



HEARING AGENDA

Application by Equinor New Energy Limited for an Order Granting Development Consent for the Sheringham Shoal Offshore Wind Farm Extension Project and Dudgeon Offshore Wind Farm Extension Project

Issue Specific Hearing 5	Offshore Matters
Date	Thursday 30 March 2023
	Hearing Start Time: 10:00 am
Timings	Arrangements Conference for virtual attendance online: 09:00 am Seating for in-person Hearing available at the venue from: 09:00 am
Location	Fishmongers Recital Hall, Gresham School, Cromer Road, Holt NR25 6EA Microsoft Teams for virtual attendance online

REQUESTED ATTENDEES

1. Applicant
2. Marine Management Organisation
3. National Trust
4. Natural England
5. Royal Society for the Protection of Birds
6. The Wildlife Trust

PURPOSE OF ISSUE SPECIFIC HEARING 5

The main purpose of the Issue Specific Hearing 5 is to clarify and get views on strategic onshore matters relating to:

1. Offshore ornithology from an Environmental Impact Assessment perspective;
2. Offshore ornithology from a Habitats Regulation Assessment perspective;
3. The extent, suitability and security of Habitats Regulation Assessment compensation for offshore ornithology;
4. The extent, scope and security of mitigation for marine mammals; and
5. Draft Development Consent Order.

DOCUMENTS

The Examining Authority referred to several documents in the preparation of this agenda, and some of the documents that we will be referring to during the Hearing



are listed here. These documents can be located using the Examination Library reference number in [] square brackets:

1. Draft Development Consent Order Revision D [REP2-008]
2. Explanatory Memorandum Revision D [REP2-013]
3. Environmental Statement Chapter 11 [APP-097]
4. Proposed without prejudice DCO drafting [REP1-005]
5. Marine Mammal Mitigation Protocol (Revision B) [REP1-014]
6. Outline Offshore Operations and Maintenance Plan (Revision B) [REP1-018]
7. Applicant's comments to relevant representations [REP1-034] and [REP1-035]
8. Applicant's responses to the ExA's first written questions [REP1-036 to REP1-039]
9. Statement of Common Ground with the MMO [REP1-044]
10. Statement of Common Grounds with Natural England [REP1-047]
11. Updated offshore ornithology technical notes [REP1-055] to [REP1-061] inclusive
12. National Trust Deadline 1 Submission [REP1-134]
13. Natural England Deadline 1 Submission [REP1-135] to [REP1-139]
14. Royal Society for the Protection of Birds Deadline 1 Submission [REP1-162]

HEARING FORMAT

The Hearing will be a blended event, whereby the principal means of conducting the Hearing will be face-to-face within the venue cited above. Participants may join online if they wish using the Microsoft Teams platform and, if you have registered to join using this format, the joining link for the virtual Issue Specific Hearing will be sent to parties the day before, or on the day of, each session. Observers may attend in person or can watch remotely via the livestream of the event, the link for which will be published on the project page of the National Infrastructure website on the day of the Hearing. The Examining Authority will not accept representations at the Hearing in the form of video or audio recordings.

The virtual event will be open 60 minutes prior to the start of the Hearing to enable a prompt start. Hearings will finish as soon as the Examining Authority deems that all those present have had their say and that all matters have been covered.

The agenda is for guidance only. It is not designed to be exclusive or exhaustive. The Examining Authority may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration of them. Any lack of discussion of a particular issue at a hearing does not preclude further examination of this issue, including the asking of further written questions.



AGENDA

The Hearing will start promptly at the indicated time of 10:00 am. All other times in the Agenda are indicative. The Examining Authority will close the Hearing at 05:30 pm, or sooner if all relevant matters have been covered.

