

# Hornsea Offshore Wind Farm

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Project Two

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## The Applicant's response to RSPB's submission to Deadline VI

**Appendix O to the Response submitted for Deadline VII**

**Application Reference: EN010053**

10 December 2015

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## **The Applicant's comments on the RSPB's response to Deadline VI**

The Applicant notes the RSPB's concerns regarding the proposed Project mitigation and the implications of this for the offshore ornithology assessment. As noted by the RSPB, the Applicant provided information on the proposed change to turbine parameters to the RSPB ahead of its submissions to Deadline V and Deadline VI. The Applicant has also provided the RSPB with revised collision risk modelling outputs using the further mitigated turbine scenario (as detailed within the Applicant's submission of 4 December 2015) (and again in advance of publication on the PINs website). The Applicant sought to provide this information to the RSPB to allow them as much time as possible to consider the information. In this regard, the Applicant considers the RSPB have had ample time and information to consider the proposed mitigation and its implications for the offshore ornithology assessment.

The Applicant would like to highlight to the Ex. A that the mitigation proposed was in response to concerns raised by both the RSPB and Natural England and reduces collision mortality figures for key species of concern including kittiwake and gannet from the Flamborough and Filey Coast pSPA.

The Applicant notes that within the RSPB's response to Deadline VI they have provided a response that covers the following matters:

- Offshore, including:
  - o Flight height
  - o Avoidance rate
  - o Flight speed
  - o Model version
  - o Extent of breeding season
  - o Apportioning to the Flamborough and Filey Coast pSPA
  - o The Flamborough and Filey Coast pSPA population,
- New Turbine Specifications:
  - o Revised PVA outputs
  - o Requirement for further modelling,
- Intertidal; and
- Monitoring.

The Applicant has responded to each point in turn where deemed necessary.

### **Offshore**

- 1.1 The Applicant notes that the RSPB have raised concerns regarding the information submitted by the Applicant at Deadline V with regard to the proposed mitigation and the RSPB's perceived impression as to the lack of information submitted for gannet, guillemot, razorbill and puffin.

- 1.2 The Applicant has proposed further mitigation to the Project as detailed in the submission on the 4<sup>th</sup> of December (provided directly to the RSPB on the date of submission), this information also included updated assessment outputs for all collision risk species including gannet, lesser black-backed gull and greater black-backed gull. No additional information was submitted for auks (guillemot, razorbill or puffin) as the proposed mitigation will not affect the conclusions of the Applicant's displacement assessments or any of the conclusions drawn by Natural England with regard to the Applicant's assessment.

### **Flight height**

- 1.3 The Applicant notes the RSPB's comments on flight heights and the Applicant refers the Ex. A to their response to EOO16 and Appendix DD at Deadline IV.
- 1.4 The Applicant reviewed the preliminary information for other offshore wind farm Projects such as East Anglia Three in preparing the Application; however, noted that the information available for the East Anglia Three PEI was out of date (subject to revised assessment which was not publically available) and so was not appropriate to include within an in-combination assessment (paragraph 5.8.93 of the Habitats Regulations Assessment Report doc ref 12.6).
- 1.5 The Applicant disputes the statement that aerial surveys are automatically more accurate than boat-based surveys, and the RSPB have yet to provide any information to evidence this claim. With regards to Blyth, although not made clear by the RSPB in their submission, the Applicant presented (in Appendix DD at Deadline IV) both boat-based and aerial data from this site to make it clear that both were collected.
- 1.6 None of the arguments against the Applicant's presentation of kittiwake flight height data from other offshore wind farms counters the Applicant's substantive point being made: the PCH value at Hornsea Project Two is not an outlier or unusual in any way. The Applicant has demonstrated that there is significant variability in values derived and a result in the lower end of the scale does not make it an outlier and open to question. Such variability in flight height data is highlighted by the RSPB, who list a number of studies and the PCH values provided within these studies. The PCH values presented highlight a large degree of variability in PCH values indicating that the PCH value obtained for Hornsea Project Two is by no means an outlier or unusual. Such variability in PCH values is accepted by the RSPB in their response:
- "In addition to the range of values of PCH presented above and by the Applicant demonstrates that there is considerable variability in the flight height of kittiwake..."*
- 1.7 Such variability in PCH values does not provide support for the use of generic data such as Johnston *et al.* (2014) and the weaknesses of applying such data for Hornsea Project Two have previously been highlighted by the Applicant (Deadline IV, Appendix DD). Instead this variability indicates that where possible site-specific data should be used in order to avoid under or over estimating any impacts.
- 1.8 The RSPB highlight what they perceive to be an *"incomplete consideration of variability and uncertainty in the assessment"*. However, the Applicant refers to the Applicant's submission at Deadline I, Appendix J – *Collision Risk Modelling: Addressing Uncertainty Clarification Note*. This note includes the consideration of uncertainty in relation to flight activity, flight height distribution and avoidance rate.

