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(By email only)

MMO Reference: DCO/2016/00005
Planning Inspectorate Reference: EN010078
Identification Number: 20024119

6 May 2021

Dear Rynd Smith,

Planning Act 2008, Scottish Power Renewables, Proposed East Anglia Two (EA2) Offshore Windfarm Order

MMO Deadline 10 Response

On 19 December 2019, the Marine Management Organisation (the “MMO”) received notice under Section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Scottish Power Renewables (the “Applicant”) for determination of a development consent order (DCO) for the construction, maintenance and operation of the proposed East Anglia One North Wind Farm (the “DCO Application”) (MMO ref: DCO/2016/00005; PINS ref: EN010078).

The Applicant seeks authorisation for the construction, operation and maintenance (O&M) of the DCO Application, comprising of up to 75 wind turbine generators together with associated onshore and Offshore infrastructure and all associated development (“the “Project”). This includes two Deemed Marine Licences (DMLs) under Schedules 13 and 14.

This document comprises the MMO comments in respect of the DCO Application submitted in response to Deadline 10

The MMO submits the following:

- 1. Underwater Noise Update**
- 2. Contaminant Sampling Update**
- 3. Comments on any additional information/submissions received at Deadline 9**
- 4. Comments on Applicants comments on MMO Deadline 8 response**
- 5. Other Comments**

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the Examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated applications for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours Sincerely,





Jack Coe

Marine Licencing Case Officer

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1. Underwater Noise Update

1.1 Sequential Piling

The MMO set out in its Deadline 9 response [REP9-021] that it was not content that the Applicant has adequately assessed the risk of installing more than one monopile in a 24-hour period in their Underwater Noise Update [REP8-040] submitted at Deadline 8, this concern centred around the fact that the monopiles will likely be installed at different locations.

The Applicants provided the modelling to the MMO and Cefas following a workshop on 13th April. The MMO are engaging with the Applicants regarding the updated REP8-040 with the aim of reaching agreement by Deadline 11. The MMO will continue discussions with the Applicant on this matter.

2. Contaminant Sampling Update

2.1 Sediment Sampling

The MMO outlined in its Deadline 9 response [REP9-021] that the contaminant sampling conducted by the Applicant for these projects is insufficient at this stage. The MMO also pointed out that due to these Examinations being extended, the MMO is still engaging in discussions on these matters with the Applicant to see if the additional sampling can be conducted and submitted into these Examinations before they conclude.

The MMO and its scientific advisors attended a meeting with the Applicant on 13 April 2021 where additional sampling was discussed.

The MMO can confirm that the Applicant has submitted a sampling plan request to the MMO. The case reference for this is SAM/2021/00026 and covers both East Anglia One North and East Anglia Two Offshore Windfarms locations and is available to view on the MMO Public Register.

The MMO has agreed with its scientific advisors to endeavour to expedite this request in order to provide the Applicant with an appropriate plan with which they can undertake sampling. The MMO will keep the Examining Authority (ExA) updated on the progress of this sampling plan request throughout the remainder of the Examination process and will provide a written update at Deadline 11.

3. Comments on any additional information/submissions received at Deadline 9

3.1 Trinity House (TH)

Deadline 9 Submission - Comments on submissions received by Deadline 8 [REP9-090]

The MMO notes that TH has requested confirmation on the drafting of Schedule 14, Part 2, Condition 13(1)(a) in relation to the Layout Principles Statement. The MMO notes the Applicant is discussing this with TH and believes this will be resolved prior to the close of Examination.

3.2 Natural England (NE)

Appendix A15c- Natural England's Comments on Offshore Ornithology Without Prejudice Compensation Measures v2 [REP9-065]

The MMO notes that there remains disagreement between the Applicant and NE regarding the appropriateness of the Ornithological Compensation measures proposed by the Applicant.

The MMO welcomes the continued discussions between the Applicant and NE regarding Compensation and will continue to review any documents submitted into the Examination. The MMO has no further comments to make on this document.



Appendix G6- Natural England's Comments on EA1N/EA2 DCO Application Version 6 [REP9-068]

The MMO welcomes the number of agreements that have been reached between the Applicant and NE and notes that Schedule 18 Ornithology Compensation remains the only outstanding offshore issue regarding the dDCO. The MMO will remain in discussion with both parties about this specific topic and reminds the Applicant that the Secretary of State (SoS) would usually expect compensation measures to be agreed before the completion of the Examination process, not during the Post-Consent stage.

