

**Response to Request for Comments on the Application for the Proposed
Hornsea Project Two Offshore Wind Farm
for
The Royal Society for the Protection of Birds**

24 June 2016

Planning Act 2008 (as amended)

In the matter of:

**Application by SMartWind for an Order granting Development Consent for the
Hornsea Offshore Wind Farm – Project Two**

**Planning Inspectorate Ref: EN010053
Registration Identification Ref: 10031166**



The RSPB is grateful for the opportunity to provide further comments upon this Application and set out below are our comments on both sections.

1. Harbour Porpoise

The RSPB has considered the Applicant's further response on 24 May 2016. We offer the following comments upon it.

Project Alone effects

The Applicant sets out 3 bullet points under this heading. For convenience we repeat each bullet point here, followed by our comments upon it.

- *this maximum effect (if experienced at all) would be limited to a very short period of time (the piling activity would only last a matter of hours).*

The RSPB considers that the identification and assessment of the maximum effect must reflect the likely response of the species to the proposed disturbance event. This cannot be identified solely by reliance upon the duration of the disturbing operation. It is important to note that the response of affected harbour porpoise may last significantly longer than the disturbance event itself. The question that needs to be answered is not how long the piling operation will last, but rather how soon the displaced harbour porpoise are likely to return to the area once the work has finished.

In addition, it is not appropriate to consider each individual piling operation in isolation as an operation that "would only last a matter of hours". The construction of this wind farm will involve the installation of up to 300 turbines, as well as associated support structures: This will require over 300 piling operations. The RSPB has not seen any reference in the latest document produced by the Applicant to evidence that the disturbance areas from the individual piling operations will not overlap. In the absence of such evidence a precautionary approach requires the consideration of impacts to proceed on the presumption that there will be an overlap, and that consequently harbour porpoise will be excluded from parts of the pSAC for an extended period of time.

- *the affected area would move (and significantly reduce) over the course of the piling window as piling activities move around the array area down to a level where there is very limited (<0.5%) overlap at all.*

Although the disturbance area will move this does not guarantee (as highlighted above) that the displaced porpoise will return to the areas previously disturbed. There is a risk that what may actually happen is that the ongoing piling operations progressively drive harbour porpoise from particular parts of the pSAC.

The RSPB also questions the contention that the affected area would significantly reduce over the course of the piling operations. This conclusion could only be given with a clear understanding of how the timing and location of piling operations relate to the temporal and spatial distribution of the harbour porpoises utilising the pSAC.

- *the overall piling activities are also temporary in nature (a maximum duration of 1.32 years within a five year construction window, noting that this is based on an extremely*

precautionary assumption of pin piles taking 11.5 hours to install, as detailed in Table 4.17 of Chapter 4: Marine Mammals (Doc ref No: 7.2.4) of the ES).

The RSPB notes the duration of the works. However, the Applicant has not related this duration to the ecological requirements of the harbour porpoise or the likely impacts upon its use of particular areas at critical parts of its lifecycle. Without this information it is not possible to evaluate the likely impact on harbour porpoise in any meaningful way. For example the maximum duration of 1.32 years within the five year construction window could represent a three month window of operations across a key part of each breeding season within the five year period and without further information as noted above it is not possible to comment on the possible impacts to the harbour porpoise.

In combination effects

The Applicant states:

“In the event that a number of projects do come forward at the same time, especially when located in proximity, there will be overlap of the spatial effect footprints within the pSAC, meaning that the overall pSAC area affected will be significantly less than the sum of the various individual project impacts.”

The RSPB is concerned that this approach to assessing the likely impacts is looking at the wrong receptor – it is considering the area of the pSAC that might be impacted rather than the extent of the impact upon the harbour porpoise within that pSAC. In the case of the latter reducing the area within which a set amount of piling operations are likely to be undertaken is likely to increase the risk of an impact on the harbour porpoise. Consequently the RSPB is unable to agree with the Applicant’s assertion that the figures that they have provided represent an “exaggerated worst case”: the choice of area as a receptor serves to downplay the likely impact on the harbour porpoise, which are the rationale for the pSAC.

