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MMO Reference: DCO/2022/00007
Planning Inspectorate Reference: EN010125
Identification Number: 20050160

14 February 2025

Dear Sir or Madam,

Planning Act 2008, RWE Renewables UK Dogger Bank South (West) Ltd and RWE Renewables UK Dogger Bank South (East) Ltd Proposed Dogger Bank South Offshore Wind Farms Order

Deadline 2 Summary

On 10 July 2024, the Marine Management Organisation (the MMO) received notice under section 56 of the Planning Act 2008 (the PA 2008) that the Planning Inspectorate (PINS) had accepted an application made by RWE Renewables UK Dogger Bank South (West) Ltd and RWE Renewables UK Dogger Bank South (East) Ltd (the Applicant) for determination of a development consent order for the construction, maintenance and operation of the proposed Dogger Bank South Offshore Wind Farms (the DCO Application) (MMO ref: DCO/2022/00007; PINS ref: EN010125).

The DCO Application seeks authorisation for the construction, operation and maintenance of Dogger Bank South (DBS) Offshore Wind Farm (OWF), comprising of up to 100 wind turbine generators in DBS East and up to 100 wind turbine generators in DBS West together with associated onshore and offshore infrastructure and all associated development (the Project).

The DCO Application includes a draft development consent order (the DCO) and an Environmental Statement (the ES). The draft DCO includes, Marine Licence 1 (Schedule 10), Marine Licence 2 (Schedule 11), Marine Licence 3 (Schedule 12), Marine Licence 4 (Schedule 13) and Marine Licence 5 (Schedule 14) which are draft Deemed Consent under Part 4 (Marine Licensing) of the Marine and Coastal Access Act (MCAA 2009) (DML).

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.



Yours Sincerely,

Leah Cameron

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Marine Licencing Case Officer

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1. Comments on REP1-005 Applicant's Draft DCO Tracked Changes

1.1 DCO and DML General Comments

1.1.1 The majority of MMO comments have been presented in tabular format to improve readability and understanding with multiple points within the DCO and DML that require amending.

1.1.2 The MMO acknowledges the revisions to the draft DCO (dDCO) which have been submitted by the Applicant in their Deadline 1 Submission. The MMO hopes to see further amendments to the dDCO during the examination process.

1.2 Transfer of the Benefit of the Order – Article 5

1.2.1 The MMO objects to the provisions relating to the process of transferring and/or granting the deemed marine licences set out in the draft DCO at Article 5. The MMO has given a detailed response and requested amendments regarding Article 5 in Section 1.2 of its Deadline 2 Submission.

1.3 Force Majeure

1.3.1 The MMO maintains its position regarding Force Majeure, as it is not necessary to be included within the DMLs.

1.3.2 Currently the MMO believes Condition 14 in DML 1 and 2, 13 in DML 3 and 4 and 10 in DML 5 does not meet the five tests as set out in the National Planning Policy Framework:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

2. Comments on Pre-Examination Procedural Deadline Submissions from Deadline 1.

2.1 General Comments

2.1.1 The MMO has reviewed updated documents related to fisheries (AS-052, AS-105 and AS-142).

2.2 Fisheries

2.2.1 The MMO previously raised a major comment about the formation of the herring potential spawning habitat and the sandeel potential habitat 'heat' maps.

2.2.2 Further information has been provided however there are still comments. The vessel monitoring data (VMS) layer should either be corrected to present 10 years of VMS data, or the Applicant should be able to demonstrate why the spatial data provided in the 2020 VMS data is more expansive than the sum of 10 years of VMS activity.

Sandeel

2.2.3 The MMO provided a number of comments and updates on sandeel that should be addressed by the Applicant.

2.2.4 The MMO maintains the request that pre- and post-construction monitoring proposal

for sandeel habitat suitability should be conditioned within the DML to ensure that the sediment composition of the areas of medium, high and very potential habitat which fall within the array area and cable route are monitored prior to and following construction of the Project.

2.2.5 The MMO previously requested that the Applicant supplement their sandeel habitat assessment with data from the North Sea Sandeel Survey (NSSS). Could the Applicant please provide a justification for why this additional requested data has not been presented and clarification as to whether they intend to present these data at all in future?

Herring

2.2.6 The MMO provided a number of comments and updates on sandeel that should be addressed by the Applicant.

2.2.7 The Applicant has provided particle size analysis (PSA) data to ground-truth the sediment suitability across the ECC as herring spawning habitat. There are two main impact pathways from the Project which are of significant concern in relation to the Banks herring spawning population which uses the Flamborough Head herring spawning ground.

UWN disturbance to adult herring engaged in spawning from piling and UXO clearance activities.