Other Documents

The MMO has also reviewed the following documents submitted by NE and has no comments to make on their content:

- Appendix A14c- Natural England's Response to The Applicant's Legal Submissions at ISH 14 [REP9-064]
- Appendix A16b- Natural England's Comments on Cumulative and In-combination Collision Risk Update [REP9-066]
- Appendix A17b- Natural England's Comments on Updated Displacement of Red-throated Divers in the Outer Thames Estuary SPA [REP9-067]
- Appendix I1G- NE Risk and Issues Log- Deadline 9 [REP9-069]
- NE Cover Letter Deadline 9 [REP9-063]

3.3 The Applicant

Deadline 9 Topic Position Statements- Version 1 [REP9-009]

The MMO welcomes the submission of this document and understands its purpose of being entered into the Examination at this stage. The MMO is content that the Applicant has adequately captured the position the MMO takes in relation to all offshore topics and is pleased that the Applicant has used the most recent Statement of Common Ground [REP8-132] to draft this document. The MMO has no further comments to make.

Applicants' Comments on The Wildlife Trusts' (TWT) Deadline 8 Submissions [REP9-015]

The MMO notes that TWT wish to review the results of the Applicants pre and post works sandeel monitoring, and the final marine mammal monitoring reports. The MMO also notes that the Applicants intend to provide TWT with this information after it has been submitted to the MMO and is in the public domain. The MMO considers the TWT request to be reasonable and we support the Applicant's approach to providing them with the relevant information.

The MMO is aware that TWT is largely dissatisfied that monitoring of underwater noise levels will only occur during the construction of the first four piles and consider there to be a missed opportunity to coordinate the harbour porpoise monitoring programme with further underwater noise monitoring in order to have a complete and accurate picture of the impacts of the construction programme.

The MMO also notes that the Applicant has stated that, of the monitoring of the first four piles, at least one of which will be in an area anticipated to generate the greatest noise emissions is agreed with the MMO, and that this combined with Passive Acoustic Monitoring (PAM) monitoring (the exact form of which will be agreed post consent) will provide an accurate picture of the potential impacts on harbour porpoise in the vicinity of the Projects during construction and builds on the monitoring undertaken at East Anglia ONE. The MMO is content with this



approach. As set out in Section 1.1 of this document there is only one outstanding MMO concern in relation to underwater noise.

Finally, the MMO sits on the Southern North Sea (SNS) Regulators Working Group and is currently working with the Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) and the Ministry of Defence (MoD) on multiple noisy activities in the SNS Special Area of Conservation (SAC). The MMO will provide an update from the next meeting, which is due to take place on 13 May 2021, at Deadline 11. The MMO also wishes to point out the TWT are participants in the Special Advisory Group (SAG) that advises the regulatory forum that the MMO is a part of and the issues of monitoring noisy activities has been raised to them through this medium.

3.4 Other Documents

The MMO has also reviewed the following documents submitted by the Applicant and has no comments to make on their content:

- Deadline 9 Submission- Guide to the Application- Version 10 [REP9-002]
- Windfarm Layout Principles Statement- Version 02 [REP9-031]
- Deadline 9 Submission- Cover Letter [REP9-001]
- Applicants' Comments on Natural England's Deadline 8 Submissions [REP9-016]
- Applicants' Comments on the Royal Society for the Protection of Birds' Deadline 8 Submissions [REP9-020]

4. Comments on Applicant's comments on MMO Deadline 8 Response [REP9-021]

4.1 Summary of Oral Cases made during the Biodiversity and Habitats Regulations Assessment (HRA) Issue Specific Hearing (ISH) 14

The MMO is largely content with the wording of Condition 16 of Schedule 13 and Condition 12 of Schedule 14 and welcomes the inclusion of a 3-month timescale for the submission of a UXO Close-Out report.

Regarding the wording of Condition 27 of Schedule 13 and Condition 23 of Schedule 14 in the DCO, the MMO is content with the definition of 'UXO Detonation' being included in the Marine Mammal Mitigation Protocol (MMMP) and the In-Principle Site Integrity Plan (SIP), the MMO consider this matter to be resolved.

The MMO maintains its position that the best mechanism for managing UXO activities is a separate marine licence, however, the MMO is aware that the Applicant considers the most appropriate mechanism for managing such activities is through the conditions of the DML. The MMO has worked with the Applicant on a without-prejudice basis to ensure that the impacts of UXO activity are appropriately controlled but will maintain its position that a separate marine licence would be more appropriate until the end of these Examinations.

The MMO remains in agreement with the Applicant that the SIP is the most suitable mechanism for managing in-combination Underwater Noise impacts in the SNS SAC.

The MMO acknowledges that the Applicant does not consider that Temporary Threshold Shift (TTS) should be included within the SIP, however, the MMO welcomes the Applicant's decision to include it in table 5.1 of [REP8-032] as requested by the MMO and its scientific advisors. Having consulted our advisors on the updated document, they have confirmed that they are content with the Applicant's inclusion of TTS and the MMO concurs with the Applicant that this issue is now resolved.



