



East Anglia Three Case Team
The Planning Inspectorate (by email only)
EastAngliaThree@pins.gsi.gov.uk

Your Reference: EN010056
Our reference: DCO/2013/00014

8 November 2016

Dear Sir or Madam,

Deadline 6 - MMO written summary of oral submission presented at the East Anglia Three Issue Specific Hearing on 26 October 2016 and response to hearing actions list

The Marine Management Organisation (MMO) is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the English marine area. Also the MMO is the enforcing body for the Deemed Marine Licence (DML(s)) issued as schedules of any DCO. In our role as interested party and enforcing body the MMO attended the East Anglia Three Offshore Wind Farm Project Issue Specific Hearing on 26 October 2016. Please see below a brief written summary of the oral representations made by the MMO representatives and our response to action points.

1. **Agenda Item 3 – Revisions and drafting changes to the latest version of the draft DCO, arising from the Applicant, (action point 1)**
 - 1.1 The Examining Authority (ExA) asked whether the MMO believes it is necessary to secure within the East Anglia THREE DCO a reduction in the number turbines for the East Anglia ONE project. We advise that it is for the Planning Inspectorate (PINs) or Secretary of State (SoS) to ensure that the DCO/DML effectively controls the build out of the project to the worst case scenario assessed and approved as appropriate. However, in our opinion it would not be appropriate to restrict the construction of East Anglia One through the East Anglia Three DCO.

The MMO notes that in your Rule 17 letter of 28 October 2016 you have raised a question to the MMO regarding the implications of using 150 turbines instead of 102 for the assessment. In the MMO's opinion, if 150 turbines are used for the assessment it would reflect the current worst case scenario and should the number of turbines in East Anglia One be subsequently reduced to 102, as proposed, then the conclusions of the assessment should remain valid.

2. Agenda Item 4 – Revisions and drafting changes to the latest version of the draft DCO, arising from other Hearing participants, (action point 8)

- 2.1 The Wildlife Trust has requested that it be named in relevant DML conditions as a consultee of the Marine Mammal Mitigation Plan (MMMP) and Site Integrity Plan (SIP) prior to post-consent approval of those plans by the MMO.

Whilst the MMO does not object to this in principle it is not considered standard practice. The MMO will consult such bodies as it deems appropriate when considering whether to discharge post consent requirements. The MMO also notes that the Wildlife Trust has had the opportunity to comment on the draft MMMP and SIP during the examination stage, and further notes the commitment by the applicant in the draft SIP for further consultation ahead of final submission to the MMO. As stated in the hearing the MMO believes that it is more beneficial and appropriate for the Wildlife Trust to provide advice during the production of the final documents.

It is the MMO's expectation that the applicant will effectively engage with all relevant bodies during the drafting of these plans prior to submission to the MMO and a resolution reached on any issues or concerns raised. On receipt of a post-consent/pre-construction plan or document the MMO will take a view on who should be consulted and this may include both statutory and non-statutory parties. The MMO would not, however, undertake a public consultation at this stage in the project.

Furthermore, we reiterate our response to deadline 5 that if the SoS wishes to retain control over who is consulted on any post consent documents, including the SIP, then the relevant condition should be contained within the DCO and not the DML.

3. Agenda Item 5 – Deemed Marine Licence provisions

- 3.1 Disposal site reference – the MMO can confirm that the disposal site has been designated and assigned reference number HU212. The MMO advised the ExA via email dated 16 September 2016.
- 3.2 Turbine draft height – ExA Second Written Questions, HRA11.
The MMO has discussed the proposed measures and in principal has no objections to the proposal. However, we have some concerns regarding the drafting and enforcement of such measures particularly regarding the use of percentages, as this is slightly ambiguous. For example on the worst case scenario 70% is roughly 120.4 turbines.

The MMO suggests the wording be amended to reflect the maximum number of turbines that must be built with a clearance of no less than 24 metres, based on the worst case scenario.

The MMO also notes that while Natural England (NE) has welcomed the proposal for additional mitigation, they have not asked for it. The MMO defers to NE on the appropriateness of ornithological mitigation, and the necessity for it to be enforced through the DML.

- 3.3 Noise monitoring – the MMO can confirm it is content that there is sufficient provision within the DMLs to allow for additional noise monitoring to be undertaken if it is deemed required following assessment of initial monitoring results.
- 3.4 The MMO is content that DML condition 20 sufficiently addresses Noise Registry requirements and that additional reference is not required in further conditions.
- 3.5 Draft SIP – with the exception of the comments submitted at deadline 5 in response to question HRA13 of the ExA Second Written Questions, the MMO has no concerns regarding the drafting of the SIP. The MMO can confirm that it has been in discussion with the applicant regarding the comments provided in response to HRA13 and will provide further comment when the updated SIP is submitted in to the examination process.
- 3.6 The ExA sought opinion on whether the MMO or SoS should have responsibility for sign-off of the final SIP. Whilst the MMO believes that this is a decision for the SoS as the decision maker and competent authority, it should be noted that MMO is a regulator for the marine environment with significant experience of post consent sign off and is able to fulfil this function as required. However, the MMO also refers to its deadline 5 response and the response given at 2.1 above regarding consultation; should the SoS wish to retain control over certain aspects of the discharge of SIP (or any other conditions in the DML) then it should be placed within the DCO.
- 3.7 Review of Consents – the MMO wishes to reiterate its previous response to the ExA Second Written Questions; that the Review of Consents which will be conducted by the relevant regulators, including the SoS, once the Southern North Sea pSAC has been designated may identify additional mitigation and/or new conservation objectives. This Review of Consents may trigger a subsequent review of the SIP to ensure that any additional mitigation can be incorporated into the Plan. The need for this review should be noted within the SIP and this has been discussed with the applicant, who has proposed that they will make some changes to the SIP.
- 3.8 The MMO has discussed its deadline 5 response comment regarding the SIP and Noise Prognosis in Table 1 with the applicant. The applicant has confirmed the SIP will be updated to show that the MMO will disseminate the information provided to any parties deemed necessary in order to facilitate input into the Final Design.

4. Agenda Item 8 – Plans and documents proposed to be certified

- 4.1 Plan of Plans – the ExA questioned the inclusion of multiple approvers for several documents detailed in the Plan of Plans. The MMO advises that it should give final approval for the offshore construction method statement. Discussion with the applicant has indicated this was the intent and that the plan of plans will be amended to reflect that NE is a consultee on this document, not the approving body.

5. Agenda Item 9 – Any other matter arising, (action point 20)

- 5.1 The ExA raised the issue of sequential clause numbering in the DMLs and removal of ‘not used’ clauses. The MMO confirms it has spoken with the applicant and

agreed the amendments to the DMLs as a result of the removal of 'not used' clauses.

6. Additional points raised- review of consents, (action point 23)

- 6.1 The MMO is aware that a question was raised at the end of the hearing suggesting that it is conducting a review of consents. The MMO is not currently reviewing DML consent conditions; the last review was related to navigational conditions. The East Anglia 3 DMLs currently reflect the preferred wording, except where highlighted above.

Yours sincerely



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