



Daniel Duckett
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14 March 2024

Dear Mr Duckett,

PLANNING ACT 2008

HORNSEA THREE OFFSHORE WIND FARM ORDER 2020 (AS AMENDED) (“the Order”)

APPROVAL OF KITTIWAKE IMPLEMENTATION AND MONITORING PLAN UNDER PART 2 OF SCHEDULE 14 TO THE ORDER

1. The Hornsea Three Offshore Wind Farm Order 2020 as amended¹ (“the Order”) contains requirements and conditions that the undertaker must comply with before certain works within the authorised development as defined in the Order can commence.
2. Orsted Hornsea Project Three (UK) Limited (“the Applicant”) made a request to the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) on 22 December 2022 for approval (“the Approval Request”) of the Kittiwake Implementation and Monitoring Plan (“KIMP”), in accordance with Part 1 of Schedule 14 to the Order.
3. The Secretary of State wishes to inform the Applicant that consideration has now been given to the Approval Request.

Requirements under paragraph 3 of Part 1 and paragraph 15 of Part 2 of Schedule 14 of the Order

4. Paragraph 3 of Part 1 of Schedule 14 to the Order states that:

“3. The KIMP must be submitted to the Secretary of State for approval (in consultation with the MMO, the local planning authority or authorities for the land containing the artificial nest sites, and Natural England). The KIMP must be based on the strategy for kittiwake compensation set out in the kittiwake compensation plan and include:

¹ The Hornsea Three Offshore Wind Farm Order 2020 (SI 2020/1656) was amended by The Hornsea Three Offshore Wind Farm (Correction) Order 2021 (SI 2021/599).

- (a) details of locations where compensation measures will be deployed and details of landowner agreements demonstrating how the land will be bought or leased and assurances that the land management will deliver the ecology objectives of the KIMP;*
- (b) details of designs of artificial nest sites including the number of nesting structures; and how risks from avian or mammalian predation and unauthorised human access will be mitigated;*
- (c) an implementation timetable for delivery of four artificial nest structures that ensures all necessary compensation measures are in place to allow three full kittiwake breeding seasons in respect of two artificial nest structures prior to the operation of any turbine forming part of the authorised development, and to allow two full kittiwake breeding seasons for the other two artificial nest structures prior to the operation of any turbine forming part of the authorised development, with the KIMP to specify whether three or two breeding seasons applies to each artificial nest structure;*
- (d) details of the proposed ongoing monitoring of the measures including: survey methods; survey programmes; success criteria; recording of OOEG consultations and project reviews; details of the factors used to trigger alternative compensation measures and/ or adaptive management measures; and annual reporting to the Secretary of State;*
- (e) details of any adaptive management measures, to include the provision of additional nesting sites if capacity in one location is exceeded;*
- (f) provision for annual reporting to the Secretary of State, to include details of the use of each site by breeding kittiwake to identify barriers to success and target the adaptive management measures. This would include the number of birds colonising the site; evidence of birds prospecting; nesting attempts; egg laying; hatching; and fledging.*
- (g) details of how natal dispersal and colony interchange with the FFC kittiwake colony will be considered and proposals for assessing any evidence of additional productivity to the FFC;*
- (h) details of the artificial nesting site maintenance schedule; and*
- (i) details of the work within the exploration of prey availability measures as set out in Appendix 1 of the response from the undertaker to the Secretary of State's minded to approve letter dated 1 July 2020, that could support practical management measures to increase prey availability, and which should be undertaken alongside the artificial nest site installation."*

5. Paragraph 15 of Part 2 of Schedule 14 to the Order states that:

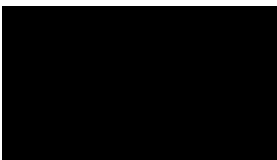
"No cable installation work in Work No, 2(c) and (d), Work No, 3(c) and (d) and Work No. 5 may be commenced until the KIMP for the FFC as described in Part 1 of this Schedule has been approved in writing by the Secretary of State."

