restore the area of damp or waterlogged habitat used for feeding by breeding Golden Plover.
- Where the supporting habitats of the SPA feature are dependent on surface water, maintain water quality and quantity at standards which provides the necessary conditions to support breeding Golden Plover.
- Maintain the structure, function and availability of blanket bog, dry heath, wet heath and acid grassland for the SPA bird assemblage.

SAC blanket bog targets:

- Restore the total extent of the habitat feature at or to feature extent baseline-value of just under 20,000ha.
- Restore the distribution and configuration of the feature, including where applicable its component vegetation types, across the site.
- Maintain a low cover (<10% of the area) of scrub or trees.
- Restore the full range of typical structural features associated with the feature at this site, e.g. vegetation cover, surface patterning and hydrological zonations.
- Significant areas of disturbed and eroding bare ground should not be present. Where present, any affected areas should typically not exceed 1% of the total feature and be considered only as a temporary stage.
- Restore the properties of the underlying soil types, including structure, bulk density, total carbon, pH, soil nutrient status and fungi: bacteria ratio, to within typical values for the habitat.
- Restore the feature's ability, and that of its supporting processes, to adapt or evolve to wider environmental change, either within or external to the site.

It is the RSPB's view that the proposed development would undermine these conservation objectives and targets and make it impossible to meet them at this site. These targets are currently being worked towards in the joint Walshaw Moor Estate/Natural England Catchment Restoration Plan³ with the principle aim

of getting the site back into favourable condition. This plan should continue to be followed and this should remain the primary objective for this important site.

The site also supports a number of species listed on Schedule 1 of the Wildlife and Countryside Act (Barn Owl, Merlin & Hen Harrier) as well as Red and Amber listed birds of conservation concern.

Bird Survey Methodology

A review of the bird survey methodologies and survey schedule (table 6.1) in the scoping report has highlighted the following concerns:

- The breeding bird and vantage point survey areas do not cover the whole of the proposed application site plus a 500m buffer outside the project boundary. Natural England⁴ and NatureScot⁵ guidance states that the main breeding and wintering bird survey areas should extend at least 500m beyond the development/planning application boundary, as potential collision risk, habitat loss and displacement could affect birds out with the proposal site. This needs to be addressed in any further surveys or justified in the EIA.
- According to Natural England⁴ and NatureScot⁵ guidance, vantage points should be located outside of the survey area where possible to minimise the observer effect on bird behaviour. The vantage point locations should also cover the 500m buffer zone. The vantage points used in the surveys so far are located primarily within the site (10 vantage points), with only 1 off site. This may impact on the accuracy of the data used for collision risk assessments and this limitation must be justified and explained in the EIA Report.
- The survey design lacks monitoring for nocturnal migration and foraging activity by owls, waders (e.g. Golden Plovers) and wildfowl. Natural England guidance⁴ suggests using an appropriate nocturnal bird survey technique to detect nocturnal bird movements (e.g. thermal infrared imaging, radar monitoring, acoustic recording, radiotelemetry, night vision imaging). Given that this site is important habitat for Golden Plover, an Annex 1 species, we consider that multiple years of nocturnal surveys are necessary for accurate assessments.
- Given the importance and sensitivity of this site, we consider that 2 years' worth of data is not sufficient to capture the variation in bird use between

years, and therefore recommend that 3 years of comprehensive survey data would be more appropriate in this case.

- Natural England guidance⁴ states that for onshore wind farm developments, a comparable control or reference site should be selected and surveyed at the time of the initial surveys, to allow post construction monitoring. It should be confirmed whether this has taken place with this site, and if not, justification as to why this has not taken place will be necessary.

The following are our concerns regarding gaps in survey effort on surveys already carried out:

- 2023 breeding bird transect survey is incomplete, with a second visit in June 2023 missing.
- The passage birds transect surveys has an incomplete dataset in 2023, with no surveys in March, and only 2 visits (rather than 4) in October. A further full years' worth of data is required to make a complete dataset.
- The number of hours spent completing vantage point surveys in 2022 does not meet the required 72 survey hours (36 hours breeding season, 36 hours non-breeding season) referred to in Natural England guidance⁴. The proposed hours spent on vantage point surveys in 2024 will also not meet the required 72 hours, and survey effort should therefore be increased to make sure enough data is available for accurate collision risk assessments.
- The 2km raptor surveys have only currently been carried out in the breeding season. However, it is important to include surveys during winter to determine whether there are important winter roost sites within 2km of the development site.
- According to table 6.1, 2km raptor surveys and night owl surveys will only be carried out in 2023. At least, two years of data should be included to fully assess impacts on bird species within and out with the site.

We recommend that information is provided within the EIA report to demonstrate that the survey data are adequate, robust and accurate including:

- Full information on the VP work undertaken, including dates, times and weather conditions
- Maps showing VP locations that also denote viewsheds
- Maps showing raptor foraging areas

- Worked example(s) of collision risk calculations
- Provision of raw data in order for independent verification of collision risk calculations

Impacts on Peatland

Wind farms on sensitive peatlands and deep peat can significantly undermine the climate benefits of renewable energy. Peatland is also an irreplaceable, priority habitat. As part of the assessment, the quality and extent of peat should be considered in a local and national context.

We are concerned about how peat depth has been mapped in the development area, given that deep peat is classified as areas of peat with a depth greater than 40cm in England (in line with the Heather and Grass etc. Burning (England) Regulations 2023⁶). However, 50cm has been used in the Scoping Report as the definition of deep peat. We consider this conflicts with the current approach advised by Natural England and DEFRA. We advise that 40cm is used as the definition of deep peat for the peat maps, and the peat depth maps redone. It will inevitably result in a larger proportion of the area proposed for development being classed as deep peat, which is critical in terms of supporting the globally important blanket bog habitat.

Project Design

Further clarification will be required as to what the development will entail, given that Solar PV, Battery Energy Storage System and tree planting are mentioned in the Scoping Report and the development's website, but there is very little detail about where these are proposed to be built/planted. A clear understanding of the project elements and their cumulative impacts will be essential in the EIA, considering not just the development site, but impacts to the surrounding area.

References

¹ Natural England (2018) [European Site Conservation Objectives for South Pennine Moors \(Phase II\) SPA - UK9007022 \(naturalengland.org.uk\)](https://www.naturalengland.org.uk/conservation/conservation-objectives/conservation-objectives-for-south-pennine-moors-phase-ii-spa-uk9007022)

² Natural England (2019) [European Site Conservation Objectives for South Pennine Moors SAC - UK0030280 \(naturalengland.org.uk\)](https://www.naturalengland.org.uk/conservation/conservation-objectives/conservation-objectives-for-south-pennine-moors-sac-uk0030280)

³ Natural England (2018) Walshaw Moor Estate Catchment Restoration 2017-2042 Plan (MRP002)

<https://publications.naturalengland.org.uk/publication/6389907001442304>

⁴ Natural England (2015) [Wild birds: surveys and monitoring for onshore wind farms](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/424230/Wild_birds_surveys_and_monitoring_for_onshore_wind_farms.pdf) - GOV.UK (www.gov.uk)

⁵ NatureScot (2017) [Background and Purpose](https://www.nature.scot/publications/background-and-purpose) (nature.scot)

⁶ Natural England (2023) [Heather and grass burning: rules and when you need a licence](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/1184230/Heather_and_grass_burning_rules_and_when_you_need_a_licence.pdf) - GOV.UK (www.gov.uk)