



Wylfa Newydd Project

Horizon's Comments on Stakeholders Responses to the RIES

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1 Introduction

- 1.1.1 At Deadline 9, Horizon [REP9-005], Natural Resources Wales (NRW) [REP9-037] and the environmental NGOs (eNGOs; the North Wales Wildlife Trust, National Trust and the Royal Society for the Protection of Birds) [REP9-036] provided comments on the Planning Inspectorate's Report on the Implications for European Sites (RIES) of the Proposed Wylfa Newydd Project. Aside from a few clarifications, all agreed that it largely accurately represents the views and points made in written submissions to the Examining Authority and in oral presentation at the Hearings.
- 1.1.2 The opportunity was also taken by each respondent to restate their conclusions and highlight the key points of their arguments.
- 1.1.3 Horizon has set out its view on these points in Section 2 for NRW, and Section 3 for the eNGOs, below.

2 Natural Resources Wales

2.1 Introduction

- 2.1.1 NRW's response on the RIES reflects the fact that, in the context of the Habitats Regulations Assessment (HRA) and The Conservation of Habitats and Species Regulations 2017, it does not have any residual concerns regarding the potential for an adverse effect on the integrity of a European site or species to arise, with the exception of potential visual and acoustic stimuli and the Morwenoliaid Ynys Môn/Anglesey Terns Special Protection Area (SPA) and, by association, the Aber Dyfrdwy/Dee Estuary SPA.
- 2.1.2 NRW's comments re-iterate the points that it has made before and that Horizon has comprehensively refuted on a number of occasions throughout the Examination process, including in its responses to the NRW Written Representations, in the oral hearings, and in responses to the ExA (see REP3-035, REP4-005 and REP5-002). Horizon has provided a strong evidence base to support its position in each case.

2.2 The effects of visual and acoustic stimuli on the Anglesey Terns SPA

- 2.2.1 While NRW has concerns about the status of the Cemlyn Bay Sandwich tern colony, the evidence available clearly indicates that (as is typical for the species) its vulnerability is in relation to exposure to heavy predation, not noise and visual effects. More significantly, this concern does not deflect from the evidence and conclusions presented in the Shadow HRA [APP-050] that Horizon's proposed activities would not have an adverse effect on the colony and, hence, would have no bearing on the status of the colony [REP3-035, section 7.31]. Horizon has provided compelling arguments to support this, some of which are outlined below in response to NRW's comments on the RIES.
- 2.2.2 Throughout this process, Horizon has based the conclusions of its assessment on science and evidence rather than conjecture. For example, regarding NRW's proposition that construction disturbance could reduce breeding success via increased fly-ups and (subtle) stress effects, the evidence from both the scientific literature and site-specific surveys demonstrates that [REP3-035, sections 7.31 and 7.32]:
- 'Fly up' responses by the terns at the Cemlyn Bay colony are highly unlikely to occur in relation to the predicted noise and visual disturbance from construction activities.
 - Under baseline conditions 'fly up' responses by terns at the colony are frequent (estimated to average c.25 per day) and are typically of 35 to 45 seconds in duration. Therefore, as few, if any, 'fly ups' are expected to occur due to noise or visual disturbance from the construction activities, any additional effect on breeding success would be very small and, importantly, would not impact the breeding success of the colony as a whole.

- The evidence does not indicate that subtler stress effects associated with distant noise and visual disturbance from construction activities will be important at Cemlyn. Instead it indicates that such effects in birds arise from the direct presence of people which are likely to be perceived as potential predators.
- 2.2.3 Regarding NRW's statement that the colony at Cemlyn is already showing signs of considerable stress (including fewer terns returning to the colony in 2017 and 2018; a decrease in Sandwich tern productivity since 2007; and terns taking several prey items back at once to their chicks), other explanations for these actions are readily available. Fewer terns returned to the colony in 2017 because of otter predation and, in 2018, following otter predation in 2017. The decrease in Sandwich tern productivity since 2012 (NRW refers to 2007) has been accompanied by a significant increase in Sandwich tern numbers year-on-year up until 2015/2016 (and there is an inverse relationship between tern numbers and productivity); and terns returning with several prey items is more likely to be reflective of either increased prey availability or competition for food [REP4-005]. In fact, the 'behaviour' of the Cemlyn lagoon colony is typical for this species [REP3-035, section 7.31] and it is notable that the estimated number of breeding pairs for the Cemlyn colony when the SPA was designated (upon which the conservation objectives for the site are based) was 460; the most recent five-year mean population estimate is 2,398 pairs; and, even in 2018, the number of breeding pairs of Sandwich tern was estimated to be 519 [APP-050, chapter 10].
- 2.2.4 Regarding the statement that Sandwich terns readily desert breeding sites, it has been clearly demonstrated in the literature [see REP3-035, section 7.32] that abandonment is consistently related to predation. There is also evidence that, under certain circumstances, this species can be subjected to relatively intrusive disturbance within the colony without high rates of nest failure or colony abandonment [APP-050, 10.3.13]. NRW has produced no new or further evidence that either contests the evidence presented by Horizon, nor gives any greater weight to its position as outlined in its Written Representations or at the Issue Specific Hearings (ISHs).
- 2.2.5 Moreover, NRW suggests that it cannot be demonstrated that the mitigation outlined in the Main Power Station Site Sub-CoCP [REP8-049] and Marine Works Sub-CoCP [REP8-051] would be effective. However, no reasons are provided as to why they have formed this view. The answers provided to Further Written Questions 2.5.12 and 2.5.18 [REP5-002] clearly demonstrate how Horizon would ensure that the mitigation is effective and recognise the success of such an approach for the Olympic Park development.

