



East Anglia TWO Case Team
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

The Wildlife Trust reference: 20024818

BY EMAIL

2 November 2020

Dear East Anglia TWO Case Team

**Examiner's written questions for East Anglia TWO Offshore Wind Farm (ExQs1):
Deadline 1.**

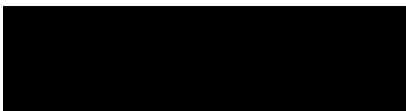
Thank you for inviting The Wildlife Trusts (TWT) to respond to questions regarding the East Anglia TWO Offshore Wind Farm application. Our response is outlined in Appendix A.

TWT, with more than 850,000 members are the largest UK voluntary organisation dedicated to conserving the full range of the UK's habitats and species, whether they be in the countryside, in cities or at sea. TWT manages 2,300 reserves covering more than 90,000 hectares of land including coastal reserves; TWT stand up for wildlife, inspire people about the natural world and foster sustainable living.

TWT support the UK's current targets to reduce greenhouse gas emissions and the government's ambitions to tackle climate change and increase the proportion of overall energy generated from alternative sources. However, we do not believe that this should be at the expense of the environment and firmly believe that it needs to be 'right technology, right place'.

Thank you for considering our response. We are happy to provide more detail if required.

Yours sincerely



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Appendix A

ExQs 1	Question to:	Question:	Response:
	Marine Mammals		
Question 1.2.28.	The Applicant, NE, MMO, TWT (p36)	<p>Disturbance of Harbour Porpoise from UXO Detonation and Piling: 20% Threshold</p> <p>C) Do NE, the MMO, TWT or any other relevant party wish to comment on the Applicant's reasoning in Table 36 of [APP-036] for not limiting UXO detonations and piling events to a total of one in any 24 hour period? Could all relevant parties please also ensure that the status of discussions on this issue is covered within the SoCGs requested for Deadline 1.</p>	<p>TWT agrees with Natural England's suggestion in their relevant representation [RR-059] that piling activities and UXO detonations should be limited to 1 on any given day, to ensure that 20% threshold of the Southern North Sea SAC is not exceeded.</p> <p>The Applicant should clarify their definition of a 24 hour period in each case, as this could affect the 20% threshold.</p>
Question 1.2.30.	NE, MMO, TWT (p37)	<p>Restrictions on Concurrent UXO Detonation and Piling: Security</p> <p>The ExA notes the Applicant's points at Table 36 of [AS-036] in response to NE's requests for security in the DMLs to limit UXO detonations and piling events to a total of one in any 24 hour period. Do NE, the MMO, TWT or any other relevant party wish to comment on the Applicant's reasoning in Table 36 of [APP-036] that Site Integrity Plans, agreed post-consent in accordance with the In-Principle SIP, are an appropriate mechanism to manage this matter? If not, why not?</p>	<p>TWT would welcome Natural England's view on this matter.</p>
Question 1.2.31.	The applicant, NE, MMO,	<p>Concurrent Piling at East Anglia ONE North and East Anglia Two</p> <p>The In-Principle Site Integrity Plan [APP-594] states at bullet four of section 6.1 that '(t)here would be no concurrent piling or UXO detonation between the</p>	<p>TWT has been assured by the Applicant that EA1N and EA2 will not be constructed at the same time but TWT highlights that careful planning/scheduling of underwater noise will be required if one project is undertaking UXO clearance whilst the other is undertaking piling activity. TWT agrees with Natural England's suggestion in their relevant</p>

	TWT (p37)		proposed East Anglia ONE North and East Anglia TWO projects if both projects are constructed at the same time'. However, it does not appear to limit the overall number of piling or UXO detonation events that could potentially occur within any 24 hour period across the two projects. A) Do NE, the MMO, TWT and the Applicant consider that it should? Please give reasons for your position.	representation [RR-059] that piling activities and UXO detonations should be limited to 1 on any given day across the two projects, to ensure that 20% threshold of the Southern North Sea SAC is not exceeded.
Question 1.2.36.	The Applicant, MMO, NE and TWT (p40)		<p>Marine Mammals: In-Principle Site Integrity Plan – Certainty</p> <p>Under the provisions of the dDCO, the future SIP(s) must accord with the principles set out in the In-Principle SIP (IPSIP), which is to be a certified document under Art 36. The submitted IPSIP [APP-594] appears to indicate (for example at Table 2.1) that the document itself would continue to be revised and updated following the grant of DCO consent.</p> <p>a) If the IPSIP is necessary to ensure the avoidance of Adverse Effects on Integrity of the designated features of the Southern North Sea SAC, does the scope for review and change to the IPSIP post-DCO consent provide sufficient certainty that it can be relied upon for its intended purpose in the DCO consenting process?</p>	<p>As part of the SoCG, TWT have asked for the inclusion of the Final Investment Decision (FID) and Contract for Difference (CfD) across all SIPs prepared by the offshore wind industry [TW-015]. This is to ensure that decisions made at these milestones do not limit the mitigation required to ensure no adverse effect. Monitoring requirements also need to be taken into account in relation to these milestones. The inclusion of FID and CfD milestones in the in-principle SIP is currently under consideration by the Applicant.</p> <p>TWT support the principle of a SIP, however it is not possible to agree no adverse effect due to the lack of strategic management and mechanisms for tackling underwater noise on a North Sea level.</p>
Question 1.2.37.	NE, MMO, TWT and the Applicant (p40)		<p>In-Principle Site Integrity Plan – Potential Mitigation Measures</p> <p>The Applicant notes that the In-Principle SIP needs to retain a level of flexibility until the extent and nature of mitigation becomes clear, and that finalised SIPs must, under the conditions of the DMLs, be approved by the MMO prior to construction.</p> <p>a) In this context, do the MMO, Natural England and The Wildlife Trusts consider that the draft In-Principle Site Integrity Plan provides sufficient detail on potential mitigation measures?</p>	<p>a) It is recognised that the In-principle SIP needs some level of flexibility prior to consent, however it would be helpful for the In-principle SIP to provide more detail on the potential effectiveness of the mitigation measures mentioned. TWT welcomes their inclusion as a consultee on the Draft MMMP and the In-principle SIP, and we welcome the opportunity to work with the applicant to discuss the implementation of mitigation and monitoring further.</p> <p>TWT still have some concerns on the industry's approach to the in-combination mitigation and emphasise that a regulatory mechanism and monitoring programme will be essential to increase our confidence [See Question 1.2.46. for more detail].</p>

