



NEED, SITE SELECTION, DESIGN AND PLANNING

**ORSTED HORNSEA PROJECT THREE (UK) LIMITED (FERRY ROAD,
HARTLEPOOL) COMPULSORY PURCHASE ORDER 2023**

STATEMENT OF EVIDENCE

**Eleni Antoniou
Environment Manager
Orsted**

1 QUALIFICATIONS AND EXPERIENCE

1.1.1.1 I have an MSci (Hons) in Geography and have worked as an Environment Manager at Ørsted for five years.

1.1.1.2 As the Compensation Lead on Hornsea Three, I was responsible for managing the implementation of our kittiwake compensation plan. This included:

- Leading the Offshore Ornithology Engagement Group (OOEG) and engaging with multiple external stakeholders (including Local Planning Authorities, NGOs and government organisations) to consult on our plans and gain key agreements;
- Co-ordinating a multidisciplinary team (including architects, planners, land agents, engineers, and ornithologists) to identify appropriate sites and devise designs for the artificial nesting structures (ANS);
- Drafting the Kittiwake Implementation and Monitoring Plan (KIMP) to discharge relevant DCO requirements; and
- Obtaining marine and onshore consents for the ANS (including review of technical reports, responding to objections, presenting at planning committee meeting), and discharging corresponding conditions.

1.1.1.3 Prior to my role on Hornsea Three, I managed several Environmental Impact Assessment (EIA) topics for Hornsea Four from the EIA Scoping stage to submission of the DCO application, including chairing the Expert Working Group for Offshore Ornithology. I have sat on Project Expert Panels to advise on workstreams within the Offshore Renewables Joint Industry Programme (ORJIP) industry group, and recently chaired Expert Group 1 of the Collaboration on Offshore Wind for Strategic Compensation (COWSC) forum, which included representatives from industry, government, and environmental bodies. I have extensive experience in managing projects, including in my previous organisation (Alcatel Submarine Networks) where I worked as a Marine Bid Manager for four years.

2 INTRODUCTION AND SCOPE OF EVIDENCE

2.1.1.1 My evidence is structured as follows:

- **Section 3.1** outlines the need for kittiwake ANS for the Hornsea Three Offshore Wind Farm (hereafter 'Hornsea Three');
- **Section 3.2** sets out the site selection process that was undertaken;
- **Section 3.3** describes the design process; and
- **Section 3.4** provides an overview of the planning application, refusal, appeal and determination.

3 EVIDENCE

3.1 Need

3.1.1.1 Ørsted Hornsea Project Three (UK) Limited (the 'Acquiring Authority') submitted a DCO application for Hornsea Three on 14th May 2018 and accompanying the application, the Habitats Regulations

Assessment (HRA) Report concluded no Adverse Effect on Integrity (AEoI) for all project interactions with designated sites and their associated features alone and in combination with other plans and projects. The application was accepted by the Planning Inspectorate in June 2018.

- 3.1.1.2 Post examination but prior to the Department for Business, Energy and Industrial Strategy (BEIS)¹ Secretary of State's decision, the Acquiring Authority was required to submit information relating to the Habitats Regulations derogation, on a without prejudice basis. This included the submission of proposals relating to compensatory measures for (and not limited to) collision impacts on the kittiwake feature of the Flamborough and Filey Coast Special Protection Area (FFC SPA). During the decision process, the Secretary of State requested further efforts were made by the Acquiring Authority to identify kittiwake compensatory measures that were supported in principle by the Statutory Nature Conservation Body (SNCB), i.e. Natural England. The Acquiring Authority made submissions (in September 2020) in response to this request which included proposals (still on a without prejudice basis) for the provision of coastal ANS, which were broadly supported by Natural England.
- 3.1.1.3 A number of documents were submitted by the Acquiring Authority in relation to kittiwake compensation. They can be viewed on the Planning Inspectorate's website².
- 3.1.1.4 Development consent for Hornsea Three was granted on 31st December 2020. The Secretary of State's HRA concluded that an AEoI could not be ruled out for in-combination collision mortality for kittiwake at FFC SPA (as well for other matters relating to Special Areas of Conservation, which are not discussed in this statement). As a consequence, the Secretary of State determined that Hornsea Three triggered Article 6(4) of the Habitats Directive and that the Acquiring Authority must deliver compensation to offset the potential impact on the designated features.
- 3.1.1.5 In the DCO, the Secretary of State stipulated that a Kittiwake Implementation and Monitoring Plan (KIMP) be produced. Paragraph 3 of Part 1 of Schedule 14 of the DCO states that *"The KIMP must be submitted to the Secretary of State for approval (in consultation with the MMO, the local planning authority or authorities for the land containing the artificial nest sites, and Natural England). The KIMP must be based on the strategy for kittiwake compensation set out in the kittiwake compensation plan³..."* It goes on to state that the KIMP must include details of locations, design, maintenance, monitoring and adaptive management plans for the ANS, provisions for reporting, and work to explore prey availability measures.
- 3.1.1.6 Critically, the DCO (as amended pursuant to the Hornsea Three Offshore Wind Farm (Amendment) Order 2023, which came into force on 18th April 2023), stipulates that:

"(c) an implementation timetable for delivery of four artificial nest structures that ensures all necessary compensation measures are in place to allow three full kittiwake breeding seasons in respect of two artificial nest structures prior to the operation of any turbine forming part of the authorised development, and to allow two full kittiwake breeding seasons for the other two artificial nest structures prior to the operation of any turbine forming part of the authorised development,

¹ Now the Department for Energy Security and Net Zero (DESNZ)

² <https://infrastructure.planninginspectorate.gov.uk/projects/eastern/hornsea-project-three-offshore-wind-farm/?ipcsection=docs&stage=6&filter1=Response+to+the+Secretary+of+State%E2%80%99s+Minded+to+Approve+Letter>

³ Certified plan pursuant to Article 36 of the DCO [Response to the Secretary of State's Minded to Approve Letter - Appendix 2: Kittiwake Compensation Plan](#)

with the KIMP to specify whether three or two breeding seasons applies to each artificial nest structure.”

- 3.1.1.7 Three ANS off the coast of East Suffolk were commissioned in June 2023, meeting the two ANS needed for the three breeding season requirement and providing one of the two ANS needed to meet the two breeding season requirement. In accordance with the Kittiwake Compensation Plan, the remaining ANS must be implemented on the North East English coastline, with the intended location to be at the Old Yacht Club Site, Hartlepool (hereafter, the ‘Site’). The current terms of the DCO stipulate that Hornsea Three cannot operate until two full breeding seasons (defined as 1st March to 30th September) following the implementation of the ANS have passed. In order to ensure the operability of Hornsea Three within the required timescales, the Acquiring Authority has recently submitted a non-material change application as set out in **paragraph 3.5.2** below.
- 3.1.1.8 Given the above requirements, the ANS are integral to the delivery of Hornsea Three. Hornsea Three cannot operate until the ANS are delivered.

3.2 Site Selection

- 3.2.1.1 I joined the Hornsea Three project team in April 2021. Due to the tight timeframes, we immediately focussed on finding an appropriate location for the ANS. To fulfil our compensation requirement, it was essential to select a location that could attract and maintain breeding kittiwake, i.e. near or overlooking the sea, and close to an existing kittiwake colony with a stable or growing population (suggesting good availability of prey) and where nesting habitat is limited.
- 3.2.1.2 As presented in the Ecological Evidence report (Annex 2 to the Kittiwake Compensation Plan)⁴, 404 - 467 additional breeding pairs of kittiwake are required to recruit an additional 73 kittiwake into the wider biogeographic population, and offset the potential collision mortalities of kittiwake resulting from the operation of Hornsea Three. Therefore, the site also needed to be large enough to accommodate an ANS with nesting spaces for a minimum of 467 pairs of breeding birds. The original intent was to locate two ANS in each search zone, which could be accommodated on one site if large enough (i.e. a minimum of 934 nesting spaces). The specific number of nesting spaces per ANS is determined by the unique designs, taking into consideration the required nesting space dimensions, orientation of the ANS (i.e. whether seaward/landward facing) and the minimum number of nesting spaces required. The number of nesting spaces to be delivered has been considered and approved as part of the planning permission for the ANS.
- 3.2.1.3 Hornsea Three was the first offshore wind project with a requirement to deliver ecological compensation. It was essential for ecological drivers to be at the heart of our site selection process, to give the ANS the best chance of success and ensure we fulfilled the requirements of the Hornsea Three DCO. The ANS were accepted as an appropriate form of compensation in the DCO determination. However, they are a novel technology which means there are uncertainties as to the timeframes for a colony to establish, and number of chicks that will be produced each year. Locating the ANS on a less ecologically suitable site could jeopardise the chance of meeting the targets outlined in **paragraph 3.2.1.2**, leading to the need for adaptive management measures

⁴ [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003241-HOW03_30Sep_Appendix_2_Annex_2%20Ecological%20Evidence%20\(06543000_A\)%20combined%20\(06543760_A\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003241-HOW03_30Sep_Appendix_2_Annex_2%20Ecological%20Evidence%20(06543000_A)%20combined%20(06543760_A).pdf)

e.g. relocating the ANS. Therefore, it was vital to find an appropriate site at the first stage of the process.

