



ISH8 Hearing Action Points: Natural Environment and Fishing Matters

Application by Vattenfall Ltd for an Order Granting Development Consent for the Thanet Offshore Wind Farm Extension (OWFE).

Actions arising from the **Issue Specific Hearing 8** (ISH8) held at Discovery Park, Sandwich on **16 and 17 April 2019**.

Please note that the list of Action Points for ISH8 have been split into two documents. This document contains the actions relating to Natural Environment and Fishing matters. A subsequent document will contain actions relating to Shipping and Navigation matters.

Action Points

Action	Party	Deadline
1	<p>Red Throated Diver of the Outer Thames Estuary SPA</p> <p>a. Natural England to comment on the Applicant’s submission [REP4-023] and set out its latest position in respect of the applicant’s HRA conclusions relating to Red Throated Diver of the Outer Thames Estuary SPA.</p> <p>b. In the event that Natural England is not able to agree to the Applicant’s conclusion of no Adverse Effect on Integrity, the Applicant and Natural England should each provide a written view on the following question: <i>‘If the Secretary of State as Competent Authority was to conclude that there may be an adverse effect on integrity (in-combination), then what alternative solutions and compensatory measures have been considered? To what extent is it necessary to proceed to stages beyond Stage 2 of the HRA assessment process, i.e. alternative solutions and Imperative Reasons of Overriding Public Interest?’</i></p>	D5



	Action	Party	Deadline
2	<p>Gannet of the Flamborough and Filey Coast SPA</p> <p>The Applicant to ensure that the next iteration of the offshore ornithology SOCG confirms the status of agreement with Natural England in respect of in-combination effects on Gannet of the Flamborough and Filey Coast SPA.</p>	The Applicant	D5
3	<p>Kittiwake of the Flamborough and Filey Coast SPA</p> <p>a. Natural England to comment on the Applicant's submission [REP4-029] and in particular:</p> <ul style="list-style-type: none">• the position that the anticipated decommissioning of the Beatrice Demonstrator and Blyth (NaRec Demonstration) project would more than offset the kittiwake collision risk attributable to TEOWF;• the contention at para 22 that 'new evidence' indicates that previous Habitats Regulations Assessments that fed into the current conclusions were over-precautionary. <p>b. Natural England to set out its latest position in respect of the applicant's HRA conclusions relating to Kittiwake of the Flamborough and Filey Coast SPA.</p> <p>c. The Applicant and Natural England to set out their views about the degree of accuracy of the collision model at very low values, such as figures of between 0.6 and 1.6 birds. Can these figures be considered to be statistically robust?</p> <p>d. In the event that Natural England is not able to agree to the Applicant's conclusion of no Adverse Effect on Integrity, the Applicant and Natural England should each provide a written view on the following question: '<i>If the Secretary of State as Competent</i></p>	The Applicant and Natural England	D5



Action	Party	Deadline
	<p><i>Authority was to conclude that there may be an adverse effect on integrity (in-combination), then what alternative solutions and compensatory measures have been considered? To what extent is it necessary to proceed to stages beyond Stage 2 of the HRA assessment process, i.e. alternative solutions and Imperative Reasons of Overriding Public Interest?’</i></p>	
4	<p>Updated In-Combination Assessment for Kittiwake Arising from the Norfolk Vanguard Examination The Applicant is to submit into this examination the updated in-combination assessment for Kittiwake recently arising from the Norfolk Vanguard examination. The Applicant should provide a clear statement of the current status of agreement between Norfolk Vanguard and Natural England in relation to that assessment.</p>	The Applicant D5
5	<p>Effects on St Abb’s Head to Fast Castle SPA The Applicant to provide an update regarding its consultation with Scottish Natural Heritage in relation to the St Abb’s Head to Fast Castle SPA.</p>	The Applicant D5
6	<p>Ringed Plover Mitigation The latest submitted version of the dDCO contains new provisions related to pre-construction surveys and a mitigation plan for Ringed Plover. The Applicant explained at ISH8 that this has been included following an audit of the Schedule of Mitigation and relates to the conclusions of the Environmental Statement.</p> <ul style="list-style-type: none">• Please would Natural England, Kent Wildlife Trust and any other relevant IPs respond to these new DML provisions?	Natural England, Kent Wildlife Trust and other relevant IPs D5



	Action	Party	Deadline
7	<p>In Principle Offshore Ornithology Monitoring Plan</p> <p>Natural England to provide comments on the Applicant's response to its comments on the draft In Principle Offshore Ornithology Monitoring Plan.</p> <ul style="list-style-type: none">• To what extent does the Plan perform the role envisaged by Natural England?	Natural England	D5
8	<p>HRA Conclusions in respect of Thanet Coast and Sandwich Bay SPA</p> <p>Does Natural England agree with the Applicant's statement that the saltmarsh is not a supporting feature of the Thanet Coast and Sandwich Bay SPA? If not, why not?</p>	Natural England	D5
9	<p>Harbour Porpoise of the Southern North Sea SAC</p> <p>a. The Applicant to provide updated SOCGs with Natural England and MMO covering HRA conclusions for marine mammals, particularly Harbour Porpoise of the Southern North Sea SAC, and the contents of the Outline Site Integrity Plan.</p> <p>b. In the event that Natural England is not able to agree to the Applicant's conclusion of no Adverse Effect on Integrity, the Applicant and Natural England should each provide a written view on the following: <i>'If the Secretary of State as Competent Authority was to conclude that there may be an adverse effect on integrity, then what alternative solutions and compensatory measures have been considered? To what extent is it necessary to proceed to stages beyond Stage 2 of the HRA assessment process, i.e. alternative solutions and Imperative Reasons of Overriding Public Interest?'</i>.</p>	The Applicant, Natural England and MMO	D5



