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Your ref: EN010053



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VIA EMAIL ONLY

Dear Giles Scott,

Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Application by SMart Wind Limited for an Order Granting Development Consent for the Hornsea Offshore Wind Farm (Zone 4) – Project Two.

Request for comments from Natural England and the Joint Nature Conservation Committee on the application for the proposed Hornsea Two offshore wind farm – EN010053

Thank you for your letter dated 26 May 2016. The following constitutes the Joint Nature Conservation Committee (JNCC) and Natural England's formal statutory response.

On 13th May Natural England and JNCC advised the Secretary of State (SoS) for Energy and Climate Change that in relation to Hornsea Project Two there will be a likely significant effect on the Southern North Sea (SNS) possible Special Area of Protection (pSAC) and that an Appropriate Assessment is required. In addition Natural England and JNCC set out the uncertainties regarding the assessment, and how they should be considered by the SoS.¹

The SoS has invited Natural England and JNCC to provide further comments on the additional information submitted by the Applicant on 24th May 2016; these are detailed below.

Project Alone

Natural England and JNCC do not have any further comments to make regarding impacts from the project alone beyond our advice of 13th May 2016¹. We have previously detailed the evidence for disturbance/displacement and variability of porpoise return times following pile driving activities within the peer reviewed literature, as well as the associated uncertainty with regards to the effects on porpoise vital rates.

It should be noted that a recent paper by Wisniewska et al (2016)² reported that tagged porpoises off Denmark foraged almost constantly, 24 hours a day, to meet their energy needs. This supports our previous submission which highlights that being disturbed from a preferred foraging area, such as the SNS pSAC, could have implications on their survival and fitness.

Discussions as to what constitutes 'significant disturbance' are on-going between the statutory nature conservation bodies (SNCBs) and stakeholders, with a view to providing SNCB casework guidance. Natural England and JNCC will promptly update DECC on any significant developments regarding this

¹ <http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010053/2.%20Post-Submission/DECC%20Consultation/Joint%20Nature%20Conservation%20Bodies%20and%20Natural%20England.pdf>

² Wisniewska, D.M., Johnson, M., Teilmann, J., Miller, L.A., Siebert, U. and Madsen, P.T., 2016. Ultra-high foraging rates of harbour porpoises make them vulnerable to anthropogenic disturbance, *Current Biology* 26, 1-6

guidance. Nevertheless, Natural England and JNCC advise that the SoS should assess the Hornsea Project Two application against the site's draft Conservation Objectives, as detailed in our previous response.¹

Project In-combination

Natural England and JNCC welcome the additional information provided by the Applicant.

In terms of quantifying potential overlap with other offshore wind developments Natural England and JNCC welcome the information presented as 'tiers'. It is also understandable why the Applicant has chosen to average the size of the disturbance footprint in the pSAC. Whilst this is useful, we recommend that the Appropriate Assessment should also consider the estimated maximum and minimum spatial footprints within the pSAC resulting from potentially concurrent piling (i.e. more than one piling event in a shorter period of time such as a day or week). This is because the footprint inside the pSAC for Hornsea 2, for example, ranges from ~7% to as low as 0.3%, and therefore the average will not be representative of a larger combined footprint that could occur for example, in any given day as a result of concurrent piling.

It should also be noted that projects in tier 2 could have more of an impact than the tier 1 projects in terms of overlapping timings. Should Hornsea Project Two get consent it will be in the same position as the tier 2 projects and therefore they may be bidding for Contract for Difference (CfD) at the same time; resulting in a higher likelihood their construction times overlapping.

Within the additional information provided the Applicant states that "*in the event that a number of projects do come forward at the same time...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*". Natural England and JNCC advise that while this could be the case within each individual development zone, for example between Hornsea Projects 1 and 2, where a couple of foundations in close proximity could be piled simultaneously, an overlap of spatial footprints would not occur between the different Round 3 zones, for example between the Hornsea Zone and Dogger Bank Zone given the large distances in between.

The Applicant states that summing all of the average overlaps will lead to artificially high results and in practice it is unrealistic that all projects will come forward at the same time, partly due to supply chain constraints preventing each of the projects identified developing concurrently. However, the evidence put forward by the Applicant on this principle (Footnote 12) concerns the installation of export cables and not the number of vessels that are available to undertake piling. Therefore this is not the most appropriate reference and should not be taken into account by the SoS when carrying out the Appropriate Assessment. Additionally, whilst Natural England and JNCC consider that piling vessel availability may be a realistic limitation, the SoS should be mindful that current limitations could change in the future (e.g. more piling vessels could become available), and not place undue reliance on this point in the Appropriate Assessment.

In terms of in-combination, considering both the averaged and maximum values, Natural England and JNCC continue to have concerns about the possibility of overlapping construction schedules amongst all the planned windfarms and the extent of porpoise habitat that could be affected inside the SNS pSAC. We also note that the calculations provided by the Applicant don't take into account any other noisy activity taking place at the same time. As such, Natural England and JNCC still cannot advise the SoS that an adverse effect on site integrity can be avoided in the absence of mitigation. As stated in our previous response, dated 13th May 2016, there are a range of measures available that could potentially reduce the noise footprint of the project.¹

Mitigation

Natural England and JNCC are pleased that the Applicant accepts that further mitigation may be required, however the Applicant has not detailed all the available mitigation techniques (and their limitations) that could be considered in order to reduce noise levels and hence mitigate for disturbance.

Natural England and JNCC agree with the mitigation condition being stand alone rather than forming part of the Marine Mammal Mitigation Plan (MMMP), as suggested by the Applicant in their 24th May 2016 submission. However, Natural England and JNCC believe the condition should detail the range of viable mitigation measures that would be employed, as set out in Natural England and JNCC's recommended condition in Annex I of our previous response, dated 13th May 2016.¹

As noted in our previous response, a conclusion of no adverse effect on integrity can only be reached if the competent authority can be sure or make certain that there will be no adverse effects on the SNS pSAC. If the SoS agrees that mitigation may be required in order to make certain a conclusion of no adverse effect on integrity and accordingly applies a condition to legally secure that mitigation, in doing so she will need to have a high degree of confidence that mitigation can ultimately be delivered post-consent. Natural England and JNCC note that our condition requires the submission of the Southern North Sea possible SAC Mitigation Strategy to the MMO four months in advance of piling commencing. It will be vital that the Applicant accepts stringent requirements to review the need for mitigation and agree with the regulators and advisors a programme of required measures considerably earlier than this, to ensure that they can secure appropriate equipment and installation contracts and ultimately comply with the SoS's condition.

For any queries relating to the content of this letter please contact Emma Veryan at emma.veryan@naturalengland.org.uk or on 0208-0266510.

Yours sincerely,

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