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Application Reference: EN010109
ESC Reference: 20032925
Date: 25/10/2022
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By email: sadep@planninginspectorate.gov.uk

Dear Sirs,

Re: Application by Equinor New Energy Limited for an Order Granting Development Consent for the Sheringham and Dudgeon Offshore Wind Farm Extension Projects – East Suffolk Council’s Relevant Representation - (Monday 3 October – Monday 14 November 2022).

East Suffolk Council (ESC) is writing in response to the acceptance of the combined application for the Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and the Dudgeon Offshore Wind Farm Extension Project (DEP) submitted by Equinor New Energy Limited for a Development Consent Order (DCO) under the Planning Act 2008. This letter comprises ESC’s Relevant Representation.

Whilst the SEP and DEP projects are not due to be located within the East Suffolk District, the Applicant is exploring possible compensation for kittiwake due to the predicted level of impact introduced by the two extension projects on the Flamborough and Filey Coast (FFC) Special Protection Area (SPA) population. As part of the DCO application, compensation plans are being prepared exploring proposals to deliver improved artificial nest sites within Lowestoft where kittiwakes are already nesting, as compensation for the predicted impacts. Initial pre-application discussions have been held with Equinor regarding this possible requirement for kittiwake artificial nesting structures/compensation in proximity to the existing colony of birds in Lowestoft. Having reviewed the Applicant’s application submission materials, this Relevant Representation provides our initial feedback and clarifies our strategic position in relation to kittiwake compensation within our District.

Context and ESC’s strategic position on kittiwake compensation

The Suffolk coast currently supports the southernmost breeding colonies of kittiwake in the Southern North Sea, these being found at Lowestoft and Sizewell. Nesting at both colonies is associated predominantly with man-made structures (the buildings of the port and town at Lowestoft and the Sizewell A power station offshore rigs - designated as the Sizewell Rigs County Wildlife Site (CWS)). However, neither Suffolk colony is a feature of a European designated site. There is little or no natural cliff nesting opportunity for kittiwakes on the Suffolk coast due to the geology of the area, and therefore nesting by this species is heavily dependent on utilising man-made structures.

Large parts of the Suffolk coast are also heavily protected for their ecological and landscape value, including a suite of national and international designations such as SPAs, Special Areas of Conservation (SACs), Ramsar Sites and Sites of Special Scientific Interest (SSSIs), along with the Suffolk Coast and Heaths Area of

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Outstanding Natural Beauty (AONB) and the Suffolk Heritage Coast. It is therefore critically important that a strategic approach to artificial nesting compensation includes coordination amongst project promoters to minimise the number of sites due to be introduced.

ESC's strategic position supports gull conservation measures where these are appropriately sited with terrestrial planning considerations having been given sufficient weight in site selection at the early stages of the process. We will however oppose any such scheme in proximity to heavily populated, sensitive, or urban areas (such as within the Town of Lowestoft itself) in order to minimise human interaction with the birds and to avoid further exacerbating the existing issues. The introduction of additional nesting capacity at existing sites in the town will effectively burden ESC and the owners of the buildings on which the birds nest, with significant and ongoing cleaning and maintenance issues which is something we will not be able to sustain. ESC would not be able to support proposals for additional artificial nesting at locations which would create or exacerbate existing issues.

We remain concerned that measures to address impacts on seabirds, particularly kittiwakes, are not being considered strategically, both geographically and across different projects. This is of particular concern given the expected quantity of projects coming forward in our coastal areas over the next decade to meet the Government's ambitions. The uncoordinated approach to the delivery of artificial nests in this region could lead to a significant oversupply which will never be filled by increases in colony sizes. Requirements for these structures have previously been imposed on developers in the latter stages of the development consent process with no tangible benefits being offered at that time to the local coastal communities set to host them.

Considering the concerns raised, any artificial nest sites within East Suffolk will be required to demonstrate that every opportunity for coordination between consented and proposed projects has already been fully explored before any new (or enhanced capacity at existing sites) will be considered and progressed. Appropriate mitigation and a tangible package of community benefits will also need to be presented in the early stages to offset the negative planning impacts resulting from the proposal.