- 3.2.1.4 Further, the DCO requires the KIMP to include details of how locations “*will deliver the ecology objectives of the KIMP*”, in consultation with the MMO, the local planning authority and Natural England. The KIMP would not be approved if the locations presented were not agreed to be ecologically suitable with the Offshore Ornithology Engagement Group (OOEG) and approved by the Statutory Nature Conservation Body (SNCB).
- 3.2.1.5 The start of our site selection process focussed on the search zones identified in the Site Selection report (Annex 3 to the Kittiwake Compensation Plan)⁵ [Appendix 8 to the Acquiring Authority’s Statement of Case]. This comprised Zone 1 (East Anglia; from Aldeburgh to Lowestoft), and Zone 2 (North East; from Seaham to just west of Redcar, encompassing Hartlepool and Teesmouth). Initially, twenty polygons within these zones were identified, from the ornithological expertise and local site knowledge provided by Niras, as supporting the ecological requirements for location of an ANS to be potentially attractive as a breeding location to prospecting kittiwake. At this stage, it was important to consider factors in addition to the ornithological drivers, before selecting the final location, notably:
- Land and property: ability to secure rights to lease or purchase a site for the ANS;
 - Engineering: technical viability of the location – ability to safely construct an ANS that would be durable and maintained for an expected 40 year lifetime; and
 - Planning: location with manageable planning risks, so permissions could be obtained.
- 3.2.1.6 I co-ordinated workshops with specialists from each field. They each identified criteria within their respective area of specialism (e.g. landowner does not want to consider ANS on their property, located within a nationally and/or internationally designated site, existing structure in a poor state of repair) which were used to inform a Black Red Amber Green (BRAG) assessment. Full details are available within the Site Selection Narrative Report⁶ [Appendix 16 to the Acquiring Authority’s Statement of Case]. Criteria for kittiwake ecology were discussed and agreed with the OOEG and also fed into the BRAG assessment.
- 3.2.1.7 During the first phase, the Acquiring Authority shortlisted four or five locations in each search zone, which were taken forward to the second stage of the BRAG assessment. They were examined in further detail, using the same criteria but taking the latest updates into consideration e.g. following further landowner conversations and the kittiwake surveys undertaken by Niras in summer 2021. For the North East, two locations were scored by the Acquiring Authority as ‘green’ after considering planning, kittiwake ecology, engineering and land acquisition. These were Seaham and Hartlepool fish quay.
- 3.2.1.8 The OOEG was established following consent award, and comprised the following core members: Natural England, the Marine Management Organisation (MMO), and the Royal Society for the Protection of Birds (RSPB). The following organisations were also invited as advisory members: the Department for Environment, Food, and Rural Affairs (Defra), the Joint Nature Conservation

⁵ [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003238-HOW03_30Sep_Appendix%202_Annex%203%20Site%20Selection%20and%20Pathway%20to%20Securement%20\(06543753_A\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003238-HOW03_30Sep_Appendix%202_Annex%203%20Site%20Selection%20and%20Pathway%20to%20Securement%20(06543753_A).pdf)

⁶ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003663-Hornsea%20Three%20Site%20Selection%20Narrative%20Report%20Redacted.pdf>

Committee (JNCC), and the UK centre for Ecology and Hydrology (UK CEH). Consultation meetings with the relevant local planning authorities took place separately to the OOEG meetings, to allow for location-specific discussions and to take on board considerations of the local community. As of 8 January 2024, there have been eighteen OOEG meetings comprising: an initial inception meeting on 17th March 2021, followed by seven further technical panel meetings (including both core and advisory members), and ten steering group meetings (core members only). The meetings were facilitated by an independent Chair from Collaborative Environmental Advisors (CEA) and the Acquiring Authority were supported by specialist consultants where relevant. Briefing notes were provided to members ahead of the meetings. OOEG members provided feedback either verbally during the meetings and/or through written advice notes afterwards.

- 3.2.1.9 Of the twenty locations initially assessed, Natural England only assigned a 'green' rating (meaning 'likely to be suitable') to the Hartlepool fish quay, where the Site is located. This was considering ecological factors only. In the North East, they assigned a 'yellow' rating (meaning 'potentially suitable, but some constraints to be addressed') to two sites and all other locations were considered unsuitable, or to have a significant level or constraints.
- 3.2.1.10 Following positive discussions with the landowner of the Site, within Hartlepool's fish quay, we presented this location to the OOEG and secured their approval during the 4th Technical Panel meeting on 07/07/2021. The OOEG were particularly pleased that kittiwake were already breeding in the area, on the walkway to the Royal National Lifeboat Institution (RNLI) lifeboat pontoon, ~30 m from the Site.
- 3.2.1.11 The Acquiring Authority completed the purchase of the Site in December 2021. This was on the basis that for kittiwake the Site was the best option and in a prime location. However, as it is prudent to manage project risks (e.g. planning permission was still to be attained), we continued searching for other suitable locations in the North East search zone.
- 3.2.1.12 Over the next two years, we went through a continual process of investigating sites, engaging in landowner discussions, commencing location-specific ANS designs, and, where relevant, initiating discussions with stakeholders e.g. Historic England and the Local Planning Authority. We expanded our search areas to consider sites that were less suitable in terms of kittiwake ecology, and even outside the original search zones presented in the Kittiwake Compensation Plan. It was important to consider a wide range of alternates as back-up options in order to deliver to programme and enable the operation of Hornsea Three. Many back-up locations were also presented to the OOEG to gain their feedback.
- 3.2.1.13 Each time, the sites were discounted for a variety of reasons e.g. landowner became disinterested after seeing concept designs, structure/site deemed unsuitable after engineering site visit, or high risks identified through initial planning appraisals. Full details are presented in the October 2023

'Summary of the Site Selection Process for the Hornsea Three Artificial Nesting Structures Report'⁷ [Appendix 11 to the Acquiring Authority's Statement of Case].

3.2.1.14 Timescales were also an important consideration. As noted in **Section 3.1**, the ANS must be in place for two full breeding seasons before Hornsea Three can operate. Facing a potential delay to project operation could have huge implications, so we needed a location where land rights could be secured quickly in order to deliver to programme.