4.2 Summary of Oral Cases made during the draft Development Consent Orders & Other Matters Issue Specific Hearing (ISH) 15

The MMO notes that the Applicant disagrees that the Benefit of the Order provision needs to be standard across all DCOs. The MMO also understands the Applicant's rationale behind this assertion, in that every project is different and the Benefit of the Order Article need not be consistent throughout every DCO project.

However, the MMO welcomes that the Applicants have included paragraphs 14, 15 and 16 of Article 6 from the Norfolk Vanguard DCO in order to provide further clarity around the notification procedures. The MMO is content with the updates the Applicant has made and considers this issue to be resolved.

The MMO welcomes the update to Requirement 13 to include the MMO as a consultee in respect of the offshore elements of the Landfall Construction Method Statement and concur with the Applicant that this matter has been resolved.

In respect of Condition 16, Schedule 13 and Condition 12, Schedule 14, the MMO welcomes that the Applicant has included a requirement to submit the close out report within three months and have also amended the text in paragraph (6) from "may" to "will". The MMO has no further outstanding issues regarding these conditions.

In respect of Condition 21, Schedule 13 and Condition 17, Schedule 14, the MMO notes that the Applicant has reverted back to the original wording of this condition as requested by the MMO in [REP8-156]. The MMO welcomes this action and considers this matter to be resolved.

The MMO welcomes the updated text in Article 44 and Schedule 18 to refer to "Offshore Ornithology Compensation Measures" to clarify the context in which the word "Compensation" is used, the MMO considers this change to be appropriate.

The MMO also understands that the Applicant does not consider that a consultation period should be specified in Schedule 18 as this level of detail would not be necessary, the MMO disagrees with this and considers that Compensation packages should have a timescale of 6 weeks so all parties understand their requirements at the Post-Consent stage. Please see [REP8-156] for the MMO's full position on this issue. The MMO will continue discussions with the Applicant to ensure that a satisfactory position is reached by both parties at the end of Examination.

The MMO notes that the Applicant has stated that the Ornithological Compensation measures currently proposed do not involve licensable marine activities. This is a welcome clarification for the MMO to receive, however, given that this is a developing situation, the MMO will monitor the progress made by the Applicant with regards to Ornithological Compensation measures for these projects and should any marine licensable activities become a part of the Compensation packages, the MMO must be included in any discussions regarding their implementation.

5. Other Comments

5.1 MMO comments on the Extended Examination

The MMO has already sent feedback to the PINS in respect of the decision to extend these Examinations. However, the MMO considers it appropriate to reiterate its position in this response so it is available to all Interested Parties involved.

The MMO is aware that for EA1N and EA2 Offshore Wind Farms (OWF), PINS sent an email to the SoS on 9 February 2021 to extend the Examination timetables by four months from 6 April 2021 to 6 August 2021. The main reasons for this decision were as follows;

The impact of the Covid-19 restrictions and two national lockdowns on the ability of Interested Parties, Local Authorities and Statutory Bodies to engage effectively in the Examinations;



The impact of the Covid-19 restrictions and two national lockdowns on the ability of the Panels and Case Teams to examine the applications fully and produce robust recommendation reports that would enable the SoS to reach decisions within the statutory timescales; and

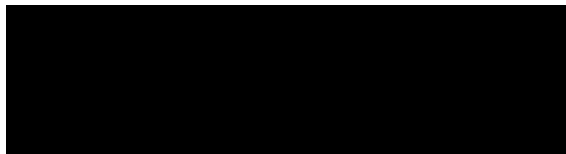
The range, scale and pace of the two simultaneous Examinations during this unprecedented time, leading to a strain on delivery by participants.

The MMO questions why it took until 30th March 2021 for a decision to be reached on this matter? The MMO is aware that several Interested Parties have ongoing resourcing issues due to the impacts of the Covid-19 pandemic, as well as other internal difficulties, and several parties worked under pressure to ensure that as many issues related to these projects could be resolved as soon as possible, prior to Deadline 8. Had the ExA been able to communicate this extension to Interested Parties in a timelier manner, it would have reduced the pressure on the relevant case teams.

The MMO is aware that a similar situation took place during the Examination period of the Norfolk Boreas OWF when the Examination was extended on the final day of the final Examination deadline, it was thought that this would not be a precedent set by the Examining Authority going forward.

The MMO hopes extensions of this nature can be communicated to Interested Parties sooner in future DCO Examinations but welcomes feedback from PINS on this matter should they consider it necessary.

Yours Sincerely,



Jack Coe

Marine Licencing Case Officer



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