Our comments above build on the concerns we expressed in our response of 13 May 2016, where we stated:

“The evaluation of risk to harm, through both the initial screening for likely significant effect and the subsequent appropriate assessment of whether there is likely to be an adverse effect on the integrity of the site, must be undertaken by clear reference to the distribution of the species within the protected area and the importance of particular area to the lifecycle of the species. ... A reliance on arbitrary figures cannot possibly give the level of ecological understanding that is clearly required by the Habitats Directive, and we do not consider that use of these figures to exclude the risk of harm could properly be considered as an appropriate assessment of the likely harm arising from a proposed operation, whether alone or in combination with other schemes.”

Building on this statement, we consider that it is essential for the Applicant to be able to demonstrate a clear understanding of how the impacts of construction activities will impact upon the harbour porpoises that reside within the Southern North Sea pSAC. The information provided by the Applicant on 24 May fails to do this, and consequently we contend that it must be redone. Any further assessment work which fails to do assess the construction impacts without clearly relating it to the ecological requirements of and possible impacts to the harbour porpoises would therefore be inadequate.

Calculation of percentages of the pSAC affected in the Applicant's 24 May response

In Tables 1 and A.1 the Applicant has apportioned areas of the pSAC for summer and winter, but we have been unable to find a statement within this document or the Draft Conservation Objectives for the pSAC which set out any area figures of the summer and winter elements of the pSAC, which could be used for this calculation. We request that the Applicant clearly sets out the calculations that underpin the figures within these Tables – without these we consider that little weight can be given to the figures in assessing the likely impacts upon this site.

In addition, it is important to note that the pSAC is being treated by the Applicant as two distinct areas, rather than the one site that is proposed for designation. Figure 2 (*The Southern North Sea possible Special Area of Conservation for harbour porpoise showing summer and winter areas*) clearly indicates that there are overlaps between summer and winter areas on the north of the Dogger Bank and also off the eastern coast of East Anglia. We note that the Draft Conservation Objectives clearly state that “The seasonality in porpoise distribution should be considered in the assessment of impacts and proposed management”, but we have significant concerns about the approach to this adopted by the Applicant. The decision to describe entries in the table as “summer pSAC” and “winter pSAC” risks confusion and potentially misses out the overlap areas and therefore is not an appropriate assessment of possible impacts for the harbour porpoise.

2. Fulmar Displacement Mortality

The Applicant has supplied the RSPB with a draft copy of the Applicant's intended response to the Secretary of State on this issue. We offer the following comments.

The RSPB would like to see the values for the 2015 Flamborough and Filey Coast pSPA population estimate before accepting that there are no serious concerns for fulmar. We consider that this information should be presented by the Applicant. We note that the 2015 figures are given for both the Forth Islands SPA and Fowlsheugh SPA but not the Flamborough pSPA.

In Table 3.2 of the Applicant's draft fulmar document displacement values of 30% are used with 2% mortality in the breeding season and 1% in the non-breeding season. The Applicant has not provided any empirical underpinning or ecological justification for only presenting these values and as previously stated the Applicant should present the range of possible displacement and mortality figures. A recent assessment of uncertainty in environmental assessment ranked fulmar as having a high level of uncertainty with respect to displacement effects (Wade, H.M., Masden, E.A., Jackson, A.C., & Furness, R.W. (2016) *Incorporating data uncertainty when estimating potential vulnerability of Scottish seabirds to marine renewable energy developments*. Marine Policy, 70, 108-113.).

The RSPB reserves the right to make further representations in the event that changes have been made between the draft version that we have been supplied and the version that is submitted to the Secretary of State.

The RSPB notes the various questions posed by the Secretary of State to the Applicant and Natural England. We request the right to reply when we see the full responses supplied.