We would also like to stress the importance of early engagement with the local communities set to host any such development relating to kittiwake compensation measures. Local communities often feel disconnected from such projects as the offshore wind farm generating the requirement for artificial nests in our region are often in an entirely different part of the country to the kittiwake populations where compensation measures are due to be located. Such engagement is very important given the existing sensitivities surrounding gull/human interactions meaning that associated community benefits must therefore be fully considered and implemented as part of any compensation proposal. We encourage Applicants to go above and beyond in relation to the possible community benefits offered.

ESC understand that Equinor are seeking to find a solution to the expected level of kittiwake compensation required from the two projects ahead of examination and this is a welcome approach and must be commended. ESC is currently in the unfortunate position of having to engage at a post-consent stage with a number of other offshore wind promoters who have received DCOs for their projects but are seeking kittiwake compensation in East Suffolk. Having not been engaged on this matter for other projects during the examinations, this has proven to be very challenging and puts significant additional pressure on council resources.

Review of submission material in relation to ESC's strategic position

As stated, Equinor have engaged with ESC at the pre-application stage, this is reflected in Paragraph 117 within 'Appendix 3 – Kittiwake Compensation Document' (August 2022) which states *'in July 2022, [the Applicant] initiated a pre-application consultation with East Suffolk Council in order to get the council's views on initial site selection work undertaken on potential sites and buildings (see Annex 1D: Record of HRA Derogation Consultation (document reference 5.5.1.4) for further details)'*.

Equinor also refer to this within Paragraph 69 of the 'Consultation Report' (August 2022) stating that *'engagement was undertaken on a stakeholder-by-stakeholder basis rather than a broader non-statutory targeted consultation, recognising the very specific localities and the individual nature of the measures identified'*. Paragraph 70 adds that *'very focussed yet open discussions'* have been held allowing stakeholders the opportunity to feed into the development of the compensatory measures.

The submitted 'Evidence Plan' (August 2022) provides Minutes from the HRA Compensation Expert Topic Group (ETG) 3 meeting (29 June 2022), with Equinor stating for Item 7 that *'We have met with Gateshead and East Suffolk Council who were very well aligned and supportive of our proposals'* in reference to the proposed implementation of artificial nest sites within Lowestoft. However, ESC advised Equinor at the initial meeting held on 18 May 2022 that formal pre-application advice should be sought to gain the views of ESC on any such proposals, noting that these were still in early development at the time of the meeting.

The Applicant also states in Table 1: 'Pre-Application Programme of Engagement (Ordered Chronologically By Commencement Date) (page 21 of 81) within Annex 1D – Record of HRA Derogation Consultation' that the purpose of this meeting was *'to clarify aspects of the Applicant's proposal for artificial nesting structures for kittiwakes in Lowestoft'*. In 'Table 2: Record of ongoing consultation activities in relation to the compensatory measures for offshore ornithology' (page 77 of 81), the Applicant also states that *'East Suffolk Council noted the potential benefits of the proposed measures and was keen for subsequent dialogue to explore further'*, however no context has been provided for this statement, nor was any reference to the concerns raised or our strategic position made, justifying the need for formal pre-application advice.

Formal pre-application advice was provided to Equinor on 17 August 2022, this concluded that in addition to ecological factors underpinning possible site finding, consideration must be given to potential impacts introduced by new artificial nesting on coastal processes and geomorphology, economic implications for the local economy, environmental considerations, landscape and visual implications and heritage and conservation. The precise location, scale, design and maintenance arrangements for the structures are important considerations alongside the ecological suitability of the sites proposed.

ESC also expressed additional concerns regarding the legal protection which these structures will require and the potential for this to adversely restrict important developments in this part of East Suffolk. Government guidance on Habitats Regulations derogations (February 2021) states that *"If the area providing compensatory measures is not within the European site, it should become designated as part of the European site. Until that happens, it's protected by government planning policy."* Government planning policy on this matter is set out in paragraph 181(c) of the National Planning Policy Framework (NPPF 2021) which advises that sites required as compensatory measures for adverse effects on Habitats Sites (European designated sites) should be given the same protection as the Habitats Sites themselves. Such legal protection has the potential to restrict future developments in the area, both offshore and onshore. This includes creating additional Habitat Regulations Assessment (HRA) requirements in relation to the policy protection needs for new artificial nesting structures (ANS).

