

Date: 10 May 2022  
Our ref: Case: 13622  
Your ref: EN010098



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**BY EMAIL ONLY**

Dear Sir/Madam,

**Hornsea Four Offshore Wind Farm**

The following constitutes Natural England's formal statutory response for Examination Deadline 4.

**1. Natural England Deadline 4 Submissions**

Natural England has reviewed the documents submitted by the Applicant at Deadline 3. We would like to highlight to the Examining Authority, that only new documents (version 1) or revised versions of outline documents/plans where amendments have been formally made will be responded to by Natural England at each relevant Deadline. Where possible, comments on documents are provided in our Risk and Issues Log to note where concerns have been addressed, rather than provided in a separate Annex for each document. As such, the documents submitted by Natural England at Deadline 4 are as follows:

- EN010098 Natural Englands Risk&Issues Log Deadline 4
- EN010098 H4 Appendix B4 – NE comments on G2.10 MRSea Baseline Sensitivity Report (Gannet) Revision 2
- EN010098 H4 Appendix C4 – NE comments on G3.4 Compensation measures for FFC SPA Compensation Connectivity Note Revision: 01

The documents reviewed by Natural England and captured in the Risk and Issues Log at Deadline 4 are as follows:

- REP3-029 G2.10 MRSea Baseline Sensitivity Report (Gannet) – Revision 2
- REP3-032 G3.4 Compensation measures for FFC SPA: Compensation Connectivity Note – Revision: 01
- REP3-034 G3.4.1 Compensation measure for FFC SPA: Ecological Connectivity of Compensation Measures Annex 1 – Revision 01
- REP3-035 Clarification Note: Justification of Offshore Maximum Design Scenarios – Revision: 01
- REP3-038 Clarification Note: Marine Processes Supplementary Work Update – Revision: 01
- REP3-046 G3.17 Applicant's Response to Natural England's Comments received at Deadline 2 – Revision: 01

Due to the limited amount of time available between Deadline 3 and the current deadline we have been unable to review REP3-046 in full. We may therefore make further comment via the Risk and Issues log at Deadline 5 if appropriate.

As highlighted in our Deadline 3 response, we will review and respond to the Applicant's Response to our Relevant/Written Representations in relation to Onshore Matters until Deadline 5.

## **2. G3.5 Clarification Note on the Installation of Two Monopile Foundations Sequentially - Revision: 01**

Whilst this document relates to impacts to marine mammals, it is our understanding that it has been provided in response to concerns raised by MMO rather than Natural England. We will therefore defer to MMO (as advised by Cefas) on this document, unless specifically requested to comment by the Examining Authority.

## **3. Submissions of New and Updated Material – Implications for the Examination**

Natural England have been in communication with the Applicant over the expected Marine Processes supplementary reports we had expected to be submitted at Deadline 3. These reports have been delayed and are now expected to be submitted at Deadline 4. Natural England wish to flag that the above clarification note will only be received late into the Examination, and highlight the risk that it may still not provide sufficient evidence to address our concerns. If this proves to be the case we advise that discussions on mitigation and/or post-construction monitoring are likely to be required.

We are also concerned about the volume of information that still needs to be submitted into the

Examination for ornithology. We are anticipating that key information will be submitted into the Examination at Deadlines 4,5 and 6 in relation to assessment sensitivity, updated displacement assessments and consideration of impacts on auks. This information includes material which is intended to address some of the fundamental concerns raised by Natural England in relation to the baseline characterisation of both ornithology and marine processes. Until these matters are addressed, and the evidence base is agreed, it will not be possible to establish the potential impacts of the proposal at an EIA scale, or understand the potential implications for designated sites. Furthermore, it is likely that updates to existing impact assessments will need to be made once the baseline evidence has been agreed upon, which is likely to generate further submissions within the examination. This will allow minimal time to close out any remaining concerns and progress topics (e.g. compensation) which are reliant on these outputs (and on which submissions are currently expected at Deadlines 4, 5 and 6).