3.2.2 Offshore Nesting

3.2.2.1 The Hornsea Three Kittiwake Compensation Plan specifies that the ANS will be located in 'coastal' areas. The four projects following Hornsea Three (Norfolk Vanguard, Norfolk Boreas, East Anglia One North and East Anglia Two) also had onshore ANS for kittiwake approved in their planning decisions. After this point, Natural England did not support further onshore ANS and, in their Statement of Common Ground on derogation matters⁸ for the Hornsea Project Four Offshore Wind Farm ('Hornsea Four'), they stated "*We cannot be confident that there is a sufficient pool of nest-limited kittiwake recruits, suitable locations and/or prey availability available to meet and sustain the existing high demand from developers for this measure in onshore locations. Natural England does not believe that further onshore artificial nesting structures are likely to result in sufficient benefits to produce compensation.*"

3.2.2.2 Instead, Natural England promoted offshore ANS for kittiwake for any new offshore wind farm projects. For these reasons, Hornsea Four decided to pursue an offshore ANS as their preferred approach for kittiwake compensation. Subsequent projects, such as Outer Dowsing, are therefore also proposing offshore ANS for kittiwake⁹.

3.2.2.3 The identified constraints in relation to onshore ANS, together with the particular suitability of the Site and the fact that the Site has planning permission, detailed designs, support from Natural England and the other OOEG members, demonstrates the importance of delivering the ANS in this location.

3.3 Design

3.3.1.1 Two ANS of different typologies were designed for the Site. This comprised a wall-type structure and a tower-type structure. The designs were led by landscape architects and architects at LDA Design, with civil and structural engineering expertise provided by WSP and ornithological expertise provided by Niras. The designs evolved in collaboration with the OOEG. We presented proposals during technical panel meetings and took feedback onboard e.g. the specific dimensions of each nesting compartment, angle of the nesting faces, and which sides of the tower to locate nesting ledges. Overarching design principles were agreed at the 3rd Technical Panel meeting on 26/05/2021 and the concept designs for the Site were agreed at the 4th Technical Panel meeting on 07/07/2021.

⁷ https://orstedcdn.azureedge.net/-/media/www/docs/corp/uk/hornsea-project-three/cpo/12_10_23/11-summary-of-site-selection-process-for-ans.pdf?rev=f765b9a1c75f485c83eed63b5369cb30&hash=1180FC4268A441470C0DBE3F64545E97

⁸ [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-001981-Hornsea%20Project%20Four%20-%20Final%20SoCGs%20and%20Statement%20of%20Commonality%20of%20SoCGs,%20also%20listing%20matters%20not%20agreed%20\(in%20circumstances%20where%20a%20SoCG%20could%20not%20be%20finalised\)%201.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-001981-Hornsea%20Project%20Four%20-%20Final%20SoCGs%20and%20Statement%20of%20Commonality%20of%20SoCGs,%20also%20listing%20matters%20not%20agreed%20(in%20circumstances%20where%20a%20SoCG%20could%20not%20be%20finalised)%201.pdf)

⁹ [Offshore-Artificial-Nesting-Structures-Ecological-Evidence-and-Roadmap.pdf \(outerdowsing.com\)](https://www.outerdowsing.com/Offshore-Artificial-Nesting-Structures-Ecological-Evidence-and-Roadmap.pdf)

3.3.2 Description of Proposal

- 3.3.2.1 The construction works will consist of the demolition of the existing yacht club building and the construction of two types of ANS for kittiwake. Further details on construction activities are set out in the Statement of Evidence of Richard Swann. Both ANS typologies are ecologically driven designs, agreed with the OOEG, which are also responsive to the particular characteristics of the Site and its wider context.
- 3.3.2.2 The first of the ANS types is designed to appear similar to fishermen's huts that can often be found in coastal communities, and arranged along the northeast edge of the Site facing towards the existing kittiwake colony. These structures have capacity for 534 nesting spaces on sea-facing nesting shelves. Nesting space will be incorporated along the seaward facing elevations of the huts and will have typical dimensions of 0.4m width, 0.4m height and 0.2m depth.
- 3.3.2.3 The second ANS type is of a ten-sided tower design, where multiple external faces provide a variety of nesting aspects with an internal space allowing for a sheltered working conditions for ecologists monitoring the site. The tower is to be located west of the proposed huts in order to provide sea views from six of the ten sides. The tower would have 510 nesting spaces with sea views and 340 without. Nesting space is incorporated on all 10 faces of the tower, with typical dimensions of 0.4m width x 0.4m height x 0.2m depth.
- 3.3.2.4 Avian predator mitigation is provided for both ANS types through nesting ledge dimensions and overhangs provided by hut and tower roofs respectively. It is not anticipated that the ANS design and location will be susceptible to avian predation issues, but should any issues arise during operation appropriate action can be taken as required.
- 3.3.2.5 During operation, the ANS are expected to be visited every 3 years for maintenance of external cladding materials (dependent on final materials selected), and annual visits¹⁰ for:
- Inspection and cleaning of ANS;
 - Landscape maintenance; and
 - Inspection and maintenance of lighting/CCTV.
- 3.3.2.6 Ornithological monitoring will take place at the ANS during the breeding season from March to September with up to 15 visits each year for colony counts, productivity observations, ringing, resighting, and diet studies.