2.3 Summary

- 2.3.1 NRW advises that "there is significant scientific doubt regarding whether there will be adverse effects on the Sandwich, common and Arctic terns of the Anglesey Terns SPA". However, no robust scientific argument has been presented by NRW as to how this conclusion has been reached; neither during the examination process nor in response to the RIES. NRW also appears to

have reached this conclusion irrespective of the detailed mitigation measures proposed to ensure that action is taken to avoid disturbance if disturbance reactions are exhibited by the terns.

- 2.3.2 Horizon notes that NRW chose not to bring any technical resource to the Biodiversity ISHs to present any form of scientific argument contrary to that presented by Horizon. If such evidence does exist, Horizon has always been open to a re-evaluation of its conclusions. Instead, NRW's position (as stated during the hearings) is based on the 'precautionary principle' alone. It is Horizon's opinion that the application of the precautionary principle in this instance, to this extent and without any scientific evidence to support it, is not an appropriate position for NRW to have adopted and is certainly not representative of "the correct legal approach" as far as it relates to an objective interpretation of *reasonable scientific* doubt.

3 Environmental NGOs

- 3.1.1 In REP9-036, the eNGOs state that the overarching conclusion that has been expressed consistently by NRW and themselves is that the effects of each impact pathway of the proposal will not only act in isolation on the designated features of Natura 2000 sites, “but they are a sequence of effects that will act together either in a cumulative manner or synergistically. These effects will occur over a number of breeding seasons throughout a lengthy construction period”. This misrepresents the facts and NRW’s position. Further, no evidence is presented as to what such a sequence of effects might be. NRW, for example, is satisfied that sufficient information has now been provided to demonstrate that the works on Mound E would not have adverse effects on the integrity of the Cemlyn Bay SAC; and it is only the two-year period of the Main Construction works that causes concern relating to the potential for noise and visual disturbance.
- 3.1.2 The eNGOs also suggest that the Wylfa Newydd Project may hinder the chances of Roseate tern re-establishing via a EU Life funded project; but this statement is completely unsubstantiated and unexplained.

3.2 Mitigation

- 3.2.1 The eNGOs state that the package of mitigation measures proposed is complex and there is disagreement as to how these measures might be secured, their effectiveness, and if they reflect Best Available Techniques/Technology (BAT). However, the Main Power Station Site (MPSS) and Marine Works sub-Codes of Construction Practice (CoCPs) set out very clearly how these measures would be delivered (see MPSS sub-CoCP section 11.4) and they would be secured through the DCO. It is also clear that, in this context, they represent the best available approach; no other approaches have been proposed by the eNGOs. Comfort on their implementation is provided by the wording of the sub-CoCPs, which state that – should the terns exhibit disturbance reactions linked to the Project or unexplained – measures would be taken on site to reduce noise levels and activity on site until the disturbance responses cease; and this would cover the period March to August inclusive.
- 3.2.2 The eNGOs suggest that the proposals do not accommodate the specific ecological requirements of all tern species which are designated features of the SPA, but do not explain why, and that they are novel. However, as set out above, such a system was effectively implemented at the Olympic Park.
- 3.2.3 Regarding the eNGOs’ concerns about the lack of mitigation available for the apparent visual impacts and barriers resulting from the marine works, negligible effects are predicted in this context.
- 3.2.4 Regarding visitor management, a number of measures are proposed, including the provision of funding for wardens and active management of the workforce; and the DCO includes a requirement to deliver a Visitor Centre.

4 Conclusion

- 4.1.1 Horizon has provided the Examining Authority and Secretary of State with sufficient material to be convinced that the Wylfa Newydd DCO Project does not pose a real risk to the integrity of Morwenoliaid Ynys Môn/Anglesey Terns SPA (and consequently the Aber Dyfrdwy/Dee Estuary SPA). Horizon has provided observational evidence from the Cemlyn Lagoon colony, supported by the scientific literature, that demonstrates the noise levels at which the Cemlyn terns react and are disturbed; and highly precautionary, worst case modelled noise levels at the lagoon due to the works (i.e. all plant and equipment operating at the closest boundary edge to the tern colony) are well below these levels. Horizon has also proposed highly precautionary controls on the Wylfa Newydd DCO Project to ensure that the modelled noise levels are not breached. These include an absolute noise limit for blasting (of 60dB at the colony) and confined blasting only. All other noise on site must be 59dBA or less (based on an hourly average), and less at night and during the tern breeding establishment period.
- 4.1.2 In addition to the above, a real time monitoring system is proposed that would ensure that if the terns (to be monitored by independent observers) exhibit unexplained disturbance reactions, further action to reduce noise levels and activity would be taken [REP6-027].
- 4.1.3 Horizon has provided cogent and compelling reasons for the Secretary of State to depart from NRW's and the eNGO's position that significant scientific doubt remains, and these reasons are supported by observations of the behaviour of the terns at the Cemlyn colony itself, the scientific literature and other international experts, such as Bureau Waardenburg [REP3-035].