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**Subject:** Deadline 3 - TWT Response  
**Date:** 11 December 2020 17:35:22  
**Attachments:** [image001.png](#)  
[TWT Response EA1N Deadline 3 Dec2020.pdf](#)

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Dear East Anglia ONE North Case Team,

**Reference: 20024817**

Please find attached The Wildlife Trusts' submissions for Deadline 3. This includes:

- Appendix A TWT Summary of Oral submissions made at Issue Specific Hearing 1, 1st December 2020
- Appendix B TWT Comments on the Addendum for Marine Mammals [REP1-038]

If you require any further information, please do not hesitate to get in touch.

Kind regards,

Christina

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The Wildlife Trusts reference: 20024817

BY EMAIL

11 December 2020

Dear East Anglia ONE North Case Team,

**The Wildlife Trusts' response for Examination Deadline 3 Submissions for East Anglia ONE North Offshore Wind Farm.**

The documents TWT is submitting at Deadline 3 are as follows:

- TWT Summary of Oral submissions made at Issue Specific Hearing 1, 1<sup>st</sup> December 2020 (Appendix A);
- TWT Comments on the Addendum for Marine Mammals [REP1-038] submitted by the Applicant at Deadline 1 (Appendix B).

Thank you for taking our response into consideration. We look forward to engaging further with all parties as part of the examination and we are happy to provide more detail if required.

Yours sincerely



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## **Appendix A – TWT Summary and Further Detail on Oral Submissions made at the Issue Specific Hearing 1 (ISH1), 1<sup>st</sup> December 2020**

### **1. Site Integrity Plan (SIP) – Project alone impacts and the Addendum for Marine Mammals [REP1-038]**

After reviewing the Addendum for Marine Mammals [REP1-038] submitted by the Applicant at Deadline 1, TWT have some concerns with the revised project commitments related to the scheduling of UXO clearance and piling.

Although the SIP mechanism is still fairly new, SIPs have traditionally only been used for managing in-combination impacts. Providing a more detailed plan post-consent for in-combination noise impacts benefits both the developer and the regulator as this allows the provision of an up-to-date cumulative baseline to be included in the noise management plan and reduces the risks for both parties that arise from the long lead in time for offshore wind farm developments.

TWT only support the SIP mechanisms for in-combination impacts and we believe that SIPs should not be used to manage project-alone impacts. As mentioned in the paragraph above, the purpose of the SIP is to guard against the risks associated with long term planning where there is a significant unknown factor (up-to-date cumulative noise baseline) that lies outside of the project's control.

However, in this case the results of the assessment have already shown that the project-alone impact(s) in question (more than one UXO detonation / more than one piling event / at least one UXO event and at least one piling event in a 24 hour period) would cause significant noise disturbance within the Southern North Sea SAC by exceeding the 20% daily threshold <sup>1</sup>.

We feel that project-alone impacts should be conditioned as part of the Development Consent Order (DCO) and it would not be appropriate to include commitments within the DCO that are conditioned by mitigation that will not be committed to until post-consent.

It is our view that adapting the SIP to include project-alone impacts would entail a significant change to the purpose of the document. In this case discussions would need to be held between stakeholders in the industry to agree on the purpose of the site integrity plan and the role the mechanism serves in managing underwater noise impacts.

For further detail on these points, please see TWT's Comments on the Addendum for Marine Mammals [REP1-038] in Appendix B.

### **2. Impacts on the Southern North Sea SAC – UXO Detonation and piling**

Therefore due to our concerns with the Addendum for Marine Mammals [REP1-038] as described above and in Appendix B, we continue to abide by our position on UXO detonation and piling as stated in TWT Written Representation submitted at Deadline 1. TWT believe that piling and UXO detonation should be limited to 1 on any given day, in order to ensure that the 20% threshold is not exceeded and the project-alone impacts do not have the potential to cause significant noise disturbance to the harbour porpoise population of the Southern North Sea SAC.

In addition, we suggest that it may be useful for regulators/SNCBs to provide guidance as to the definition of the phrase 'any given day' in the current methodology for assessing noise impacts <sup>1</sup>. Is this intended to refer to a calendar day (midnight-midnight) or any 24 hour period? It would be useful to clarify this to ensure consistency between future projects or scheduling of noisy activities.

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<sup>1</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/889842/SACNoiseGuidanceJune2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/889842/SACNoiseGuidanceJune2020.pdf)

### **3. Impacts on the Southern North Sea SAC – Mitigation**

We appreciate that Defra, the MMO and the Southern North Sea Regulators Working Group are taking positive steps to develop effective management for in-combination underwater noise impacts and TWT will continue to work closely with all stakeholders on this. However, as a regulatory mechanism for managing the in-combination impacts from multiple SIPs is not yet in place and is unlikely to be in place before the end of this examination, we cannot agree with the in-combination assessment conclusions of no adverse effect on the Southern North Sea SAC.

As stated in our Written Response submitted at Deadline 1, we appreciate that the development of the regulatory mechanism lies outside of the control of this examination, however we suggest the Planning Inspectorate and the Secretary of State considers what controls need to be put in place to ensure no adverse effect on the Southern North Sea SAC at this current time.

### **4. DML Construction Monitoring Conditions - Cessation of piling**

As expressed at ISH1, TWT agree with the position put forward by the MMO at ISH1 regarding the inclusion of provisions in the DML which would require piling to cease if noise levels are significantly higher than those assessed in the ES. This is a standard condition that has been applied across projects and we feel that the MMO need to have all the legal powers necessary to enforce the conditions in the DML as they see fit.

If necessary, we would be happy to discuss a solution to this further with all parties.

