

Via email to:

ms.marinerenewables@gov.scot

31 March 2023

Dear Emma

Berwick Bank Offshore Wind Farm

On behalf of the Scottish Environment LINK Marine Group, I am writing to **object** to the proposal submitted by SSE Renewables to construct and operate an offshore windfarm off the East Lothian and Scottish Borders coastline.

LINK supports renewable energy development in the right place and commissioned a report making recommendations for how to do so at sea. We also recognise that offshore wind energy is essential to meet the Scottish and UK Government decarbonisation targets. But, as with all development, offshore wind must be located and designed appropriately to minimise harm to nature which is in crisis and to the wider environment.

We also question whether the proposals have sufficiently considered the degree to which the development proposal fits with some important general policies of Scotland's National Marine Plan. In particular GEN 3 (Social Benefit), GEN 4 (Co-existence), GEN 7 (Landscape/seascape) and GEN 9 (Natural Heritage). If approved, we would be extremely concerned about the precedent this would set for future developments. We request Ministers consider carefully whether permitting this application would undermine the future delivery of further offshore wind in Scottish waters.

In terms of the specifics of the proposed development, we note that it overlaps with the Firth of Forth Banks Complex Marine Protected Area (MPA). Turbines are proposed to be sited on the Berwick and Wee Bankie banks which support ocean quahog (*Arctica islandica*) aggregations. The Wee Bankie is itself an important geomorphological feature with scientific importance for understanding our climate history. Information provided by the applicant further indicates the array area overlaps with numerous spawning and nursery areas including cod, whiting, herring and sandeel.

The area is used frequently used by harbour porpoise, bottlenose dolphins and minke whales, with the occasional sighting of pilot whales. All cetaceans are legally protected throughout Europe under the Habitats Directive, and in the UK under a series of regulations of strict protection from injury, killing and disturbance. The development of this offshore windfarm has a significant potential to negatively impact these species.

Our primary concern surrounds the intense noise pollution during construction as research clearly demonstrates this can cause disturbance and physical harm to cetaceans and other marine species at significant distances away from the construction sites. As the proposed site overlaps with spawning and nursery areas for various fish species, including sandeels which are a main prey species for harbour porpoise, the development causes us concern.

The proposed development is also partially within the Outer Firth of Forth and St Andrews Bay Complex Special Protection Area (SPA) which is designated for the protection of 21 seabird and waterbird species and is a hugely important area for wildlife in Scotland.

Tracking and digital aerial survey data indicates the area is greatly used by seabirds especially in the breeding season. This most likely is due to the presence of prey species which in turn will be associated in part with the underlying sediments. It is a particularly important area for nature and consequently proposed development within it should be thoroughly scrutinised to ensure it is at an appropriate scale.

LINK **objects** to the proposed development for the following reasons:

- 1) The failure to recognise uncertainties in modelling seabird mortality.
- 2) The scale of impact on seabirds and landscape.
- 3) The need for additional assessment of the impact on fisheries and coastal communities.
- 4) The failure to meet the derogation requirements.

Modelling of seabird mortality

There are a great many uncertainties involved in modelling collision, displacement, and population viability models. All models are simplified versions of reality and the data collected to inform a model will generally only capture part of the process. The application does not adequately recognise these uncertainties, and this could lead to an underestimation of impacts that could hinder the consenting of later offshore wind development which could generate more power and have fewer negative impacts on nature. It is important that decisions are informed by appropriate models and evidence.

Impact on seabirds

Seabirds are relatively long-lived, tend to breed later and have fewer young than other birds. Consequently, their populations are sensitive to small increases in adult mortality. Their survival and productivity rates can be impacted by offshore windfarms directly through collision as well as indirectly, such as through displacement from foraging areas. They are also already under severe pressure from food web distribution, existing offshore renewable energy development and highly pathogenic avian influenza (HPAI).

Despite the modelling uncertainties, impacts over the 35-year lifetime of the proposed development are large. At the St Abbs to Fast Castle SPA for example, after the 35-year lifetime of the proposed development, the population size of the SPA for kittiwake is expected to be 37.5% of what it would be in the absence of the development. In combination with other developments, it could be 34.1%. We believe this fails the test of GEN 9 of the National Marine Plan.

The damaging nature of the proposed development on seabirds is further highlighted by virtue of it requiring derogation from the habitat's regulations. The Applicant has themselves acknowledged that adverse effects on site integrity cannot be ruled out for nine SPAs for kittiwake, guillemot, razorbill and puffin. We further consider that gannet should be included within this list.