Whilst ESC is keen to work with project promoters in finding an acceptable solution to kittiwake compensation, we will continue to raise significant concerns regarding the siting of artificial nesting in urban settings. We will work with project promoters who are willing to explore coordination with other promoters at suitable locations away from these areas or appropriately located in the nearshore environment where potential terrestrial planning constraints (including seascape visual impacts) are found to be more manageable in the right location. We will be taking a consistent stance on this matter across all projects seeking kittiwake compensation.

The Applicant's submitted technical note provided to ESC at the time of the pre-application request titled *'Productivity benefits of improving artificial nest sites for kittiwake in Lowestoft'* (30 May 2022) stated that *'Our proposal for artificial nest sites in Lowestoft is more scalable; the greater the number of kittiwake pairs that require compensating, the more ledges could be installed'*, however ESC advised that this would be in direct conflict with the District's strategic position on increasing the numbers of kittiwakes in the central urban areas of Lowestoft, beyond the natural growth of the existing population, and is therefore not supported.

In terms of the possible requirement for kittiwake compensation for the Flamborough and Filey Coast SPA, beyond the Applicant's 'ideal approach' which is stated as being UK Government led strategic compensation to address the sandeel stock issues in heavily fished areas (with sandeel being a primary food source for kittiwake), the Applicant provides details of a secondary option for kittiwake compensation. Paragraph 137 within 'Annex 1A – Initial Review of Compensatory Measures for Sandwich Tern and Kittiwake' (August 2022) states that *'A second possibility would be compensation provided by DEP and SEP by adjusting existing artificial nest sites (for example at River Tyne and Lowestoft) to enhance breeding success of kittiwakes attempting to nest on artificial structures in sub-optimal nest sites where they currently achieve lower breeding success than they could if those nest sites were better protected from predators and weather. The latter approach is one that as far as we know has not yet been proposed by any other offshore wind farm developers, but would be effective and practical, at least to provide the relatively small level of compensation required for an individual wind farm development. This would also be complementary to the proposal to create novel artificial colonies as put forward by Hornsea Three, Norfolk Vanguard and Norfolk Boreas'*.

However, the Applicant overlooks the reasons behind why no other developer has progressed such an approach to date. Notwithstanding the positive work being undertaken by the Lowestoft Kittiwake Partnership, the Applicant's proposal would introduce additional kittiwake within the town of Lowestoft on existing buildings adding to the existing colony size. Such additionality of birds into the existing population exacerbates existing issues and as already stated, ESC would not be able to support such proposals within the town, being contrary to ESC's strategic approach.

It was also noted at the pre-application stage within the Applicant's provided document *'Pre-application consultation on locations for improved artificial nesting at Lowestoft'* (18 July 2022), that discussions with the Lowestoft Kittiwake Partnership have advised that the SEP and DEP proposals for kittiwake compensation *'perfectly align'* with the objectives of the partnership. However, we note the aims and objectives are currently at the conceptual stage and are still being finalised for agreement amongst members. The proposed funding structure into which project promoters seeking compensation can contribute towards measures to address the current human/bird interaction concerns within the town is also in the early stages and yet to be agreed amongst members. It is therefore premature to state that this proposal perfectly aligns.

Notwithstanding ESC strategic position, the emerging aims of the partnership seek to encourage birds to nest at more suitable sites whilst equally discouraging them from those which are less suitable. The Applicant's approach is understood to focus on sites where kittiwakes are already nesting, however as noted, the Partnership seeks to discourage some of the existing less favourable sites which remain to be fully identified. Therefore, by focussing on existing sites where birds are already nesting ahead of the aims of the Partnership being finalised, this risks some of the Applicant's preferred sites having to be relocated in the future creating additional work and cost for the Partnership.