3.4 Planning

- 3.4.1.1 For the installation of ANS at the Site, planning permission is required under the Town and Country Planning Act 1990. Consultation with Hartlepool Borough Council (the local planning authority) commenced in June 2021. This included a site visit in July 2021 which was attended by Hartlepool Borough Council's planning officers and ecologist. An EIA screening opinion and pre-application advice request was submitted to Hartlepool Borough Council in July 2021. In response, a pre-application advice response (reference I/2021/0187) was received from Hartlepool Borough Council on 17/09/2021 which confirmed that the "*proposals are acceptable in principle*". An EIA

¹⁰ With any other major or minor repairs conducted as and when required.

screening response was received on 24/09/2021 (ref H/2021/0405), confirming that an EIA was not required.

3.4.1.2 A planning application was submitted to Hartlepool Borough Council on 15/12/2021. This was validated on 27/01/2022 (reference H/2022/0009). Following the statutory and public consultation period, objections were received in relation to the following matters:

- Employment policy: location of the Site within an area allocated for employment land (policy EMP4a) in the Hartlepool Local Plan (adopted May 2018);
- Port operations and future development: potential impact of new kittiwake colony on port operations and concern it will impact future development i.e. ability to attain planning permission;
- Site selection: reasons why the Site was selected as opposed to a location closer to the wind farm of FFC SPA;
- Noise, guano and visual impact: concerns from local residents regarding potential nuisance caused by the new kittiwake colony as a result of kittiwake noise during the breeding season, unpleasant smells from kittiwake guano, and the views of the ANS from the opposite headland; and
- Impact on IT infrastructure: potential of ANS tower to interfere with PD Ports 40m telecommunications mast.

3.4.1.3 The two objection letters from PD Ports on 14/03/2022 and 10/06/2022 are appended to this statement at Appendix 1 and Appendix 2 respectively. This demonstrates that the nature and extent of PD Ports' concerns have already been considered through the appropriate planning process.

3.4.1.4 The Acquiring Authority responded to these objections and worked closely with Hartlepool Borough Council to resolve outstanding areas of concern. This resulted in a positive recommendation in Hartlepool Borough Council planning officer's report¹¹ [Appendix 14 to the Acquiring Authority's Statement of Case] which concluded "*the proposal in the context of relevant planning policies and material planning considerations is acceptable*" and recommended approval. However, during the planning committee meeting on 22/06/2022, four local councillors voted in favour of the application and seven voted against the application, which meant that planning permission was refused.

3.4.1.5 The Acquiring Authority submitted an appeal to the Planning Inspectorate on 18/10/2022 (reference APP/H0724/W/22/3309272). The appeal was determined by the Planning Inspectorate on 13/03/2023¹². The appeal decision letter [Appendix 7 to the Acquiring Authority's Statement of Case] stated that "*the appeal is allowed and planning permission is granted...*" and so the application was granted on appeal.

¹¹ Available in the public domain here: https://www.hartlepool.gov.uk/meetings/meeting/4296/planning_committee (see Section 4.1).

¹² Reference: APP/H0724/W/22/3309272 (planninginspectorate.gov.uk)

3.4.1.6 In the appeal decision letter, the Inspector noted in particular:

- *“I am satisfied that the evidence regarding kittiwake behaviour and their existence in high activity areas demonstrates that they can co-exist in areas of human disturbance. Whilst PDT are concerned that the mere presence of the kittiwake ANS may put off future developers, without evidence to substantiate this I am satisfied that the ANS on the appeal site would not result in a significant constraint to current and future port operations and investment.” (para 14)*
- *“I find that the presence of additional kittiwake ANS is unlikely to result in significant adverse economic consequences on surrounding land uses at Hartlepool Port, including on existing industrial activities and future investment. The proposed development would result in some limited local economic benefits, but the wider economic, social and environmental benefits connected with Hornsea Three would assist in achieving the objectives of the National Planning Policy Framework (the Framework).” (para 18)*
- *“The wider implications for the Hornsea Three project, and its associated benefits, cannot be detached from my considerations. Without the compensation in accordance with the requirements of Part 1 of Schedule 14 of the DCO, the wind farm could not be commissioned and a significant amount of renewable energy could be removed from the UK Government’s targets for 50GW of offshore wind capacity by 2030.” (paragraph 47)*

3.5 Next steps

3.5.1 Kittiwake Implementation and Monitoring Plan (KIMP)

3.5.1.1 The KIMP¹³ [Appendix 12 to the Acquiring Authority’s Statement of Case] was submitted to the Department for Energy Security and Net Zero (DESNZ) in December 2022. Prior to this, drafts had been reviewed and discussed with the OoEG and relevant Local Planning Authorities. Consultee responses were published on 06/03/2023.¹⁴ Of note, Natural England stated they were in *“broad agreement”* with the content of the KIMP.

3.5.1.2 In March 2023, DESNZ asked the Acquiring Authority to respond to Natural England’s detailed comments on the topic of monitoring. A response and updated version of the KIMP were submitted to DESNZ in July 2023. DESNZ are waiting for a decision on the Compulsory Purchase Order (CPO) [Appendix 2 to the Acquiring Authority’s Statement of Case] for the Site before determining the KIMP. Conversations indicated they would otherwise be ready to progress.

