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[EN_10080_NE_Hornsea_Project_three_Deadline_3_Submission_-_ISH_1_\(002\).pdf](#)
[EN_10080_NE_Hornsea_Project_Three_Deadline_3_Submission_-_ISH_2_PART_1_-_Ornithology.pdf](#)
[HP00066_101_HOW03_HiDef_Method_statement_20160401.pdf](#)
[EN_10080_NE_Hornsea_Project_Three_Deadline_3_Submission_-_ISH_2_PART_2_-_Benthic.pdf](#)
[EN_10080_NE_Hornsea_Project_Three_Deadline_3_Submission_-_ISH_2_PART_2_-_Benthic_Annex_2.2B_Response_on_REP2-004.pdf](#)
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Hello,

Please find attached Natural England's Deadline Three Submission.

This includes the following documents:

- EN 10080 NE Hornsea Project Three Deadline 3 Submission - ISH 1
- EN 10080 NE Hornsea Project Three Deadline 3 Submission - ISH 2 PART A – Ornithology
- HP00066_101_HOW03_HiDef_Method_statement_20160401 (Submitted as appendix 5 of ISH 2 Part 1)
- EN 10080 NE Hornsea Project Three Deadline 3 Submission - ISH 2 PART 2 – Benthic
- EN 10080 NE Hornsea Project Three Deadline 3 Submission – ISH 2 PART 2 – Benthic Annex 2.2A – Review of Applicant's response to IP response to ExA Questions – Benthic Ecology
- EN 10080 NE Hornsea Project Three Deadline 3 Submission – ISH 2 PART 2 – Benthic Annex 2.2B – Response on REP2-004
- EN 10080 NE Hornsea Project Three Deadline 3 Submission - ISH 3
- EN 10080 NE Hornsea Project Three Deadline 3 Submission - ISH 4

Kind regards,

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Please note I currently work Monday - Thursday

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THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

HORNSEA PROJECT THREE OFFSHORE WIND FARM

Planning Inspectorate Reference: EN010080



NATURAL ENGLAND

WRITTEN SUBMISSION FOR DEADLINE 3 – Issue Specific Hearing 1

Dated 14th December 2018

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INTRODUCTION

1. This submission follows the 1st Issue Specific Hearing (ISH) on Alternative/Design Flexibility; onshore ecology; navigation and other offshore operations for Hornsea Project 3 which took place at Mercure hotel Norwich, on the 4th December 2018 and details the oral responses to questions asked of Natural England during that hearing.

2. This submission consists of responses from Natural England to questions raised at the Issue Specific Hearing on Tuesday 4th December 2018 and further written clarification in relation to our advice on Sweetman case law.

WRITTEN SUBMISSION OF THE ORAL ANSWERS PROVIDED TO QUESTIONS AT THE ISSUE SPECIFIC HEARING ON TUESDAY 4th DECEMBER 2018.

Representing Natural England: Louise Burton, Charles Forrest and Chris McMullon

2. Purpose of the ISH

Queries for Natural England are in relation to the first set of Examiners written questions - Q1.2.15, 1.2.43, 1.2.44, 1.2.47, and 1.2.82.

3. Alternatives and Design Flexibility

Agenda Item 3a *Justification for promoting HVAC and/or HVDC, including comparisons with other offshore wind projects*

- 3.1 Natural England acknowledges the Applicants' desire to be flexible in their choice of High Voltage Alternating Current (HVAC) or High Voltage Directional Current (HVDC) transmission. However, in terms of the environment, Natural England's strong preference is for HVDC. The reasons for this are fewer cables, thus reducing the width of the cable corridor and impacts to designated sites.
- 3.2 HVDC does not address Natural England's fundamental concerns, but would still be preferable to HVAC. Furthermore, Natural England would not agree that HVDC is an anomaly for Norfolk Vanguard.
- 3.3 Natural England highlights several comparable projects: Dogger Bank Creyke Beck and Teesside Projects and Norfolk Vanguard and Boreas projects which intend to utilise HVDC. But it is acknowledged that East Anglia ONE changed from the consented HVDC to HVAC.
- 3.4 Whilst the Applicant highlighted the risk of delays caused by the need to apply for a non-material change if the HVDC technology proves not to be feasible, Natural England notes the fact that East Anglia ONE had factored in time for this change within their development plan.
- 3.5 If HVAC was chosen then Natural England would have concerns as to the amount of cable installed and questioned if it would then lead to the requirement for increased number of cable repairs, as this would have a negative environmental impact.