### Avoidance rate

- 1.9 The Applicant notes the RSPB's comments on the use of avoidance rates in the extended Band model, the Applicant would like to highlight to the Ex. A that standard deviations around avoidance rates were presented in Appendix J of Deadline I.

### Flight speed

- 1.10 The Applicant notes that contrary to the RSPB's submissions it has not been provided with a copy of Masden (2015) by Natural England and at present the Masden (2015) addition to the field of collision risk modelling has not been validated by the SNCBs. It is the Applicant's understanding that Band (2012) remains the advocated Collision Risk Model by the SNCBs and therefore any outputs from other unsupported versions of the model are not applicable to this examination.
- 1.11 The Applicant also notes that the SNCBs have not recommended for any project, including Project Two, deriving confidence intervals on flight speeds and incorporating into collision risk modelling.

### Model version

- 1.12 The Applicant notes that the RSPB prefer the Basic model. The Applicant has presented the RSPB's preferred option of the Band model using the RSPB's preferred avoidance rates (in all collision risk related submissions including Appendix B of Deadline I, Appendix DD of Deadline IV and Appendix B of the December the 4<sup>th</sup> submission).
- 1.13 The Applicant also notes the statement made by the RSPB that Cook *et al.* (2014) recommends the use of the Basic model for the assessment of kittiwake. Cook *et al.* (2014) makes no such direct recommendation, and this report focussed on the calculation of avoidance rates for a number of species for the respective models and not the provision of a synthesis looking at the applicability of each model (see the Applicant's submission at Deadline IV; Appendix DD).

### Extent of breeding season

- 1.14 The Applicant notes that the RSPB define the breeding season for kittiwake as April to July. The Applicant has presented breeding collision figures using April as a breeding season month in Appendix DD of its response to Deadline IV and in Appendix B of its submission of 4 December 2015.
- 1.15 The Applicant's definition of seasons differs from the RSPB as it focuses on likely occurrence of birds within the Project site, 100 km offshore, not solely for the pSPA colony.

### Apportioning to FFC pSPA

- 1.16 The Applicant notes that the RSPB now recognises that their advocated 95% breeding season apportioning is a precautionary figure. Within Appendix DD of its response to Deadline IV, the Applicant (while considering their breeding season apportioning of 38% as an appropriate metric) provides a series of calculations that provides an upper ceiling figure of 83%. This has been

accepted by Natural England on the basis of certain assumptions, the principle of which the RSPB appeared to agree with.

### The FFC pSPA population

- 1.17 The Applicant considers that the 1987 count of kittiwake which underpins RSPB's evidence that the colony may be in decline is disputed.
- 1.18 The Applicant does not consider the issue of the uncertainty over 1987 counts of kittiwake at Bempton Cliffs to be an 'already determined point'. RSPB make reference to Secretary of State's Decision on Hornsea Project One, where it was stated:
- The SoS notes the disagreement between the SNCBs and the Applicant regarding the size and trend of the kittiwake population at the Flamborough and Filey Coast pSPA. Given the disagreement between expert witnesses on this matter, the SoS considers it appropriate to take a precautionary approach. The SoS has therefore based his decision on the original count records of the kittiwake population (i.e. that the site was used by approximately 80,000 pairs of birds) at the Flamborough Cliffs site. On this basis, the SoS is satisfied that the potential kittiwake collision mortality rates are below the estimated PBR threshold produced using the most precautionary estimate of population trend (512 birds;  $f$  value = 0.1).*
- 1.19 Therefore, contrary to RSPB's statement at Deadline VI, the SoS **does not** 'uphold' the original count data nor was he in agreement with Natural England and the RSPB. The SoS uses the original count data in precautionary sense, primarily to demonstrate that predicted mortality is below a PBR threshold.
- 1.20 The Applicant would refer the Ex. A to the Hornsea Project One Recommendation Report, where the Examining Authority for that project attempt to critically appraise the arguments presented on this issue:
- "It is obvious that two very knowledgeable scientific authorities take totally divergent views on this issue. Nonetheless the ExA comes to the conclusion on the basis of the evidence and arguments put before it that Dr Coulson's thesis is more persuasive to a significant degree. At the end of the examination the ExA therefore had very considerable doubt as to the accuracy of apparent fluctuations in the numbers of kittiwakes at the Flamborough colony, and felt unable to give any significant weight to them."*
- 1.21 The Applicant also notes that the RSPB suggests that the criticism of the 1987 counts in Coulson (2012) has been resolved and the RSPB have had of email correspondence to confirm this.
- 1.22 The Applicant disputes this conclusion and maintains that the 1987 counts are best categorised as being 'disputed'. However, it is likely that the veracity of the counts will never be determined, although as Coulson states in his correspondence with the Applicant (November 2015):
- "the huge increase of a vast colony followed by a comparable decline in only a few year would be a first, and still questionable since neighbouring colonies did not show major changes and high mortality was not reported at Flamborough."*
- 1.23 As noted in previous information submitted by the Applicant, (Appendices E and F at Deadline VI) the Applicant is of the opinion that in recent years the population has been relatively stable and likely to have been maintained at carrying capacity through compensatory population effects.