	Action	Party	Deadline
10	Thanet Coast SAC The Applicant to provide an updated SOCG with Natural England covering HRA conclusions for the Reef feature (alone and in-combination) of the Thanet Coast SAC for D5.	The Applicant and Natural England	D5
11	Saltmarsh Mitigation, Reinstatement and Monitoring Plan a. Natural England and Kent Wildlife Trust to respond in writing to the Rev C version of the Applicant's Saltmarsh Mitigation, Reinstatement and Monitoring Plan [REP4-020]. Is this Plan now agreed? b. The Applicant and previously mentioned parties to respond in writing to the question of whether the DCO/DMLs adequately secure the reinstatement commitments set out at section 7.2 of the SMRMP.	Natural England, Kent Wildlife Trust and the Applicant	D5
12	Cable Protection Installation within the Inter-Tidal Area The latest SOCG (D3) indicates that the MMO disagrees with the Applicant's statement that 'no cable protection will be installed within in the Sandwich Bay intertidal area and this has been adequately secured in the DCO'. <ul style="list-style-type: none">• Would the MMO provide an update on this point by D5?	MMO	D5
13	Seasonal Restriction for Inter-Tidal Cable Works a. The Applicant to explain in writing why it has not considered it appropriate to specify the details of the seasonal restriction ('October to March inclusive') on the face of the DCO or DML. Would the Applicant object to such an approach? If not, would a DCO requirement or DML condition be more appropriate and why?	The Applicant, Natural England, Kent Wildlife Trust, Thanet District Council, Dover District Council, Kent County Council	D5



	Action	Party	Deadline
	<p>b. Mitigation reference 5.20 of the Schedule of Mitigation [REP3-047] states that the same seasonal restriction would apply for 'planned O&M works'. The Applicant to explain how the seasonal restriction for planned operations and maintenance works in the intertidal zone is secured in the DCO.</p> <p>c. The Applicant to respond to the question of whether the geographical extent of the shoreline and inter-tidal zone subject to the seasonal restriction is completely clear and unambiguous, or whether it requires further definition.</p> <p>d. Natural England/Kent Wildlife Trust/relevant Local Authorities to comment on the above points, should they have views to contribute.</p>		
14	<p>Schedule of Mitigation</p> <p>a. The Applicant to update the Schedule of Mitigation to ensure that it includes accurate references to where in the Environmental Statement the seasonal restriction has been assessed for the purposes of Condition 10(1)(c)(ii).</p> <p>b. If the Schedule of Mitigation is intended to be a certified document, the Applicant to amend dDCO drafting for next iteration as it is not currently listed in Schedule 13.</p>	The Applicant	D5
15	<p>Appropriate Security of Mitigation in the Inter-tidal Zone</p> <p>The Applicant and relevant IPs to respond to the ExA's question about whether it is appropriate to secure mitigation in the inter-tidal zone (such as the seasonal restriction and SMRMP)</p>	The Applicant and relevant IPs	D5



	Action	Party	Deadline
	solely by DML condition, given the overlapping jurisdictions of terrestrial and marine authorities in the inter-tidal zone.		
16	<p>Effects on Goodwin Sands pMCZ Applicant to:</p> <ol style="list-style-type: none"> a. submit a revised MCZ Clarification Note to take account of IP comments for D5; b. update DML condition drafting expressly related to the pMCZ; and, c. use updated SOCGs at D5 to document the latest position in terms of agreement / outstanding disagreement on MCZ matters. 	The Applicant	D5
17	<p>Outline Offshore Operation and Maintenance Plan The Applicant to explain in writing by D5 why the categorisation of some of these Outline Offshore Operation and Maintenance Plan activities have changed from green to amber between Rev A and Rev B. Should the fact that a number of O&M activities may fall outside of the activities licensed by the DMLs be of concern to the ExA?</p> <ul style="list-style-type: none"> • MMO and any other relevant IPs to comment on this by D6. 	The Applicant, MMO, relevant IPs	D5 and D6
18	<p>The Crown Estate Plan-Level HRA Update The Crown Estate to provide an update on the status of its plan-level HRA before close of the examination on 11 June 2019.</p> <ul style="list-style-type: none"> • The Crown Estate to confirm whether or not the plan-level HRA takes account of the proposed SEZ. 	The Crown Estate	Before 11 June 2019
19	<p>The Crown Estate Agreement for Lease Update The Crown Estate to provide an update on the status of the Agreement for Lease for TEOWF before close of the examination of 11 June 2019.</p>	The Crown Estate	Before 11 June 2019



	Action	Party	Deadline
20	The Crown Estate: Relevance of Decisions About Round 4 Leasing The Crown Estate and the Applicant to respond to the ExA's question: "what is the relevance to the TEOW application of the decision for the North Kent Coast and Thames Approaches to be excluded from the Round 4 leasing exercise".	The Applicant and The Crown Estate	D5
21	Fisheries Co-existence and Liaison Plan Final Fisheries Co-existence and Liaison Plan must be submitted into the examination by D6 at latest, along with any further mitigation matters that the applicant wishes the ExA to take into account.	The Applicant	D6
22	Final Positions on the Assessment of Commercial Fishing Effects The Applicant, Thanet Fishermen's Association and any other relevant fishing interests to submit final positions on the sensitivity and magnitude assessment of effects on commercial fishing by D5.	The Applicant, Thanet Fishermen's Association and relevant fishing interests	D5
23	Statement of Common Ground on Fishing Matters The Applicant to submit revised Fishing SOCG at D6.	The Applicant	D6
24	Disruption Agreements The Applicant to provide an update on progress with the production of any disruption agreements by D6.	The Applicant	D6