2.2.8 The information provided in the Heat Mapping Report pertains primarily to cable laying activities rather than addressing UWN disturbances to spawning herring from piling or UXO Clearance. The MMO still considers that the range of impact for TTS and behavioural impacts is still unacceptably large. The Applicant has not provided any further information as to how they might mitigate UWN disturbances. For this reason, the MMO maintains that **it is necessary to request a temporal restriction on all piling and UXO clearance activities during the Banks herring spawning season (1 August – 31 October inclusive).**

2.2.9 The MMO notes that the Applicant has still not proposed any strategies to mitigate the impacts to herring from UWN arising from piling and UXO clearance activities.

Direct disturbance to herring spawning habitat caused by seabed preparation and cable laying activities along the ECC including immediate direct disturbance and sediment change.

2.2.10 The Applicant has provided additional ecological data in an attempt to have the requested temporal restriction for cable works along the ECC route dismissed. There is some merit in their approach however the Applicant's rationale is missing some key data:

- Site-specific near seabed temperature data and until site-specific near seabed temperature data is provided it is not appropriate to determine the egg development and yolk-sac absorption periods for use in back-calculations to establish the start or end of the 'peak' of spawning activity
- The MMO strongly disagrees with the Applicant's statement that "larvae caught by the IHLS are likely to be mobilised by nearbed currents, and are not directly associated with the seabed at point of capture and therefore not considered to be at risk of potential impacts associated with the installation of cables" as this totally misrepresents the risk to herring larvae from cable laying.
- The MMO has some concerns regarding the data underpinning Figure 2.7 of the report.

2.2.11 The MMO thanks the Applicant for providing PSA data for the ECC (Table 2-1). Nonetheless, there are several gaps in the Applicant's approach which need to be addressed before explicit egg development and yolk-sac absorption periods can be

confidently and evidentially defined for use in a back-calculation exercise for the Project ECC.

2.2.12 The Applicant should recognise that whilst the Project ECC and EGL2 are being developed in isolation of each other, both run through the Flamborough Head herring spawning ground and are not the only cable developments to do so. The impacts of all activities must be considered and assessed as a whole. For this reason, **the MMO maintains the requested temporal restriction on works which interact with the seabed along the ECC route (including seabed preparatory works, cable trenching etc.) during the Banks herring spawning season (1 August – 31 October inclusive), and that this restriction should apply to both construction and maintenance activities.**

2.2.13 Should the Applicant wish to temporally or spatially refine any of the recommended restrictions, the Applicant should request the MMO to provide further advice to ensure the information provided will provide the evidence to remove a restriction. It should also be noted that any spatial refinement is applicable to the temporal restriction on works which interact with the seabed along the ECC route only.

Removal of the ESP from the ECC and Updated UWN modelling.

2.2.14 The removal of the ESP from the offshore export cable corridor is positive as it removes the need for piling to be carried out within an area of high potential herring spawning habitat near Flamborough Head.

2.2.15 The unmitigated impact ranges for TTS and behavioural impacts in herring still overlap a significant area of high and very high potential herring spawning habitat, and it was raised in the previous responses that UWN impacts to herring should be appropriately mitigated. The Applicant has not provided any further information as to how they might mitigate UWN disturbances. For this reason, The MMO maintain that **it is necessary to recommend a temporal restriction on all piling and UXO clearance activities during the Banks herring spawning season (1 August – 31 October inclusive).**

3. Additional MMO comments

3.1 DCO/DML comments

3.1.1 The MMO is currently reviewing a number of conditions with MCA, TH and UKHO to ensure there is a standard across all cases in examination and will provide an update to the Applicant and ExA as soon as these have been agreed.

3.1.2 Due to updates to the Marine Noise Registry the MMO will be requesting updates to Condition 26 Reporting of impact pile driving in due course.

3.2 Other Documents

3.2.1 The MMO is still reviewing a number of documents and will provide comments at Deadline 3 alongside comments on relevant documents submitted at Deadline 2:

3.3 In Principle Monitoring Plan (IPMP) (APP-247)

3.3.1 The MMO is currently undertaking a project on the standardisation of offshore wind post-consent monitoring data and requests the IPMP is updated to included reference to this so at the post consent stage this will be followed.

4. References

Kyle-Henney M., Reach I., Barr N., Warner I., Lowe S., and Lloyd Jones D., 2024. Identifying and Mapping Atlantic Herring Potential Spawning Habitat: An Updated Method Statement.

Popper, A.N., Hawkins, A.D., Fay, R.R., Mann, D.A., Bartol, S., Carlson, T.J., Coombs, S., Ellison, W.T., Gentry, R.L., Halvorsen, M.B., Løkkeborg, S., Rogers, P.H., Southall, B., Zeddis, D.G. & Tavalga, W.N. (2014). Asa S3/Sc1.4 Tr-2014 Sound Exposure Guidelines for Fishes and Sea Turtles: A Technical Report Prepared by ANSI-Accredited Standards Committee S3/Sc1 a (Springerbriefs in Oceanography).

Reach, I., Kyle-Henney, M., Barr, N., Warner, I., Lowe, S., and Lloyd Jones, D., 2024. Identifying and Mapping Sandeel Potential Supporting Habitat: An Updated Method Statement