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Our ref: 284739
Your ref: EN010084



National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

4th Floor Eastleigh
House Upper
Market Street
Eastleigh
Hampshire SO50
9YN

BY EMAIL ONLY

Dear Sirs

EN010084 Thanet Extension Offshore Windfarm – Natural England’s Response at Deadline 7

- 1 The following constitutes Natural England’s formal statutory response. We have provided comments on documents submitted by the applicant at Deadline 6 and in the period leading up to Deadline 7. The following submissions from the Applicant have been reviewed:
 - Revised Draft Development Consent Order-Tracked Changes (Annex C to Appendix 50)
 - Schedule of Mitigation – Revision D (Appendix 52 to deadline 6)
 - Applicants Response to Natural England’s responses to ISH8 Action Points and the Applicants Deadline 5 Submissions on HRA matters (Appendix 43 to Deadline 6)
 - Collation of MCZ Assessment Submissions (Appendix 26 to Deadline 7)
 - MCZ Assessment Signposting Note (Appendix 25 to Deadline 7)
- 1.1 We have also commented upon a number of the Applicant’s (and other Interested Parties) responses to further information requested by the Examining Authority. These have been submitted as separate documents at Deadline 7. These include:
 - Comments on responses to the ExA’s further requests for information under Rule 17;
 - Comments on responses to ExA’s further written questions (ExQ3);
 - Comments on responses to the ExA’s draft DCO commentary;
 - Comments on the Applicant’s response to the RIES.
- 1.2 Please see below for comments on the documents outlined in section 1 above.

2 Revised Draft Development Consent Order-Tracked Changes (Annex C to Appendix 50)

2.1 Natural England has provided further comments regarding the dDCO in the table below.

Location	Article/ requirement/ condition	Natural England Comment
<p>Schedule 11 Part 4 Conditions 24.</p>	<p>Pre-commencement works (24).—</p> <p>(1) No pre-commencement works may commence until all details relevant to the pre-commencement works required by Condition 13 in Schedule 11 of this Order have been submitted to and approved by the MMO.</p> <p>(2) In addition to sub-section (1):</p> <p>(a) the undertaker may submit, and</p> <p>(b) the MMO may request any additional information deemed necessary to ensure adequate mitigation is secured in relation to the pre-commencement works.</p> <p>(3) The details required pursuant to sub-sections (1) and (2) may be submitted separately and in advance of the details required to discharge the condition in advance of commencement.</p>	<p>Condition 21 Relates to pre commencement works and the requirement for method statements. This should also be referenced within 24 (1) for example:</p> <p><i>No pre-commencement works may commence until all details relevant to the pre-commencement works required by Condition 13 and 21 in Schedule 11 of this Order have been submitted to and approved by the MMO.</i></p> <p>In addition, condition 24 has no timing requirement. Other pre construction conditions have a 4 month period. Natural England would suggest a similar period would be required to review the information. Much of the information required for these works will also need to be submitted as part of the pre-construction sign off. Thus requiring MMO and statutory consultees to review this information twice.</p> <p>While these new conditions and definition of commence are acceptable (subject to acceptance of the minor change above and inclusion of timing requirements), there is a question on the need for these changes. The wording used on previous DCO's included these types of pre-commencement works within commence and the securing of plans using the pre-construction conditions.</p> <p>Furthermore, the location of this condition within the deemed marine licences appears inconsistent with the rest of the conditions, being placed after the pre-construction conditions, pre,</p>

		during and post monitoring conditions and after the decommissioning conditions. It would make sense for condition 21 and 24 to be moved to a pre-commencement section after the Force Majeure and prior to the Pre-construction.
Schedule 11 Part 4 Condition 25	<p>25.—(1) Subject to paragraph (2) each programme, statement, plan, protocol or scheme listed in Schedule 13 of the Order (Documents to be certified under Article 35) which is 121 submitted to the Secretary of State for certification pursuant to Article 35 must be complied with as certified.</p> <p>(2) Where the MMO is the discharging authority, it may approve an amendment or variation to the following documents certified under paragraph (1) provided such approval is not given except in relation to minor or immaterial changes or deviations where it has been demonstrated to the satisfaction of the discharging authority MMO that the subject matter of the approval or agreement sought does not give rise to any materially new or materially different environmental effects to those assessed in the Environmental Statement: Offshore Archaeological Written Scheme of Investigation, Fishing Liaison and Coexistence Plan, Offshore Operations and Maintenance Plan, Draft Marine Mammal Mitigation Protocol, In-principle Offshore Ornithology Monitoring Plan, Shipping and Navigation Liaison Plan and the Outline Site Integrity Plan.</p>	In addition to Natural England's recommendation in response to the ExA's recent Rule 17 letter, sent 3 June 2019, Natural England would advise that the Saltmarsh Mitigation, Reinstatement and Monitoring Plan be added to the list of documentation that may be amended by the MMO. Please see Natural England's response to the applicant's comments on the Rule 17 letter, question 4.1.9.
Schedule 11	References to the Saltmarsh Mitigation, Reinstatement and Monitoring Plan.	This DML only covers offshore aspects of the works. No works take place within the saltmarsh. Therefore, the definition related to the saltmarsh works should be removed from the generation assets licence to avoid any confusion in the future.
Part 5 – Procedure	Part 5 – Procedure for Appeals	Natural England notes the addition of an appeals process. Natural England