09:00 am Arrangements Conference for virtual attendance

1. Registration by the Case Team

09:00 am Seating available for in-person attendance

2. Registration by the Case Team

10:00 am Issue Specific Hearing 5 (session 1)

- 1. Welcome by Lead Member of the Examining Authority**
- 2. Procedure for running the Issue Specific Hearing**
- 3. Offshore Ornithology from an Environmental Impact Assessment perspective**
 - i. Hornsea Project 4, in updating their assessments for the Secretary of State, reported on the impacts upon the Common Scoter feature of the Greater Wash Special Protection Area (SPA). Of particular note, they responded "*No assessment of the common scoter feature of the Greater Wash SPA was undertaken by Sheringham Shoal and Dudgeon Extension, therefore a construction phase ECC in-combination assessment was not possible*" (reported by Natural England in paragraph 5 of Appendix B to [RR-063]). The Environmental Statement [APP-097, Tables 11-18 and 11-34, Paragraph 425] screens out Common Scoter and sets out that the species is not at risk of collision. Is Natural England content with this position?
 - ii. The Environmental Statement [APP-097, Table 11-168] reports a moderate adverse cumulative effect (residually) upon Great Black-backed Gull. No further mitigation is proposed for the species. Natural England has set out that, at the Environmental Impact Assessment level, there would be a significant adverse impact on Great Black-backed Gull irrespective of whether the Proposed Development is included in the totals. Reasons for the difference in the conclusions and what, if any, mitigation or compensation should be sought to reduce the impact further?



- iii. The Environmental Statement [APP-097, Table 11-168] reports a minor adverse cumulative effect (residually) upon Lesser Black-backed Gull. No further mitigation is proposed for the species. Is Natural England content with this position?
- iv. Clarification from Natural England on their conclusion that there would be a significant adverse impact at the Environmental Impact Assessment scale on red-throated diver irrespective of whether the Proposed Development is included in the totals. Reasons for the difference in conclusions presented by the Applicant and Natural England.
- v. The Collision Risk Modelling Updates (EIA Context) Technical Note [REP1-056] provides statistics for the little gull species. Are there any unresolved issues or concerns regarding this species?
- vi. The Applicant has said they will be advised by Natural England as to how to best incorporate the Highly Pathogenic Avian Flu into the assessments [REP2-017]. Can Natural England clarify how it wants this element to be reported and why?

11:30 am

Break

11:45 am

Issue Specific Hearing 5 (session 2)

4. Offshore Ornithology from a Habitats Regulation Assessment (HRA) perspective

- i. The Apportioning and Habitats Regulation Assessment Updates Technical Note sets out the predictions regarding the puffin species [REP2-036]. Is Natural England content that, following the modelling results, an Adverse Effect on Integrity on puffin as part of the seabird assemblage can be ruled out?
- ii. Following the discussion in the Applicant's Apportioning and Habitats Regulation Assessment Updates Technical Note [REP2-036], in terms of seabird assemblage, does Natural England agree with the approach, assessment and calculation of impacts on the total abundance and diversity of the species components of the assemblage?
- iii. Discussion between parties, in particular Natural England, Royal Society for the Protection of Birds and the Applicant, about the effects of the Proposed Development on seabird assemblage, and the potential need for additional compensation for the Flamborough and Filey Coast SPA.
- iv. The Applicant has set out its case as to why an Adverse Effect on Integrity can be ruled out for red-throated diver [REP2-040]. Can Natural England confirm why, if this is still the case, an AEoI cannot be ruled out?



- v. Can Natural England confirm that, if the Sheringham Extension Project was not pursued, there would not be any concerns regarding red-throated diver?
- vi. There remains a fundamental disagreement as to whether compensation is required at all for guillemot and razorbill (notwithstanding any sub-arguments regarding the measures of said compensation). In light of recent submissions by the Applicant, can a resolution be reached, or identify areas pending resolution for discussion

01:15 pm

Lunch Break

02:15 pm

Issue Specific Hearing 5 (session 3)