#### **4. Natural England's Response to the Rule 17 Letter dated 3<sup>rd</sup> May**

Natural England acknowledges receipt of the Rule 17 letter dated 3<sup>rd</sup> May 2020 [PD-009]. The Examining Authority (ExA) has requested Natural England review the recordings and/or transcripts and associated Action Points for the Issue Specific Hearings (ISH) conducted w/c 25<sup>th</sup> April, to provide comments on all relevant matters raised by the ExA and to respond to oral submissions made by the Applicant for Deadline 4. In the time available to us we have undertaken a high-level review of the meeting transcripts and consider that our Deadline 4 submission of the Risk and Issues Log captures our current position on the agenda items covered in the hearings. It may also be helpful to refer to the Risk and Issues Log submitted at Deadline 3, as we note that some of the items on the agenda were closed out ahead of the hearings at this deadline.

We have also reviewed the Action Points attributed to Natural England at ISH 2 ,4, 5 and 6 and have responded as far as possible in Annex 1 below. We also intend to review the Applicant's Written Summaries of their Oral Representations at the ISH when they become available, and if required we will update the Risk and Issues Log accordingly. Finally, should the ExA have any further questions or points of clarification relating to our advice, we would be happy to address this through responding to additional Examiner's Questions.

Natural England welcomes the feedback on the usefulness of the Risk and Issues Log, but also note that *"the ExA does not believe this can directly substitute for participation in oral questioning and discussions about key issues and topics at a Hearing."*

We make reference to the *Department for Communities and Local Government's publication Planning Act 2008: Guidance for the examination of applications for development consent* where it

is stated that *“The use of written representations will be the primary means by which the Examining Authority will examine applications. They will also be one of the main types of evidence which the Secretary of State will take into account when taking a decision. (para 71)”*

Given that written representations are the primary means by which the application is examined and one of the main types of evidence the Secretary of State will consider when determining the application, Natural England focuses our efforts on our written submissions. However, Natural England has attended and will attend hearings where there are specific agenda items/questions which are additive to our written advice, or to engage in discussions that have clear potential to resolve/close out nature conservation matters. As noted in our Deadline 3 cover letter [EP3-053], whilst the hearing agendas covered a number of our outstanding concerns, the materials necessary to progress these topics towards resolution had/have not yet been submitted into the Examination. We were therefore not able to meaningfully comment beyond the positions already provided in our Risk and Issues Log.

Further, had we attended the ISH hearings we would not have been able to review and provide comment on the Applicant’s deadline 3 submission *REP3-029 G2.10 MRSea Baseline Sensitivity Report (Gannet) – Revision 2*, which is fundamental to our ability to make progress with the applicant on our outstanding ornithology issues. Consequently, we considered the most efficient use of our time during this short window between Deadlines was to review the documents that were submitted at Deadline 3, in order to respond and work toward a resolution as early in the Examination as possible. This is to give the best possible chance of these substantial matters being resolved within the Examination timescales. Whilst the expected Marine Processes materials were not provided at Deadline 3, we have reviewed and responded to the submitted ornithology documentation.

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

Yours sincerely,

Emma Brown  
Yorkshire and North Lincolnshire Area Team

[Redacted signature block]