3.5.2 Non-Material Change

3.5.2.1 The Acquiring Authority submitted a second non-material change application on 4 January 2024, to reflect that three structures have already been implemented and to further shorten the length of time that the fourth ANS needs to be in place before Hornsea Three can become operational. Specifically, the change will require three structures to be in place to allow three full kittiwake

¹³ https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003661-FINAL_Hornsea_Three_Kittiwake_Implementation_and_Monitoring_Plan%20Redacted.pdf

¹⁴ <https://infrastructure.planninginspectorate.gov.uk/projects/eastern/hornsea-project-three-offshore-wind-farm/?ipcsection=docs&stage=7&filter1=Post+Decision>

breeding seasons to elapse (these have already been implemented), and for the final fourth structure to be delivered prior to the final commissioning of the authorised development.

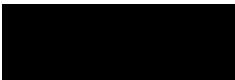
- 3.5.2.2 At the 10th OoEG steering group meeting on 10/10/23, Natural England stated they were content with proposed amendment wording and confirmed in-principle and without prejudice support for the second non-material change. They highlighted its key reason was to keep the Site as a viable option.
- 3.5.2.3 This further emphasises the importance of allowing access to the Site to facilitate the SNCB's preferred location, deliver the compensation required by the DCO, and enable the operation of Hornsea Three.

4 CONCLUSIONS

- 4.1.1.1 In summary, I project managed the process from the initial site selection (following award of the DCO) to the granting of the planning permission at the Site in March 2023.
- 4.1.1.2 I oversaw contracts and scopes of work for specialists who supported the process. For example, LDA Design who created the ANS designs and landscaping plans for the Site and prepared the planning application, and Niras who provided expert ornithological advice to ensure our work would deliver successful outcomes and compensate for 73 kittiwake per year, as per our DCO requirement.
- 4.1.1.3 We conducted a thorough site selection process, exploring many areas under constrained project timescales, and selected the strongest ecological location, that was technically feasible to construct, and where planning permission and land rights were obtained.
- 4.1.1.4 ANS at the Site are necessary to deliver an ecologically successful compensation measure which can be monitored each year and allow internal access providing the opportunity for additional research. A full detailed design and planning permission for ANS at the Site is already in place. Access is the only outstanding point that is preventing the Acquiring Authority from constructing the ANS.
- 4.1.1.5 The DCO requires kittiwake compensation, in the form of ANS, to be in place before Hornsea Three can operate. Access to the Site is therefore preventing the operation of Hornsea Three, a nationally significant project, planned to be the world's single largest offshore wind farm and capable of supplying clean energy to over 3 million UK homes. The delivery of Hornsea Three is essential to meet the UK Government's ambition for the deployment of 50 GW of offshore wind by 2030, energy security objectives, and target of net zero by 2050.

5 STATEMENT OF TRUTH

- 5.1.1.1 This statement of evidence has been prepared and provided for this inquiry by me and I confirm that the statements and opinions expressed are my true and professional opinions.



Eleni Antoniou
9 January 2023



APPENDIX 1

PD Ports' objection letter dated 14 March 2022



www.elgplanning.co.uk

Laura Alderson
Development Control
Hartlepool Borough Council
Civic Centre, Level 1
Hartlepool
TS24 8AY

Our Ref. 21/246

14 March 2022

Dear Mrs Alderson,

RE: H/2022/0009 – Planning Application for the demolition of existing structure and construction of artificial nesting structures for kittiwakes and associated infrastructure at the Old Yacht Club, Ferry Road, Hartlepool, TS24 0AE

We act on behalf of PD Teesport Ltd and write to object to the above planning application. Our client has significant concerns that Orsted are proposing to erect the structures adjacent to the Port and how this may affect our client's port operations, which are of regional importance.

The site is located at the Old Yacht Club at Hartlepool Docks. The submitted site location plan shows the red line extending partly along Ferry Road, which then extends to the west before connecting to Slake Terrace.

Part of Ferry Road is owned by PD Teesport Limited and is therefore private land. It should be noted that access to the Old Yacht Club over PD Teesport Limited's private land is not permitted.

To confirm, there is no vehicular or other access afforded to the landowner of the Old Yacht Club over Ferry Road and there are no such access rights noted on the Land Registry Title nor have any been created through long use.

It is proposed to erect Artificial Nesting Structures for kittiwakes. These will comprise two large structures, including a tower that is over 21 metres in height. The submission states that the development will provide a capacity for a total of 1,384 nesting spaces.

These structures are required to compensate the impact of a proposed off-shore windfarm development (Hornsea Three). PD Teesport Ltd recently submitted a representation in relation to a consultation for Hornsea Four Offshore Wind Farm, which is similar in scale and impact to Hornsea Three. These wind farms will be sited to the east of Flamborough Head (Humber coast) in the North Sea. There is a need to provide compensation measures to offset the impacts upon the kittiwake population, which is a feature of the Flamborough and Filey Coast SPA.

Therefore, future applications may be made for additional nesting structures.

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The LPA will note that the proposed wind farm development is a significant distance from the Tees and Hartlepool Coastline. The Hornsea 3 development itself will not provide any direct human benefits to new businesses and the economy of Teesside.

Key Considerations

The Development Plan comprises the Hartlepool Local Plan (2018). The Policies Map confirms that the application site is located within an allocated employment site, specifically EMP4a (Specialist Industries – Hartlepool Port). Policy EMP4a states that the land is committed for port related industrial development; and renewable energy manufacturing. The allocation reflects the Local Plan's Locational Strategy (LS1) to deliver strong economic growth.