Agenda Item 3c *Approach to phasing, including the effect of the Contract for Difference process on the delivery of the project; whether the approach assessed in the ES is adequately secured in the draft DCO*

- 3.6 Natural England stated that despite HVDC cables being Natural England's preference, HVDC does not meet all requirements for designated sites. The proposal from the Applicant does not mention the concerns raised by Natural England relating to designated sites. Natural England points out that Norfolk Vanguard has reduced their environmental impact through the use of DC cable.
- 3.7 Natural England is also concerned with respect to the Applicant's phased approach as this could impact the future recoverability of designated sites as it is not clear if further site preparation works will be required that could have wider impacts.

- 3.8 Whilst the Applicant highlighted that they do not know the specifications for future phases and therefore would need to plan out their phases and manage their outcomes accordingly; it is Natural England's view that pre-ducting will reduce the environmental impact of cable infrastructure. Moreover, East Anglia ONE has installed ducting for East Anglia 3 sister project; thereby setting a precedent for recovery and reduced environmental impact.
- 3.9 In relation to discussions about Contract for Difference (CfD) influencing how much of the consented project is built out and therefore the electrical system used for the whole project or as two separate phases; Natural England requests that there is a requirement for all Applicants to formally release any remaining Mega Watt capacity in order for the Habitats Regulations Assessments to be revised/use best available information allowing possible further headroom for other projects.

4 Onshore Ecology

Agenda Item 4a *Effects on Pink-Footed Geese, including alternative approaches to mitigation; how any mitigation would be secured*

- 4.1 Natural England is awaiting a revised Mitigation Plan from the Applicant as set out in the Statement of Common Ground (SoCG). Natural England notes that it is the intention of the Applicant to supply said document twelve months prior to commencement of the works.
- 4.2 However, Natural England expresses a desire to have an in principle Mitigation Plan to inform the consenting process.
- 4.3 In answer to the Examiner's question in relation to how they could rule out 'no likely significant effect' as the farmland is functionally linked, the Applicant noted that due to the huge food resource (sugar-beet), Pink-Footed Geese population wintering on the N. Norfolk coast is increasing dramatically. Their range is also increasing; with roosts having moved further eastwards in recent years. Moreover, Pink-Footed Geese are not constrained or suffering from a thinning population. In short, the applicant does not believe there will be an issue. However, Natural England remains concerned about the numbers of PFGs using the cable corridor and believes it to be a preferred area in relation to those closer to roost locations.
- 4.4 The applicant stated that the RSPB are in agreement with their current mitigation plan. However, Natural England has not been included in the discussions re the mitigation plan and are therefore concerned because the requirement to sign off any mitigation plan in relation to Annex I Special Protection Area (SPA) species is the remit of Natural England. Therefore we reiterate the need for the in principle Mitigation Plan for PFGs to be provided as part of the consenting process so that all parties are aware.
- 4.5 Natural England also highlights that while November to January remains the peak period for Pink-Footed Geese in North Norfolk, they could arrive sooner if their breeding season was unsuccessful and/or leave later depending on weather conditions. Therefore, Natural England has outstanding concerns in relation to the Mitigation Plan and believe it should have sufficient flexibility to take into account seasonal changes in presence, abundance and distribution.