			<p>b) If not, what additional information should be included to provide sufficient detail?</p>	<p>b) As part of the CoCG, TWT have asked for the inclusion of the Final Investment Decision (FID) and Contract for Difference (CfD) across all SIPs prepared by the offshore wind industry [TW-015]. This is to ensure that decisions made at these milestones do not limit the mitigation required to ensure no adverse effect. Monitoring requirements also need to be taken into account in relation to these milestones. The inclusion of FID and CfD milestones in the in-principle SIP is currently under consideration by the Applicant.</p>
Question 1.2.41.	The Applicant and TWT (p41)		<p>SIP and MMMP - Post-Consent Approvals The Applicant states in [AS-036] that it has agreed through the SoCG process that it will consult The Wildlife Trusts in respect of the Site Integrity Plans and Marine Mammal Mitigation Protocols for Unexploded Ordnance (UXO) clearance and piling. A SoCG between the Applicant and The Wildlife Trusts has not yet been submitted to this Examination. a) Do The Wildlife Trusts consider that this addresses their comments in [RR-091] on post-consent engagement?</p>	<p>We welcome the fact that the Applicant has now agreed to update the Draft MMMP and the In-principle SIP to include TWT as a consultee [TW - 016]. TWT will assess our satisfaction when we see the updated Draft MMMP and the In-principle SIP at Deadline 3.</p>
Question 1.2.46.	TWT, NE, MMO (p44)		<p>Southern North Sea SAC: Adequacy of Monitoring Commitments Concerns have been expressed by The Wildlife Trusts about the monitoring secured in the dDCO in respect of harbour porpoise and the Southern North Sea SAC. The Offshore In-Principle Monitoring Plan [APP-590] signposts to provision for monitoring (if required) in the Draft Marine Mammal Mitigation Protocol [APP-591] and In-Principle Site Integrity Plan [APP-594]. All three are to be certified documents under Art 36 of the DCO. b) Do The Wildlife Trusts wish to comment on the Applicant's response to its concern at line 011 of Table 66 in [AS-036]?</p>	<p>b) + c) It is recognised that the Applicant has included provision for further monitoring (if required) in the Draft Marine Mammal Mitigation Protocol and In-Principle Site Integrity Plan, and TWT welcomes their inclusion as a consultee on the Draft MMMP and the In-principle SIP, and the opportunity to work with the Applicant to discuss the implementation of mitigation and monitoring further. However, TWT still has concerns about the Industry's lack of approach to strategic monitoring. Without an industry-wide regulatory mechanism and monitoring programme TWT cannot have confidence in the effectiveness of in-combination noise mitigation or the impact of the offshore wind industry on the site integrity of the Southern North Sea SAC. Currently there will be no monitoring of harbour porpoise post construction. Pre, during and post construction monitoring is required of both noise levels and harbour porpoise activity to understand the impact of underwater noise on harbour porpoise as an EPS and on the Southern North Sea SAC.</p>

			c) What function do The Wildlife Trusts consider that any additional monitoring commitments would have and what form might they take?	Without an appropriate regulatory mechanism in place, TWT cannot agree to no adverse effect on the Southern North Sea SAC for EA1N & 2 in combination with other identified projects.
Fish and Shellfish Ecology				
Question 1.2.53.	TWT (p47)		<p>In-combination Assessments: Inclusion of Fishing</p> <p>In [RR-091] The Wildlife Trusts raise a concern that fishing should be included in all cumulative and in-combination assessments. The Applicant responds to this position in [AS-036] (Comments on Relevant Representations - Volume 3: Technical Stakeholders). Are The Wildlife Trusts content with the explanation provided there? If not, please describe your outstanding concerns and set out the action that you consider the Applicant needs to take.</p>	<p>TWT is aware that that applicant has agreed with Natural England at an Expert Topic Group (ETG) Meeting on the 6th of March 2018, that fishing activity will be considered as part of the baseline. However, TWT's position has not changed: TWT believes that commercial fisheries should be included in the CIA.</p> <p>Commercial fishing is a licensable ongoing activity that has the potential to have an adverse impact on the marine environment. This is supported in the leading case C-127/02 Waddenzee [2004] ECR I-7405, the CJEU held at para. 6. In addition, Defra policy requires existing and potential fishing operations to be managed in line with Article 6 of the Habitats Directive. This approach further supports that fishing is considered a plan or a project and therefore must be included in the in-combination assessment in line with Article 6(3) of the Habitats Directive. Following the commencement of judicial review proceedings by TWT against Dogger Bank Offshore Wind farms, TWT was given assurances that fishing would be included in future offshore wind farm assessments. We have raised this issue with the Planning Inspectorate over several planning applications (Hornsea 3, Norfolk Vanguard, Norfolk Boreas) and have also raised the issue with Defra and BEIS. We make this case for all MPAs assessed in this application. This position [TWT-005] is marked as "Not Agreed" in the SoCG.</p>