



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

East Anglia TWO Offshore Wind Farm

Appendix B3 to the Natural England Deadline 4 Submission

Natural England's comments on the In Principle Southern North Sea SAC Site Integrity Plan [REP3-044] and Draft Marine Mammal Mitigation Protocol [REP3-042]

For:

The construction and operation of East Anglia Two Offshore Windfarm, a 900MW windfarm which could consist of up to 75 turbines, generators and associated infrastructure, located 37km from Lowestoft and 32km from Southwold.

Planning Inspectorate Reference: EN010078

13th January 2020



Natural England's comments on the In Principle Southern North Sea SAC Site Integrity Plan [REP3-044] and Draft Marine Mammal Mitigation Protocol [REP3-042]

This document is applicable to both the East Anglia ONE North and East Anglia TWO applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's (ExA) procedural decisions on document management of 23rd December 2019. Whilst for completeness of the record this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it again for the other project.

1. Summary

Several significant changes have been made to the Marine Mammal Mitigation Protocol (MMMP) and Site Integrity Plan (SIP) in version 2 of both documents, particularly in relation to wording of the commitments, clustering of UXOs and the swimming speed of marine mammals used in the assessment. No explanation for these changes has been provided within in the document and the Applicant has not contacted us to discuss the changes or the rationale behind them. Furthermore, Natural England has noticed 'track-changed' documents being submitted without all of the changes being tracked. This is very frustrating and results in a very dis-jointed working relationship with the Applicant. Natural England would welcome the Applicant providing the opportunity to discuss the below points to hopefully expedite the process of resolving them.

2. Wording of the Commitments

The Applicant appears to have changed the wording of the commitments in section 4 for a second time, with no explanation. Since the words '*without mitigation*' were added in the Addendum submitted by the Applicant at deadline 1, which Natural England provided comment on at deadline 3 [REP3-118], the Applicant has now changed it to '*without at source mitigation*'. No rationale has been provided in either the MMMP or SIP as to why the changes are required and what the repercussions of the changes may be. This makes it incredibly difficult for Natural England to understand the reasoning for the change and therefore provide advice on the change. We would welcome further explanation and clarification from the Applicant as to why these changes are required.

It remains Natural England's position that the commitments should be conditioned on the face of the DML in their own right, without the inclusion of the wording '*without at source mitigation*'. Further detail can be found in our submission for deadline 3 [REP3-118].



3. Clustering of UXO detonations

Natural England welcomes clustering of UXO being included as a potential mitigation measure for UXO detonations that may be taken forward however, there has been no discussion of this option with the Applicant since Natural England suggested it in a meeting in August 2020. The text provided in the MMMP and SIP is vague at best and much more detail is required before we can be supportive of this approach. No rationale is provided for why 5km has been chosen as the appropriate distance to cluster UXO, no detail is provided as to how many UXO may be clustered or any limitations in relation to the size of those UXO or the sizes of the charges that may be used. Underwater noise modelling will be required to demonstrate that the clustering method would be effective for EA2. Had there been engagement on this point from the Applicant since August 2020, this could already have been resolved. However, Natural England is willing to engage with the applicant to resolve this issue.

4. Marine mammal swimming speed

Section 5.2.2 and Appendix 1 of the MMMP both detail a marine mammal swimming speed of 1.8m/s when discussing the distances to which marine mammals may be moved by the use of soft-start ramp ups and ADD use. This is a change from the 1.5m/s used in the marine mammal assessment in the EIA and no explanation is provided of where the 1.8m/s speed has originated. Kastelein *et al* (2018) reported a swimming speed of 1.97m/s but this is only one paper and does not warrant a change from the currently widely accepted speed of 1.5m/s. It certainly does not indicate that a seemingly random number between 1.5 and 1.97 can be used.

It is unclear whether the information in Appendix 1 is intended to be a repeat of information in chapter 11 of the environmental statement or act as a reassessment based on a swimming speed of 1.8m/s. Natural England would expect mitigation to be designed around the outcome of an assessment using a swimming speed of 1.5m/s, not an element of an assessment being changed without sufficient justification and agreement around the new parameters. Natural England fundamentally disagree with the use of a swimming speed of 1.8m/s and therefore with the assessment of the efficacy of possibly mitigation measures presented in Appendix 1.

5. Untracked changes

Natural England understand the submission of new versions of documents into Examination both in clean format and with track-changes is intended to aid the speedy review of new



information and any changes that have been made to existing information contained in those documents within the confines of a fixed and fast-paced Examination timetable.

Paragraph 5 of version 1 of the SIP reads '*...in relation to the potential in-combination effects of pile driving noise, in order to ensure there will be no adverse effect on the SNS SAC.*' The same paragraph in version 2 (now paragraph 6) reads '*...in relation to the potential **project alone and** in-combination effects of pile driving noise **and UXO clearance noise**, in order to ensure there will be no adverse effect on the SNS SAC.*'

Finding instances such as this where text has been changed without it being openly acknowledged is incredibly frustrating and detracts from the positive relationship we have enjoyed with the Applicant to date. Furthermore, on this point specifically, Natural England has responded at Deadline 3 with extensive comments strongly refuting the suitability of the SIP to include project alone effects. It was never the intended purpose of SIPs to include project alone impacts, indeed if a project is having a significant impact alone then the project design should be changed to avoid this. Full details regarding Natural England's position on this can be found in our submission for Deadline 3 [REP3-118] and in Natural England's position paper submitted into the Boreas examination on the use of a SIP to manage project alone impacts on Boreas Appendix B4.

6. Timing of document submission

The timing of the submission of the MMMP and SIP for the UXO detonation works has been reduced from six months to three, again with no explanation. Natural England considers that six months would be more appropriate as it allows for a more realistic timeframe for discussions around mitigation to take place, for any additional mitigation measures to be implemented and required equipment to be sourced. Reducing this period to three months may result in required mitigation not being able to be put in place due to time constraints and potentially impacting the construction timeframe of the project. It would not be appropriate for either the MMMP or SIP to be signed off until suitable mitigation is in place and not allowing enough time for document submission prior to works being carried out will not result in Natural England agreeing to works going ahead with insufficient mitigation measures in place. This can easily be avoided by allowing six months prior to the UXO works for the MMMP and SIP to be agreed.



7. References

Kastelein, R.A., Van de Voorde, S, and Jennings, N. (2018). Swimming Speed of a Harbour Porpoise (*Phocoena phocoena*) During Playbacks of Offshore Pile Driving Sounds. *Aquatic Mammals*: 44(1):92-99.