### Intertidal

- 1.24 The first matter raised by the RSPB in relation to the intertidal relates to the level of usage of the intertidal area by birds. The RSPB maintains that the construction window should be further refined to June – August and the RSPB disagrees with the Applicant's contention that the data on bird distribution shows that usage of the intertidal area is not exceptionally high at high tide during the proposed construction window and provide a table of species counts where numbers are >100 individuals. For reference, Horseshoe Point divides two WeBS Core Count sectors with the Project's Landfall lying within the first kilometre of the northernmost sector that encompasses a 4 km shoreline. The second WeBS count sector at Horseshoe Point is no closer than 350 m from the Project (at its closest point), and encompasses a shoreline of 1.8 km. To provide any meaningful assessment of the RSPB count data (as supplied to WeBS) within the 5.8 km shoreline in relation to the Project requires knowledge of the exact location of the roosting birds. In any event, such spatial resolution has already been provided by the Project's site-specific data that have informed the Applicant's assessment. The RSPB data provided at Deadline VI was originally provided with approximate location and considered in the Applicant's response to Deadline V (paragraph 2 of the comments on response to question EL19) and did not conflict with the Applicant's findings in terms of numbers in the wider area. The Applicant therefore still maintains that a restricted construction window during the summer months is not required.
- 1.25 Irrespective of the technical points made in relation to above, the Applicant notes that it has agreed the tidal height working restriction with Natural England and the RSPB (albeit noting that the RSPB do not agree with the tailpiece component of this Condition).
- Winter working*
- 1.26 The second point raised by the RSPB relates to their disagreement with the tailpiece of Condition 20(3) of DMLs A2 and B2 (now Condition 18(3) in DMLs A2 and B2 in Version 8 of the draft DCO). The Applicant has made its position on this matter clear in its response to the RSPB's response to EL17 as submitted as part of the Applicant's Response to Deadline V and in paragraphs 1.10 to 1.14 of Appendix C to its Response to Deadline VI. The Applicant further notes that both the SNCB (Natural England) and the Regulatory Authority (the MMO) are content with the wording of this Condition.
- Restricted summer working period*
- 1.27 The RSPB have expressed a desire for the working restriction to be extended from 1 October to 31 March, to 31 August to 1 June.
- 1.28 The Applicant believes a restricted construction working window is not required, as the conclusion on the potential effects of the Project to the features of the Humber Estuary SPA and Ramsar site have been agreed with Natural England and no adverse effect on the integrity of these sites is predicted.
- Over winter access*
- 1.29 The Applicant notes that the RSPB are in agreement with the over wintering access restrictions during the operation phase and has nothing further to add at this stage.
- Intertidal Access Management Plan*
- 1.30 The Applicant notes that the RSPB has not made detailed comment on this matter and therefore, has nothing further to add at this stage.

### *Tide Height Restrictions*

- 1.31 The Applicant notes that the RSPB are in agreement with the tidal height restriction (Condition 18(3) of DMLs A2 and B2 of Version 8 of draft DCO), with the exception of the tailpiece component. The Applicant would like to highlight that the Construction Method Statement as secured within the Code of Construction Practice (Condition 8 of Version of the draft DMLs) will be approved by the relevant bodies prior to construction commencing.

### **Monitoring**

#### *In-Principle Monitoring Plan*

- 1.32 The Applicant notes the RSPB's points in relation to construction monitoring and cross-refers the Ex. A to its position on this matter as set out in its submission to Deadlines V (Appendix G) and VI (Appendix C). The Applicant notes that the merit in retaining flexibility in the monitoring approach at this stage has been well evidenced already (see sections 8.26 to 8.31 of Appendix G to the Applicant's response to Deadline V).

#### *The Ecological Monitoring Plan*

- 1.33 The Applicant notes that the RSPB could not find the updated text relating to intertidal monitoring within the Outline EMP. The Applicant can confirm that the additional text lies at paragraphs 8.2.14 to 8.2.17 of the latest OEMP, as submitted at Appendix X at Deadline V.