These policies are based on the Council's evidence base, which includes the Tees Valley Combined Authority's Strategic Economic Plan, which targets 25,000 net jobs across the Tees Valley for the period 2016-2026, including 290 jobs per year in the Borough of Hartlepool. A key sector in meeting this new jobs target, is port-related development. Indeed, since the adoption of the Local Plan, the commitment to delivering growth in this sector has continued to grow and gain Government support.

The proposed development is in direct conflict with the employment allocation. Not only would the development result in the loss of specifically allocated land for port related industrial development, but our client also has significant concerns over the impact on the wider employment designation at Hartlepool Docks, through the introduction of a new habitat into the allocated employment land.

The application has not been supported by any information to justify this clear conflict with the Local Plan.

Whilst our client has previously raised concerns with Orsted, there is nothing in the submitted planning application to provide them with any confidence that the introduction of the habitat will not have a detrimental impact on their current and future operations, including the expansion into new markets.

There are also other unknowns:

- Were alternative sites considered closer to the windfarm development? Why introduce a constraint on existing and future port related development when there are no local or regional benefits and there would appear to be many other possible locations that are suitable and located closer (and therefore of greater value) to the source of the need for development in the first place?
- Has the increase in volume of the guano been taken into consideration (in general and on surrounding structures / port operations and storage of product)? We are aware that other such bird populations in the UK and abroad sees an enormous amount for guano deposits in the immediate and outlying areas over years, which can be a hazard to people and structures. Would Orsted be accountable for clean up outside of their immediate site?
- Do these type of structures / kittiwake populations draw enthusiasts (concerns about the public accessing private land)? We note that the consultation response from the Council's countryside officer is seeking



some element of interpretation for the public, and the Planning Statement refers to the inclusion of a panoramic viewing tower.

These all need further consideration, as they relate back to the conflict with both the site's and Hartlepool Dock's allocation for port related employment to deliver the Borough's target for employment growth.

We have also reviewed the consultation responses that have been made in relation to the planning application and it is evident that these relate to the proposed development in isolation, however no consideration has been given to the impact on the wider employment allocation, the operation of existing businesses and the delivery of local employment opportunities.

These are at the heart of rebuilding local communities. This is particularly so, considering that we understand that the requirement for the onshore nesting compensation will require an operational period for a minimum of 35 years once construction is complete. The existing habitat designations on Teesside already provide a significant constraint to development and our client continues to positively engage and work with the relevant authorities. Therefore, it is essential that this wider economic and social impact is fully understood and factored into when determining the application and introducing additional constraints to the delivery of essential development.

This is similar to the 'agent of change' principle referred to in paragraph 009 of the national Planning Practice Guidance and paragraph 187 of the NPPF.

Other Matters

Our client also has concerns in respect of the potential impact from the physical structures proposed on their IT infrastructure. They have a 40m mast located at Hartlepool Dock that provides the network and system connectivity at Hartlepool Dock together with point to point data connectivity from Hartlepool to South Gare.

This point to point data connectivity is also required for their Business Continuity Management system with regard to data connectivity at Teesport/Tees Dock should the fibre connection at Teesport fail by way of a WiFi signal to South Gare and on to Hartlepool.

The 21m structure proposed may well interfere with our client's connectivity.

Conclusion

In conclusion, our client has significant concerns with the proposed development, which is required to compensate the impacts of a development located to the east of Flamborough Head in the North Sea. The compensation measures have no connection with any development proposed locally, or regionally. The development itself will not provide any direct human benefits to new businesses and the economy of Teesside.



The principle of the proposed development is in direct conflict with the Local Plan, with the site being located within land specifically allocated for port related development, which is a sector that is key to delivering the Borough's targets for employment growth.

There are also significant concerns with the introduction of a habitat into a location allocated for employment development, along with our client's current and future operations. Our client has previously raised these with the applicant and the documentation submitted in support of the application does nothing to allay these concerns.

On a final point, we have also highlighted the fundamental issue of part of Ferry Road being owned by PD Teesport Limited and access is not permitted.

We trust that these comments will be given full consideration in the determination of application. Please do not hesitate to contact me should you have any queries with any of the points raised.

Yours sincerely

A solid black rectangular box used to redact the signature of the sender.

Kevin Ayrton MRTPI, **Associate**

Cc Catey Oliver – PD Ports



APPENDIX 2

PD Ports' objection letter dated 10 June 2022



info@elgplanning.co.uk

www.elgplanning.co.uk

Stephanie Bell
Development Control
Hartlepool Borough Council
Civic Centre, Level 1
Hartlepool
TS24 8AY

Our Ref. 21/246

10 June 2022

Dear Ms Bell,

RE: H/2022/0009 – Planning Application for the demolition of existing structure and construction of artificial nesting structures for kittiwakes and associated infrastructure at the Old Yacht Club, Ferry Road, Hartlepool, TS24 0AE

As you are aware, we act on behalf of PD Teesport Ltd and wrote to the LPA on the 14 March to object to the above planning application. Since submitting the objection, our client has continued to engage with the applicant (Orstead) and provide them the opportunity to address their concerns, which have been clear and consistent ever since Orstead first contacted them about the project. However, despite ongoing discussions, our client's concerns set out in our previous letter remain. We therefore request that these continue to be given full consideration.