Consideration of the Approval Request by the Secretary of State

6. The Secretary of State has considered the details provided by the Applicant in respect of the requirements related to the submission of the KIMP.
7. On 3 February 2023, the Secretary of State invited comments from the Marine Management Organisation (“MMO”), Natural England (“NE”), Hartlepool Borough Council (“HBC”), Durham County Council (“DCC”), and East Suffolk Council (“ESC”) in accordance with paragraph 3 of Part 1 of Schedule 14 to the Order. The deadline for a response was 3 March 2023.
8. The MMO responded on 2 March 2023 and confirmed that it has no concerns regarding the location, monitoring or adaptive management measures proposed within the KIMP.
9. ESC responded on 22 February 2023 confirming that it defers any detailed commentary on kittiwake monitoring to NE. NE responded on 2 March 2023 and confirmed that it is in broad agreement with the content of the KIMP. NE raised queries regarding; progress with securing delivery sites in the North-East; the inclusion of a contingency plan if all Artificial Nesting Structures (“ANS”) are subsequently in the nearshore environment; and the impact of this on monitoring.
10. HBC and DCC did not provide a response.
11. On 22 March 2023, the Secretary of State requested further information from the Applicant. The Applicant was asked to address the issues raised by NE during the consultation. The Applicant was also asked to highlight any changes to the KIMP as a result of NE’s comments. Further, the Applicant was asked to highlight any changes to the KIMP that would be required as a result of the non-material change application (“NMC”), which made changes to paragraphs 3(c) and 4 of Part 1 of Schedule 14 to the Order to shorten the length of time the four planned artificial nesting structures for kittiwake (“ANS”) need to be in place before turbine operation. The Applicant was also asked to confirm if any issues remained outstanding.
12. The Applicant responded to the Secretary of State’s request on 13 July 2023 and enclosed a revised version of the KIMP (“the 13 July 2023 KIMP”) to reflect the amendment to the Order made in April 2023 as a result of the NMC application. The Applicant also confirmed that planning permission for the development of the onshore ANS at Hartlepool was granted at appeal on 13 March 2023. The Applicant confirmed they are committed to delivering the ANS at Hartlepool, which has been designed in collaboration with the Offshore Ornithology Engagement Group (“OOEG”). The Applicant also confirmed that it will undertake additional monitoring activities upon colonisation of the Hartlepool onshore ANS.
13. On the issue of monitoring natal dispersal and colony interchange with the FFC kittiwake colony, in accordance with para. 3 (g) of Part 1 of Schedule 14 of the Order, both the Applicant and NE agree that quantifying recruitment into the FFC SPA is likely impossible using the methodologies currently in existence. NE, however, hope that over the lifetime of the compensation delivery, some recruitment into FFC SPA will be demonstrated. The Applicant agrees with NE’s view regarding the research value of undertaking colour-ringing of chicks and has confirmed that this will take place at the proposed onshore ANS (and at the nearshore ANS if safe and feasible), despite this being additional to the requirements of the Order.

14. The Applicant's letter also stated that in the unlikely event that the planning permission is not implemented, and only nearshore sites are progressed, it will develop a contingency plan, in discussion with the OOEG, for undertaking further monitoring nearshore. The suggestion that the Hartlepool onshore ANS may not be progressed prompted the Secretary of State, in an email dated 7 August 2023, to ask the Applicant to confirm the specific locations for all the ANSs and the monitoring programme to be undertaken in each location. The Applicant responded on 23 August 2023 re-confirming their commitment to developing the ANS at the Hartlepool onshore site. However, the Applicant noted that its ability to progress with the construction of the onshore ANS at Hartlepool is dependent on the outcome of a Compulsory Purchase Order ("CPO") submitted to the Department for Energy Security and Net Zero in order to secure permissions to access to the Old Yacht Club Site (owned by the Applicant) via Ferry Road.
15. The Secretary of State notes that on 14 March 2024 the CPO was confirmed. The Secretary of State is therefore satisfied that the Applicant now has the appropriate consents to progress the onshore sites and further detail of potential contingency plans are not required in the KIMP.
16. The Secretary of State further notes that in January 2024 the Applicant submitted a second non-material change ("NMC") application. This application has not yet been determined but the Secretary of State is satisfied that any implications of the proposed NMC application for the KIMP will be adequately addressed through the NMC decision-making process.
17. With regard to the information requested as set out above in paragraph 11, the Secretary of State is satisfied that the Applicant's response adequately addresses these concerns.
18. Having considered the comments from NE and the subsequent information and updated documents provided by the Applicant on 13 July 2023, the Secretary of State is satisfied that the 13 July 2023 KIMP submitted complies with the requirements under paragraph 3 of Part 1 of Schedule 14 of the Order and hereby gives her approval to the 13 July 2023 KIMP.

Yours sincerely



John Wheadon
Head of Energy Infrastructure Planning Delivery