

**Response to Request for Comments dated 12 July 2016
for
The Royal Society for the Protection of Birds**

19 July 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 to have been given the opportunity to submit comments upon the recent representations.

1. Compulsory acquisition

The RSPB has no comments on this issue.

2. Harbour Porpoises

The RSPB is grateful for the opportunity to comment upon the draft Development Consent Order conditions proposed.

The RSPB's concerns in relation to harbour porpoise were largely in relation to the way in which the assessment of impacts upon the Southern North Sea pSAC had been approached, in particular the reliance upon thresholds for time and area which the RSPB considered to be over-generous and lacking the necessary level of precaution.

We have considered the draft conditions carefully, and note that they do not directly address the concerns that we have raised, which were about the assessment of the impacts of the scheme at the DCO stage, rather than control mechanisms that might be put in place at a subsequent stage.

We note that there is no obligation upon the MMO to impose conditions. Given the information that is currently available we consider that it is unlikely that it will be possible for works to be consented without a DCO, and therefore we question why the application of mitigation provisions is not being made mandatory to ensure that the least potentially disruptive construction techniques are deployed.

We defer on this position to the Wildlife Trusts who are better placed to comment on the likely efficacy of these draft provisions.

3. Fulmar Displacement Mortality

The Applicant provided the RSPB with a draft copy of its Fulmar Displacement Mortality document ahead of the last deadline. We reviewed it at that time and made our comments based upon it. Our comments below are based on the final version that was submitted to the Examination.

To inform the assessment of displace effects on breeding fulmar, the applicant has presented the population counts for SPA designation and for 2012. However, counts of fulmar breeding at Flamborough and Filey Coast, Fowlsheugh and Forth Islands SPAs were carried out in 2015. While the applicant has acknowledged that these counts were carried out, they do not present the data. While it is argued that these data are not applicable as they were not collected concurrently with the Hornsea 2 survey data, these data provide crucial contextual information for understanding the significance of any impacts on the population of fulmar at these SPAs. Such contextual information is extremely important where uncertainty exists as to the scale of an impact, and fulmar

has recently been described as having a very high level of uncertainty surrounding the scale of displacement impacts associated with it, (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). As such, these important contextual data should be presented by the applicant for consideration by the Examiners.