Impact on landscape

NatureScot's 2017 Guidance on windfarm siting is not followed in the application. For example, the application proposes that because the turbines will have a 'natural' feel as their movements will be synchronised with the wind and waves, mitigation or compensation of landscape impact is not required. The movements of the turbines are not what an assessment of landscape impact should be based on according to the NatureScot guidance. A site in deeper water where the landscape impact is lesser would be more appropriate.

In contrast to the conclusions drawn in the application, the cumulative impact on the seascape of the Firth of Forth will be significant as Berwick Bank is much larger and visible to shore than Neart Na Gaoithe. We believe therefore that the proposal fails to meet GEN 7 of the National Marine Plan.

Assessment of impact on fisheries and coastal communities

The East Lothian marine environment is economically important to communities - through marine tourism including wildlife experience boat trips, scuba diving and through low impact fisheries. The application does not fully assess the potential impact of the proposal on these socio-economic benefits. For creelers, the application fails to assess if it will be safe or practical for creelers to enter the windfarm when operational. Whilst existing legislation does not prohibit creelers from entering operational windfarms, this is not the same as it being safe (e.g. proximity to turbine) or economically viable (e.g. health of stocks and where gear can be put down).

The mechanism used to forecast jobs is not commonly used anywhere else and so does not allow for comparison. It is unclear what the true amount of local jobs created will be. We believe that the proposal therefore fails to meet GEN 3 (Social Benefit) and GEN 4 (Co-existence), 4.16 in particular, of the National Marine Plan.

Failure to meet the derogation requirements

The applicant has not demonstrated they have met the derogation requirements. The search for alternatives sites is inadequate and the proposed compensation measures insufficient.

There are evidence gaps around the colony compensation measures at Dunbar and Handa in terms of the species targeted, the feasibility of their implementation and their contribution to maintaining the integrity of the protected sites network. In particular, rats have been cleared from Handa twice and both times made a return. The numbers of birds anticipated to increase per year on Handa appear to be overestimated, in large part because kittiwakes commonly nest on very steep cliffs which are difficult for rats to access. Whilst it is important to continue to address rat incursions on Handa; especially for ground nesting seabirds, the proposal for invasive non-native species could have more impact by considering an all-Scotland wide response.

The proposal to add artificial nests and ledges to Dunbar castle to increase kittiwake breeding success and secure population growth, fails to address the reasons for kittiwake population decline at that site. The kittiwake population is declining due to the effects of climate change on sandeels and potentially visitor disturbance; there is no shortage of available nesting space at the harbour. The proposal also fails to take account of the historic importance of the castle /harbour area, including visual impacts on the town's coastal landscape. In addition they are, without the accompanying fisheries compensation measures, inadequate to compensate for the scale of impacts proposed.

The fisheries compensations (both options 1 and 2) are also problematic. Sandeel closure is not additional as it is a measure that should already be taking place. Scottish Government have already committed to the closure of the industrial sandeel fishery in Scottish waters to meet their obligations to deliver Good Environmental Status of the seas and take an ecosystems-based approach to fisheries management¹. This is in the face of existing pressures. The proposal therefore is not compensation. Furthermore, there is outstanding and substantial evidence relating to the practicalities of some elements of the measures, especially the Norwegian style management proposed in Option 2. The

¹ Fisheries Management Strategy 2020 to 2030: delivery plan (September 2022); <https://www.parliament.scot/chamber-and-committees/questions-and-answers/question?ref=s6w-00600>

applicant is also unable to wholly implement either Option 1 or Option 2 - fisheries closures are a decision for Scottish Ministers and may require negotiations at an EU fisheries level and the UK Government assumes responsibility here. Without the derogation tests having been met, there is no option but to reject the application in its current form.

Ultimately, this failure to meet derogation requirements means the application must be rejected as to approve it would be contravening Regulation 48 (5) of the Conservation (Natural Habitats, &c.) Regulations 1994 (which is enshrined in Scottish law) because its compensation measures fail to not adversely affect the integrity of the European site. This would therefore, by default, also fail GEN 9 (a) of the National Marine Plan.

Signed on behalf of the following Link Members

Marine Conservation Society – Calum Duncan

National Trust for Scotland – Rebecca Millar

RSPB (Scotland) – Catherine Kelham

Scottish Seabird Centre – Susan Davies

Scottish Wildlife Trust- Jessica Jones

Whale and Dolphin Conservation – Anna Moscrop