## **Appendix B – TWT Comments on the Addendum for Marine Mammals [REP1-038]**

### **Section 2: Project Commitments**

#### **Paragraph 17**

The applicant has elected to revise the project commitments relating to UXO clearance and piling. TWT have concerns regarding the following commitments:

*“In the winter period in the winter area, only one UXO detonation **without mitigation** could occur in a 24 hour period.”*

*“In the winter period in the winter area, only one piling event **without mitigation** could occur in a 24 hour period.”*

*“During the winter period there would be no UXO detonation **without mitigation** in the offshore development area in the same period as any piling **without mitigation** in the offshore development area.”*

These concerns are explained in further detail below.

### **Section 3.2: Project Alone**

#### **Paragraphs 27, 30 & 37**

The Applicant’s revised project commitments state that there will be no more than one UXO detonation or more than one piling event in a 24 hour period, apart from if *“it can be demonstrated that effective mitigation can be provided.”* The Applicant therefore states that the SIP will cover the project-alone case for multiple UXO clearance events and/or multiple piling events in the winter.

As detailed in Table 3.2, the results of the assessment have shown that any increases to the project-alone impact(s) in question (more than one UXO detonation / more than one piling event / at least one UXO event and at least one piling event in a 24 hour period) would cause significant noise disturbance within the Southern North Sea SAC by exceeding the 20% daily threshold <sup>2</sup>.

Significant noise disturbance to the Southern North Sea SAC impacts the ability of the site to make a full contribution to maintaining the Favourable Conservation Status (FCS) of harbour porpoise and has the potential to cause long-term declines in the population of the designated species.

As mentioned in our Written Representation submitted at Deadline 1, we are pleased the applicant has included TWT as a consultee on the Draft (MMMP) and In-Principle Site Integrity Plan (SIP) and we welcome the opportunity to discuss mitigation further with the applicant.

However, TWT only support the SIP mechanisms for in-combination impacts and we believe that SIPs should not be used to manage project-alone impacts.

We feel that these provisions and the conclusions of Table 3.7 are not appropriate given that they are dependent on mitigation that will be conditioned post-consent. We believe that project-alone impacts should be conditioned as part of the Development Consent Order (DCO) and it would not be appropriate to include provisions within the DCO that are conditioned by mitigation that will not be committed to until post-consent.

The Applicant also states:

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<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/889842/SACNoiseGuidanceJune2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/889842/SACNoiseGuidanceJune2020.pdf)

*“The option to allow both piling and UXO clearance in the same 24 hour period in the winter area during the winter period has been removed, unless it can be demonstrated that effective mitigation can be provided for either activity (or both).”*

*“The SIP will therefore cover this case if this is required to maintain this flexibility for construction.”*

TWT do not believe that the flexibility for construction would be appropriate in this case. The purpose of the SIP is to guard against the risks associated with long term planning where there is a significant unknown factor (up-to-date cumulative noise baseline) that lies outside of the project’s control.

However, as mentioned previously the results of the assessment have already shown that the project-alone impact(s) in question would cause significant noise disturbance within the Southern North Sea SAC.

Therefore as it stands at DCO, the project-alone impacts would have an adverse impact on the site integrity of the Southern North Sea SAC as the necessary mitigation will not be committed to until post-consent.

#### **Section 4: Site Integrity Plan**

##### **Paragraph 46**

The Applicant proposes that:

*“...the In-Principle SIP (ISIP) for the Project is expanded in scope to reflect the project-alone effects as well as in-combination effects.”*

Although it is acknowledged that the SIP is a fairly new mechanism, TWT views this as a significant change to the purpose of the document as SIPs have traditionally only been used for managing in-combination impacts. In this case TWT feels that discussions would need to be held between stakeholders in the industry in order to agree on the purpose of the site integrity plan and the role the mechanism serves in managing underwater noise impacts.

SIPs allow the Applicant to provide a detailed method statement to deliver any mitigation or management measures post-consent, which includes an up-to-date and current description of the cumulative baseline. This is useful for both the applicant and the regulator when measuring in-combination impacts as it reduces the risks associated with long lead in times in offshore wind development.

However, in this instance it is already known that the project alone impact of more than one UXO detonation / more than one piling event / at least one UXO event and at least one piling event in a 24 hour period will cause significant noise disturbance within the Southern North Sea SAC by exceeding the 20% threshold. Therefore, we believe that the SIP is not an appropriate mechanism in this case.

The Applicant also states:

*“Should the Applicant wish to undertake multiple UXO clearance or piling events on the same day in the winter period, this will be possible if it can be demonstrated that effective mitigation can be provided.” The evidence for this will be provided in the relevant SIP(s) (either for UXO clearance, piling or both) post-consent.”*

TWT would like further clarity on the Applicant’s definition of effective mitigation and who would determine the effectiveness of any mitigation measure proposed.

In this scenario, both the commitment to the mitigation and the evidence for the effectiveness of the mitigation would be provided post-consent. Therefore we believe that it would not be possible to rule out

adverse effect on site integrity under the these new provisions as not enough information will be included on the face of the DCO.

**Paragraph 47**

We do not agree with the Applicant's view that the SIP offers the most flexible and appropriate mechanism for managing potential project-alone noise impacts. As previously stated, SIPs have traditionally only been used to regulate in-combination impacts and these new provisions would significantly change the purpose of the document.

TWT only supports the SIP for in-combination impacts, as the risks from other future projects are largely unknown at the time of consent due to the long lead in times of the offshore wind development process. However, in this case we know that the project alone impact(s) in question will exceed the 20% threshold of the Southern North Sea SAC and potentially leading to an adverse effect on site integrity.

As mentioned previously, under these revised project conditions both the commitment to the mitigation and the evidence for the effectiveness of the mitigation would be provided post-consent. Therefore we believe that it would not be possible to rule out adverse effect on site integrity under the these new provisions as not enough information has been included on the face of the DCO.