

Gareth Leigh
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 Department for Business, Energy and Industrial Strategy
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 [cc. NE and MMO]

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08 October 2019

Hornsea Project Three Offshore Wind Farm

Our ref. HOW03_CON_20191008

Dear Mr Leigh,

We refer to your letter dated 27 September 2019 advising of a new determination date for the application for development consent for the Hornsea Project Three Offshore Wind Farm ('**Hornsea Three**') and inviting comment and further submissions on various matters identified ('the **Consultation Letter**').

Hornsea Project Three Ltd ('the **Applicant**') notes that the Consultation Letter is without prejudice to the Secretary of State's decision on Hornsea Three and that nothing therein is to be taken to imply what final conclusions may be reached by the Secretary of State on any matters addressed in that letter or otherwise.

The Consultation Letter refers to:

- regulations within the Habitats Regulations¹, which transpose the derogation process in Article 6(4) of the Habitats Directive (92/43/EEC); and
- section 126(7) of the Marine and Coastal Access Act 2009, which sets out conditions to be satisfied if it is determined that Hornsea Three presents a significant risk of hindering the achievement of the conservation objectives for the relevant MCZs.

The Applicant understands it has been invited, in consultation with Natural England and the Marine Management Organisation (MMO), to provide further evidence and representations relating to how the above requirements could potentially be applied in respect of the following:

Impact	Feature	Site
Cable rock protection	Sandbanks slightly covered by water at all times	North Norfolk Sandbanks and Saturn Reef SAC
		The Wash and North Norfolk Coast SAC
Collision risk: in-combination	Kittiwake	Flamborough and Filey Coast SPA
Cable rock protection	Subtidal sand	Cromer Shoal Chalk Beds MCZ
		Markham's Triangle MCZ

¹ Regs 64 and 68 of the Conservation of Habitats and Species Regulations 2017 and Regs 29 and 36 of the Conservation of Offshore Marine Habitats and Species Regulations 2017.

The Applicant has held positive preliminary discussions with both Natural England and the MMO with a view to responding to the above matters in a timely fashion.

However, as you will appreciate, the derogation requirements referred to involve (1) the balancing of the relative benefits of Hornsea Three against a given level of impact deemed to give rise to an adverse effect on integrity (SAC / SPA) or significant risk to hindering the conservation objectives (MCZ) and (2) identification and calibration of compensation or MEEB² again by reference to a given level of impact.

There are areas of disagreement amongst the Applicant, Natural England and the MMO as to the extent and implications of impacts on the features noted above. Therefore, it is agreed by all parties that it would be beneficial if clarification could be provided by the Secretary of State to help focus and expedite discussions and ensure further submissions by the parties fulfil the requirements of the Consultation Letter.

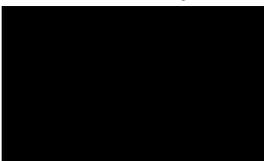
The parties would be grateful for clarification as to whether the Consultation Letter seeks an in-principle derogation case at this stage (e.g. types of compensation or MEEB that could be delivered) or a detailed derogation case (e.g. addressing the quantum / extent of compensation required relative to a given level of impact in respect of different compensation / MEEB options)?

In addition, it is very difficult to prepare a derogation case (in-principle or detailed) without knowing the degree of potential harm (if any) deemed to be attributable to the project. This is most pertinent for the in-combination impact on Kittiwake where the applicant's position was materially different from the Applicants interpretation of Natural England's position. Therefore, the parties request that appropriate extracts of the Examination Authority's recommendation report, and/or any draft Appropriate Assessment undertaken by BEIS on behalf of the Secretary of State, are made available. Failing that could BEIS please provide direction as to any specific impact scenarios or assumptions that should be adopted by the parties for the purposes of further submissions?

In making this request, it is acknowledged and accepted that any such further information or direction would similarly be without prejudice to the Secretary of State's eventual findings and conclusions on any of these matters.

We would welcome a response at your earliest convenience.

Yours Sincerely



Andrew Guyton

Hornsea Project Three Consents Manager

Tel 

cc.

Emma Brown, Marine Senior Adviser, Natural England
Richard West, Marine Licensing Case Manager, MMO

² Measures of equivalent environmental benefit.