Annex 1

Natural England's response Action Points from ISH 2, 4,5 and 6

ISH	Action	Description	NE Response
2	11	Update on timescales regarding the potential designation of the Yorkshire Wolds as an Area of Outstanding Natural Beauty	Natural England has provided an update in the Summary section of the Risk and Issues Log [Row 83]
2	28	NE to confirm if it is now content to accept that soil sampling and other tactical measures would be secured under the CoCP [REP1-027] to establish soil quality after reinstatement; Applicant to liaise with NE to clarify why its issue log remains amber on this point	<p>As highlighted in our D3 cover letter [REP3-053], due to staff availability we are unable to provide an update on onshore matters until Deadline 5.</p> <p>Our current position is that our outstanding concerns could be adequately addressed through the inclusion of appropriate measures within the CoCP. We will provide an update on this at Deadline 5 once we have had the opportunity to review the document.</p>
4	5	Natural England to comment further on Applicant's ISH4 explanation that no draft Development Consent Order (dDCO) Requirement would be necessary to control the number and duration of cofferdams at the HDD exit pits	<p>Natural England has reviewed the ISH transcript in relation to this issue. On the basis that we felt we needed to seek clarification on the number and duration of the placement of cofferdams, we disagree that this is clear within the ES and therefore consider that this could be open to interpretation at the time of condition discharge. We also note that a number of other projects are considering landfall in a similar location. Therefore, ensuring clarity on this matter will also be important in the context of future assessment. Accordingly, we continue to advise that the number and duration of the cofferdams is secured in the DCO/dMLs.</p>
5	6	An update from Natural England (NE) on the timeline for publication of any revised guidance regarding the 'double-counting' of impacts on gannets through collision and displacement mortality	<p>We believe this relates a paper currently being finalised on the "Consideration of avoidance behaviour of Northern gannet <i>Morus bassanus</i> in collision risk modelling for offshore wind farm impact assessments."</p> <p>This is currently in the final review and QA phase, and it is hoped that we will be able to share outputs over the coming months. We will share the information as soon as it is available.</p>
5	13	Provide a summary of current positions	Ahead of the Hornsea 4 application,

		<p>in relation to likely significant effects in Environmental Impact Assessment terms on seabirds both in respect of the project alone and cumulatively including an indication of whether this is likely to be their final position, or if this may change before the end of the Examination as a result of further work that is currently underway.</p>	<p>Natural England's position was that the cumulative effects of existing plans and projects constitutes was significant effect in EIA terms on kittiwake, gannet, guillemot, razorbill and great black-backed gull. Consequently, and additional impact to these species resulting from the Hornsea 4 proposals will contribute to that significant cumulative effect. Due to the current concerns regarding the baseline characterisation for Hornsea 4 and other outstanding concerns regarding the Applicant's assessments (see Risk and Issues Log and Annex 1 of this submission) we are currently unable to exclude the potential for significant impacts at an EIA scale from this project alone. This position may be subject to change if the outstanding issues can be adequately addressed within the examination timescales. In order to give the best chance of achieving this we consider it essential that the baseline data issues are satisfactorily resolved and assessments updated in line with NE advice for submission at Deadline 5. (See Annex X of this submission for further details).</p>
6	1	<p>Respond to each agenda item that is relevant to your remit, as raised by the Examining Authority and responded to by the Applicant during ISH6</p>	<p>Natural England has reviewed transcripts for this ISH in brief and consider that our R&amp;I log reflects our current position on the agenda items discussed. We will review the Applicant's written summary of their oral representations when they are available and will update our R&amp;I log as required.</p>
6	6	<p>a) Clarification of position regarding the extent to which nesting habitat is a limiting factor for the breeding population of kittiwake in the southern North Sea, as the Examining Authority was not entirely clear about your response to its first written question HRA.1.36 in relation to this matter [REP2-082].</p> <p>b) Indicate if any 'displacement' effects of birds moving from natural nesting sites to artificial compensation sites would be a problem, given that the</p>	<p>As our ornithologists have focussed on reviewing the MRSea Baseline Sensitivity Report we have been unable to fully consider this action. We will provide further update at Deadline 5.</p>

		<p>vacated nesting sites would presumably become available to recruits.</p> <p>c) Response to Applicant's evidence at IHS6 that kittiwake productivity has been found to be higher at offshore nesting colonies on artificial structures.</p>	
6	10	<p>Provide a summary of your current position regarding project alone and in combination HRA effects, including Adverse Effect on Integrity, whether a derogation case is robustly made, and if the necessary and without prejudice compensatory measures are sufficiently if the necessary and without prejudice compensatory measures are sufficiently robust scientifically, and capable of being secured and delivered, if required.</p>	<p>Natural England note the response to this question is requested for Deadline 5, however we would like to highlight that our Risk and Issues log reflects our current position on these issues.</p> <p>Natural England will provide an updated response once we have had chance to consider the additional marine processes information and updated ornithology assessments based on updated baseline modelling.</p>