We note that additional information has been submitted as part of the planning application, which includes:

- Response to Objections letter prepared by Orstead.
- Response to Objections technical note prepared by NIRAS.
- Employment Land Policy Statement prepared by LDA Design.

Employment Land

The Employment Land Policy Statement acknowledges that the application site and Hartlepool Dock is allocated for employment use, specifically for specialist industries. Policy EMP4a states that the land is committed for port related industrial development, and renewable energy manufacturing. The allocation reflects the Local Plan's Locational Strategy (LS1) to deliver strong economic growth.

The Employment Land Policy Statement also refers to pre-application discussions, quoting the Council's pre-application response¹ that *'the proposals are acceptable in principle'*. The 'Response to Objections' letter prepared by Orstead also refers to the pre-application response, which stated *'the Council's Planning Policy section note that the location chosen is an area of unallocated land within the Hartlepool Local Plan Policies Map'*. We would reiterate that

¹ Whilst the Employment Land Policy Statement says the pre-application response is appended to the report, it is not included in the version available on the Council's website.

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alongside the pre-application enquiry with the Council, our client was also corresponding with the applicant and clearly advised them that they did not support the proposed use nor the use of its land for access purposes.

However, despite what was said by the Council at pre-application stage on a without prejudice basis, and in light of the consultee comments made on the planning application, we understand that the planning policy consultation response to the pending application has identified conflict with the employment allocation, which the submitted additional information is attempting to address.

The Employment Land Policy Statement aims to downplay the impact of the loss of employment land in the context of the wider availability of employment land in the Borough. However, the fact is the site (and surrounding land) was included in the specialist employment allocation, and the Local Plan is up to date. Indeed, since its adoption, measures have been taken to further enhance the attractiveness of the site and surrounding area for economic growth.

Considering the importance of economic growth and regeneration for the Borough's future strategy, it will be important to understand the views of the Council's economic and regeneration teams.

Ongoing Uncertainty

The applicant is aiming to off-set the harm from this development against the benefits of compensating the impacts of a separate development located to the east of Flamborough Head in the North Sea. The compensation measures have no connection with any development proposed locally, or regionally. The proposed wind farm development is a significant distance from the Tees and Hartlepool Coastline.

Our client remains unconvinced that this site is the only solution available to provide the required mitigation to the proposed wind farm development. The applicant has always been aware of the need to deliver artificial nesting structures before the operation of their wind farms. Our client has also been very clear from the outset of their concerns, which still remain. Therefore it is important that the applicant's ever-increasing need for a quick decision is not afforded weight in the determination of the application.

The 'Response to Objections' letter prepared by Orstead, suggests that irrespective of the artificial nesting structures, the number of kittiwakes nesting on PD Ports infrastructure is likely to increase. This is based on the technical note prepared by NIRAS. It also refers to the estimated occupancy of the artificial nesting structure as being 40%, which would be the equivalent of 400 breeding pairs.

We would add that were the structures to be occupied at full capacity, there would be a total of 1,000 breeding pairs.

Reference is then made to the designation thresholds for Special Protection Areas (SPA), which for kittiwakes would be around 3,800 breeding pairs. Considering the capacity of the nesting structures, alongside the statement that the numbers of breeding kittiwake in Hartlepool are increasing naturally through the use of existing



buildings/structures, there must be a real possibility that the SPA threshold is met in the future, thereby introducing additional significant constraints on existing and future development. The trends table at figure 2.6 of the NIRAS technical note support this view, which would result in significant impacts on our client's port operations, which are of regional importance.

We would also highlight the following statement in the NIRAS technical note:

'It is considered unlikely that the ANSs will be designated as a Special Protection Area in their own right. It is acknowledged that the National Planning Policy Framework affords sites required as compensatory measures equivalent protection as the Habitats Sites however the latest joint guidance to competent authorities (February 2021) does not require designation but instead states designation as something that may be required.'

This suggests that the introduction of the habitat will/may have the equivalent protection afforded to it comparable to a SPA. Indeed the policy position (rather than the guidance) suggests it will. We have seen nothing to allay this potentially very significant constraint for our client. Again, further uncertainty over the impact of the development on our client's operation.

Based on the information submitted it would appear that there is no guarantee that the nesting structures will be occupied by kittiwakes. It is understood that they could be occupied by a different breed of bird, where the associated impacts have not been considered. Therefore another area of uncertainty for our client.

Conclusion

In conclusion, our client continues to have significant concerns with the proposed development, which is required to compensate the impacts of a development located to the east of Flamborough Head in the North Sea. The compensation measures have no connection with any development proposed locally, or regionally. The development itself will not provide any direct human benefits to new businesses and the economy of Teesside.

The principle of the proposed development is in direct conflict with the Local Plan, with the site being located within land specifically allocated for port related development, which is a sector that it key to delivering the Borough's targets for employment growth.

There are also significant concerns with the introduction of a habitat, which may have the same status as a SPA, into a location allocated for employment development. Our client continues to raise these concerns with the applicant, alongside the fact that our client will not permit access to the site. However the additional documentation submitted in support of the application have not addressed them.

We trust that these and our previous comments will be given full consideration in the determination of application. Please do not hesitate to contact me should you have any queries with any of the points raised.



Yours sincerely

[Redacted signature]

Kevin Ayrton MRTPI, **Associate**

Cc Catey Oliver – PD Ports