for Appeals – Schedule 11 and 12		supports the comments made by the Marine Management Organisation with regard to appeals and arbitration. However, if the appeals process is included, under the current 4 months prior to construction and 4 months to reach a determination, then there is no time for any appeals process to be run without significant delay to the construction start date. However, if the documentation was submitted 6 months before construction then this gives a minimum of 2 months for appeals and for discussions and agreements on potential alternatives that could gain approval.
Schedule 11 Part 4 Condition 15 (4)	(4) Save in respect of any plan which secures mitigation to avoid adversely affecting the integrity of a European site, where the MMO fails to determine an application for approval under condition 13 and 14 within the period referred to in sub-paragraph (3) the programme, statement, plan, protocol or scheme is deemed to be approved by the MMO.	Natural England disagrees with this condition, in that that it should not be a deemed acceptance / approval after 4 months. It should be an assumed refusal instead. Furthermore, this current condition is inconsistent with Norfolk Vanguard’s similar condition which is a deemed refusal.
Throughout the DCO.	Inclusion of Natural England within the DCO.	All references to Natural England should be amended to state the “Relevant Statutory Nature conservation Body”. This is to ensure consistency with other DCOs. In addition it removes the need to amend the DCO/DML should there be a change in legislation that changes who the Relevant Statutory Nature Conservation Body is. Natural England would refer you to the current draft Vanguard DCO/DML as an example and suggest the definition of Relevant Statutory Nature Conservation Body be taken from this document.

3 Schedule of Mitigation – Revision D (Appendix 52 to deadline 6)

3.1 Natural England believe the Schedule of Mitigation has been updated appropriately since our comments at Deadline 6. References to landfall option 2 have now been fully removed, whilst the commitment to deposit disturbed sediment during sandwave clearance within 500 m of the Goodwin Sands MCZ has been added. This will ensure sediment is reworked into the MCZ and there is no overall loss of sediment from the system.

4 Applicants Response to Natural England's responses to ISH8 Action Points and the Applicants Deadline 5 Submissions on HRA matters (Appendix 43 to Deadline 6)

- 4.1 With regards to the Applicant's reference of the Dogger Bank Creyke Beck NMC, this relates to a revision of the Rochdale Envelope for that project to allow the installation of larger turbines. The revised CRM submitted by Dogger Bank Creyke Beck quantifies the collision risk specific to those larger turbines, but importantly does not affect the worst case scenario: the consented Rochdale Envelope and therefore the potential final project design continues to include the other turbine sizes and parameters set out in the original Environmental Statement. Therefore the 'headroom' referred to by the Thanet Extension created by the Dogger Bank Creyke Beck NMC is based on the incorrect assumption that Dogger Bank Creyke Beck have now refined their consent to only include the larger turbines.
- 4.2 In response to the Applicant's response (row 2 of table 2) regarding Hornsea 2 we would state the following: At Hornsea 2 Natural England advised that we could not rule out an in-combination AEoI on the FFC SPA kittiwake population. However, following significant mitigation through removal of the smallest turbine option and raising hub heights, Hornsea 2's contribution was reduced to a level that did not materially affect the level of in-combination impact, and therefore the project did not make a meaningful contribution to the existing in-combination AEoI.

5 Additional MCZ Documents

- 5.1 The Applicant has submitted to Natural England two further documents (see section 1) concerned with the MCZ assessment following comments we made within our Deadline 6 response and from direct communications. These have been submitted ahead of Deadline 7 for our review.
- 5.2 At Deadline 6, we requested that "*all the ad hoc parts of the assessment are collated into a single document in order to provide a clear audit trail.*" We clarified these comments further via teleconference with the Applicant to ensure the message was clear. The Applicant has created a consolidation document (Appendix 26 to Deadline 7) which has all the previous appendices embedded within it. Natural England welcome the consolidation of various assessments into a single document, however it is still difficult for the reader to cross reference this with the pressures exerted by the project on different feature attributes, and therefore difficult to agree with the overall conclusion that conservation objectives will not be hindered. Much like a RIES is produced by the ExA that creates a clear audit trail of the conclusions that have been reached regarding the potential impacts upon European sites, there should be a similar process regarding the MCZs.
- 5.3 The applicant has also produced a signposting document (Appendix 25 to Deadline 7) highlighting the pressures associated with the project. Whilst Natural England welcome this there needs to be an indication of how the pressures affect the individual attributes of MCZ features. These attributes are highlighted within our conservation advice packages, of which we advised the Thanet Coast MCZ package should be used as proxy in relation to Goodwin Sands MCZ.
- 5.4 Overall, whilst Natural England do not necessarily disagree with the conclusions of the assessment, it is difficult without a sufficient audit trail for Natural England to be confident in advising we fully agree with the conclusions presented by the Applicant. If this summary is

not produced, then Natural England advise that decision makers should cross reference the assessments undertaken with the Thanet Coast conservation advice package in order to ensure that all impact pathways have been considered.

- 5.5 As an additional point to the ExA, whilst the site is now fully designated, this does not change the advice we have been providing throughout the examination process.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely,

Will Hutchinson

Marine Lead Adviser – Major Casework

E-mail: william.hutchinson@naturalengland.org.uk

Telephone: 0208 22 56002