5. The extent, suitability and security of Habitats Regulation Assessment compensation for offshore ornithology

- i. The Statement of Common Ground with the National Trust [REP2-046] suggests that there need not be any further discussion on the Farne Islands compensation measures. However, before discounting this and moving on, the Examining Authority request that the National Trust a) provide a copy of the Farne Islands Management Plan to the Examination and b) explain why the proposed measures do not represent additionality?
- ii. Views from Natural England, National Trust and the Applicant about the appropriateness to pursue bamboo canes as a compensation measure for the Farne Islands?
- iii. The Applicant has quoted the Energy Security Bill insofar as: *"Government is also considering enabling developers to undertake work already identified by Government to improve the condition of protected species and habitats. This would substantially increase the number of measures available to developers and also accelerate marine recovery for some sites"* [REP2-038]. Can the Applicant set out whether the management plan for the Farne Islands represents (or is included as part of) any Government document or whether there are any Government-backed measures on the Farne Islands that are on public deposit to which the Applicant is relying?
- iv. If the Secretary of State were to ultimately conclude that sandwich tern compensation in respect of the Farne Islands to be insufficient, unsound or not to represent additionality, would this result in the compensation package as a whole being inadequate with only a single-strand approach for Loch Ryan?
- v. Foulness Island in Essex has appeared as a possibility for sandwich tern compensation. Is this being pursued as a further site to Loch Ryan and Farne Islands or as a substitute for Loch Ryan or the Farne Islands?



- vi. Update the Examining Authority on progress with the Gateshead kittiwake tower compensation measure.
- vii. Effectiveness of replacing the poor-performing nests on the south face of the kittiwake tower at Salt Meadows Gateshead with potentially better-performing nests on the north face of the tower (in greater numbers) and if that represents appropriate and qualifying compensation?
- viii. The compensation proposals for guillemot and razorbill, if required, appear to have switched focus from the northeast to the southwest [REP2-040]. Taking this into account, combined with Natural England and the Royal Society for the Protection of Birds both disputing the effectiveness of both bycatch reduction and looming eye buoys, why should the Examining Authority have confidence in, what appears to be, a relatively uncertain compensation strategy?
- ix. At the specific Special Protection Area, with regards to the coherence of the UK National Site Network, if bird losses undermined the overall seabird assemblage (combined with compensation effectively enabling birds to move away from the SPA – managed loss), would that require targeted compensation at the specific Special Protection Area?

6. The extent, scope and security of mitigation for marine mammals

- i. Is there agreement on the content, scope and level of mitigation secured in the Marine Mammal Management Protocol [REP1-014]? If not, what amendments are perceived to be required in order for agreement to be reached?
- ii. Does Natural England and the Marine Management Organisation consider that there are any fundamental issues remaining, on either an Environmental Impact Assessment or Habitats Regulation Assessment basis, in respect of marine mammals that warrant further work to be done? Explain with reasons.

03:45 pm

Break

04:00 pm

Issue Specific Hearing 5 (session 4)

7. Draft Development Consent Order

- i. The Applicant promised a number of documents at Deadline 1 to be submitted '*early in the Examination.*' These included the Auk Construction Phase Displacement Assessment Technical Note (*received*), the Export Cable Laying Vessel RTD Displacement Assessment (*though that may have been incorporated in the apportioning and habitats note at D2*), the Auk Bycatch Reduction



Feasibility Statement and the Marine Mammals Technical Note.
Can a firm date be confirmed for receipt of these.

- ii. A number of technical notes were submitted at Deadline 1 and Deadline 2. This supplements, adds to or revises the data used to form the Environmental Statement. Can the Applicant set out how these Examination-based revisions will affect the useability of the Environmental Statement, and which documents require certification as part of the Environmental Statement under the dDCO?
- iii. The Marine Management Organisation continue to raise objection to the use of the phrase "materially" within the context of the draft Development Consent Order and Deemed Marine Licenses [REP2-059, paragraph 8.9]. The ExA notes the argument of precedence raised by the Applicant. Can the MMO explain why, if that phrase has been accepted by the SoS in other consented DCOs, it is inappropriate for that phrase to be used in this instance?
- iv. Progress on discussion with Marine Management Organisation regarding the timeframes for post-consent submissions for review

8. Procedural decisions, review of actions and next steps

9. Closing remarks

05:30 pm

Close of Issue Specific Hearing 5