- 4.6 Natural England believes that it is unlikely, for there to be an Adverse Effect on Integrity (AEoI) of the North Norfolk SPA from the proposed works, with the adoption of mitigation measures. However, without sight of the full Mitigation Plan it is not possible for Natural England to rule out (AEoI) and consequently this remains an area of uncommon ground.
- 4.7 The applicant clarified that the foraging area of the geese was functionally linked habitat rather than the SPA itself. Natural England confirms this is correct, but PFGs are protected outside of designated sites and thus supporting habitats are important. Therefore the provision of additional refuges away from works, as per East Anglia 1 & 3 for Brent Geese on the Deben Estuary, is also important. Ultimately, Natural England requires assurance in relation to mitigation measures, which also consider refuges.
- 4.8 The Examiner asked whether conservation objectives will be hampered. Natural England believes there are likely significant effects in terms of the Habitats Regulation Assessment (HRA). Therefore, it is prudent to minimise the impacts as much as possible and mitigation measures agreed as soon as possible to ensure no adverse effect on integrity.
- 4.9 The applicant elaborated that the Pink Footed Geese in this area forage up to 10km away from their roosting site and are known to forage up to 20km away from their roosting site in other locations, to highlight their point that the population in question are not currently utilising their total available foraging area. Natural England supports the point raised by Mr Catchpole in relation to the higher energetic cost of foraging further than their current 10km range and questions why the PFGs are not using 50% of this foraging area. It is therefore our view that the cable corridor is a preferred area and further supports the requirement for suitable mitigation measures.
- 4.10 Natural England is also concerned that if Pink-Footed Geese were not using alternative areas then a phased build in a preference area has further implications with the potential for further negative impacts of disturbance to the Pink Footed Goose over successive winters of development activity. Natural England advises that the adoption of mitigation measures is essential to ensure no negative impact to the pink footed goose and no delays to the construction of the project.

Agenda Item 4.b *Any other matters not covered*

- 4.11 Natural England affirms that the Statement of Common Ground came to an agreement on bats and that the BCT Guidance for mitigation is suitable for use by the Applicant.
- 4.12 Natural England confirms that the proposed mitigation measures for bats including temporary infilling of gaps in hedgerows during construction would be sufficient as long as it is in line with Natural England's standing advice.
- 4.13 In respect to reptiles, Natural England has no further points to raise. But to confirm post Issue Specific Hearing that a Letter of No Impediment for Great Crested Newts has yet to be provided to the applicant.

- 4.14 Natural England confirms that the existing conservation objectives the Norfolk Valley Fens and Wensum River SAC are used in any HRA assessment as the updated conservation advice packages will not be available until after the examination.
- 4.15 Natural England awaits clarification from the PINS case officer in relation to how conservation objectives for designated sites can be included into the examination process
- 4.16 During the ISH the Examiner asked for Natural England's position in light of the 'Sweetman' Judgement which is now provided at Annex 1.1
- 4.17 Natural England confirms that the issue in relation to heavy rainfall at Booton Common Norfolk had been resolved as part of the Statement of Common Ground.

Annex A: Natural England's Position on Sweetman

Examiner's Question

1.2.118 "The European Court of Justice has made a recent ruling which may have implications for the assessment of the integrity of European sites (case C-164/17 - Reference for a preliminary ruling from Supreme Court (Ireland) made on 3 April 2017 — Edel Grace, Peter Sweetman v An Bord Pleanala). Please could the Applicant and NE comment on any implications they think this judgement has for the appropriate assessment of this application in relation to offshore European sites."

NE response

In C-164/17 - Reference for a preliminary ruling from Supreme Court (Ireland) made on 3 April 2017 — Edel Grace, Peter Sweetman v An Bord Pleanala the court distinguished between protective/mitigation measures forming part of a project which are intended to reduce or avoid direct adverse effects on integrity which are covered by Article 6(3) of the Habitats Directive and compensatory measures which are aimed at compensating negative effects of a project on a protected area which cannot be taken into account in the appropriate assessment and instead fall under derogation in Article 6(4) of the Habitats Directive.

Natural England does not deem the judgment in C-164/17 to have implications for its conclusions in relation to the appropriate assessment of the Hornsea Three application for offshore European sites. Natural England's advice that it cannot rule out beyond reasonable scientific doubt that there will be an adverse effect on the integrity of offshore European sites is not contingent on the categorisation of any proposed measure as compensation which was at issue in C-164/17. Natural England's concerns are more fundamental.