ESC continues to work closely with the Partnership whilst helping prospective project promoters seeking to provide kittiwake compensation to initiate a proactive dialogue with them. However, whilst the Partnership aims to address the existing kittiwake colony issues in the Town of Lowestoft, ESC's primary concern with the SEP and DEP proposal is the additionality of kittiwake in an already extremely sensitive area, in close proximity to people within the Town itself. This proposal would introduce new nests alongside the existing kittiwake population in the Town, exacerbating the current issues which the partnership is seeking to address. This was raised as a concern in the pre-application response as it does not align with the Council's strategic position.

Summary

ESC encouraged the Applicant in the pre-application response to seek an alternative solution to the compensation needs for SEP and DEP in light of the planning constraints discussed by technical officers and the strategic position which has been clearly set out. Every opportunity for coordination between consented and proposed projects must be fully explored before a new or expanded artificial nesting site is progressed. Appropriate mitigation and a tangible package of community benefits will also need to be presented to offset the negative planning impacts resulting from the proposals.

It is acknowledged in Paragraph 128 within 'Annex 1A – Initial Review of Compensatory Measures for Sandwich Tern and Kittiwake' (August 2022) that the Applicant is monitoring the progress of other kittiwake compensation proposals within the coastal areas of East Suffolk, namely the Orsted Hornsea Three and Vattenfall Norfolk Vanguard / Norfolk Boreas proposals. In reference to a possible proliferation of kittiwake ANS in this region, the Applicant states *'This leads to a potential difficulty of competition among developers to construct artificial nesting colonies for kittiwakes at multiple sites on the east coast of England. For this reason, we suggest that this may not be the best approach to take if the proposals relating to Hornsea Three, Vanguard and Boreas do proceed'*.

Whilst the timing of the Applicant's submission materials did not allow for the inclusion of ESC's pre-application advice, the Applicant has confirmed to ESC that they will continue to develop the kittiwake compensation proposal in the coming months in light of the pre-application advice received and welcomes the opportunity to further engage with ESC on this proposal. This approach is welcomed by ESC, and we also understand that the Applicant has initiated a dialogue with other developers seeking similar kittiwake compensation in this region to discuss collaborative opportunities which is also welcomed.

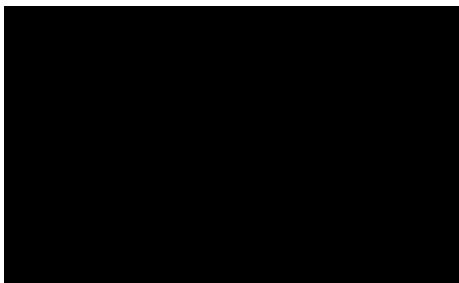
ESC wishes to reiterate the importance of community projects and funding initiatives together with potential economic impacts being given sufficient consideration as part of any proposal being taken forwards. This will be central to its acceptability within the local communities of East Suffolk. Robust evidence will also need to be provided setting out how any identified negative effects on the local economy will be compensated, ensuring the proposed artificial nests do not compromise future development initiatives or the areas economic prosperity.

ESC has significant concerns that compensation measures for impacts on seabirds are not being addressed strategically given the expected quantity of projects coming forward in our coastal areas over the next decade. We are also concerned that an uncoordinated approach to ANS delivery in this region would lead to a significant oversupply of artificial nests created which will never be filled by increases in colony sizes. We are also concerned about the legal protection such structures would attract, restricting future onshore and offshore development opportunities coming forwards in our region and the additional burden introduced on the Local Planning Authority.

As stated previously, ESC will raise significant concerns to the siting of ANSs in our coastal areas. Clear justification needs to be provided for any ANSs proposed on the East Suffolk coastline. Notwithstanding the Council's position, if an onshore or nearshore proposal is advocated in East Suffolk, we would need to be satisfied that every opportunity for coordination between projects has been fully explored and that a tangible package of community benefits has been presented to offset the negative planning impacts raised, otherwise ESC will continue to raise significant concerns to the siting of ANSs in our coastal areas.

We welcome further engagement with the Examining Authority and the Applicant as part of the DCO examination process.

Yours faithfully



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East Suffolk Council