

For the attention of:

[ms.marinerenewables@gov.scot](mailto:ms.marinerenewables@gov.scot)

31 March 2023

Dear Emma

## **Berwick Bank Offshore Wind Development: objection**

### **Our role**

The Scottish Seabird Centre is a marine conservation and education charity, established in 1997 and opening its 5\* visitor attraction in 2020. The Charity welcomes around 160,000 visitors through its doors each year and uses these opportunities, alongside our conservation, education and outreach activities, to inspire people to connect with and care for Scotland's seabirds and wider marine environment.

Through agreements with landowners, we have direct management responsibility for internationally important seabird colonies within the Forth Islands Special Protection Area (SPA) including Bass Rock, Craigleith and the Lamb. We also have arrangements for habitat management and/or public engagement at Fidra, the Isle of May National Nature Reserve and the Dunbar castle/harbour black-legged kittiwake colony. We have interactive wildlife cameras installed across these locations which help visitors to our Centre, or online, to engage with and learn about the seabird colonies without causing disturbance to them. Research is also conducted using these camera systems.

### **Our position on offshore renewables**

We recognise that Scotland's seas are a great source of renewable energy and that offshore developments are an important strand of the Scottish Government's commitment to meeting the legally binding target of 'net zero' by 2045. It is however important that the locations chosen for, and the design and scale of offshore developments, do not significantly damage the marine environment and its wildlife – directly or cumulatively. In addition to the climate crisis, it is also recognised that we are facing a nature crisis and so it is important that developments do not contribute to further loss. The Applicant's Statement of Need fails to recognise the nature legislative and policy commitments at a Scotland, UK and International level, which are framed by a UN Global Biodiversity Framework which was agreed at COP15 in Montreal. Scotland has committed itself to the UN Framework. There should be a principle of net gain for nature from any consented development.

## **Objection to Berwick Bank Offshore Windfarm**

We believe that Scottish Ministers cannot approve the application:

- without contravening Regulation 48 (5) of the Conservation of (Natural Habitats, &c.) Regulations 1994 as the proposed development is at a scale that will adversely affect the integrity of several Special Protection Areas (SPAs); and
- under Regulation 49 (1-2) we believe that insufficient evidence has been presented to demonstrate that there are no alternative solutions to the plan or project and therefore the overriding public interest tests cannot be applied.

### **Internationally important seabird colonies**

Scotland is fortunate to support internationally important populations of breeding seabirds and attracts hundreds of thousands of visitors each year who make an important contribution to our rural communities and economy.

These internationally important seabirds already face a wide range of pressures including climate change, unsustainable fisheries, pollution, invasive species and disturbance from marine development/industries. The index of seabird populations in Scotland shows that Scotland has lost 38% of its breeding seabirds since the index began in 1986. This index of course masks the scale of some species-specific declines regionally and nationally with some, for example, black-legged kittiwake populations having declined in far greater numbers.

The recent devastating impact of highly pathogenic avian influenza on seabirds, including the Northern gannets on the Bass Rock – the world's largest colony - is another signal of the need to proceed on a precautionary basis. The nature crisis will not be reversed if developments which contribute to seabird declines are consented.

### **Our objection to the proposed development**

The evidence presented in the Environmental Impact Assessment shows that the proposed development will have an Adverse Effect On the Integrity (AEOI) of several species and across several Special Protection Areas (SPAs). This is predicted to lead to population levels declining over the 35-year lifetime of the development with particularly concerning declines for black-legged kittiwakes, common guillemots and razorbills within the Forth Islands, Fowlsheugh and St Abbs to Fast Castle SPAs, in other words across significant parts of Scotland's East coast.

Combined with the cumulative impacts of other consented developments these are significant losses and we do not believe that the applicant has taken adequate steps to mitigate the impact through changes to the design and scale of the development. The combined effect with other North Sea developments, is also predicted to result in the SPA population for Northern gannets being 84.8-80% of what it would be in the absence of the wind farm. This does not take into account the devastating effect that HPAI has had on Northern gannets, especially on the Bass Rock.

When developments were consented in this spatial area in 2017 it was signalled that the environmental carrying capacity for seabirds was being approached. The Scottish Government's

statutory nature adviser – NatureScot - urged caution around developments in Development Plan Options E1 and E2 in the Offshore Wind Sectoral Plan without regional studies of seabird densities and SPA connectivity being undertaken.

Specifically, our **objection** to the proposed development is based on the following grounds:

- i. The Applicant has presented insufficient evidence to adequately demonstrate that other sites within the ScotWind leasing areas are unsuitable for developments which would achieve, directly or in combination, the same energy output but with less environmental harm. The requirement at this stage of the Habitats Regulation is to establish whether there are less damaging alternatives, including floating technology which can be sited further offshore.
- ii. The validity of the methods of gathering and interpreting the scientific data and the accuracy of seabird mortality figures, which do not adequately recognise scientific uncertainties. We challenge what is described as the “Developer Approach” used to argue that the impacts are less. Within environmental law the precautionary principle should be applied where there are significant scientific uncertainties and where there will be environmental harm. Trusted methodologies for undertaking assessments must be adhered to.
- iii. The Applicant has not adequately addressed the issue of how coastal communities who rely on the marine environment socially and economically, such as coastal and marine tourism and low impact fisheries, will be impacted both during construction and operational phases of the development. Compensation measures for low impact fisheries need to be set out in the context of a fair transition.
- iv. We disagree that the proposed compensation measures for seabirds are effective and represent additionality. This is expanded on below.

### **Adequacy of the derogation case**

The proposed derogation case is flawed in several ways including:

- i. *Sandeel fisheries* - Scottish Government committed to consulting on the future of sandeel management in Scottish waters and stated that the official position is not to support sandeel fisheries. Given this is already the Government’s position and over a wider area than the proposed S4 we disagree that this is compensation measure is additional. The alternatives proposed to this measure are also not within the developers remit to deliver.
- ii. *Biosecurity* – the proposed biosecurity measure, of rat control on Handa, will not directly benefit the species most affected by the development proposal, such as black-legged kittiwakes, nor address the impact on the stated conservation objective of the SPAs most affected. A national response that puts in place the long-term resourcing for a bio-security response plan for Scotland’s seabird colonies, with a team to manage and implement this is required.
- iii. *Dunbar Castle measures* – the additional nesting ledges proposed at Dunbar harbour may be feasible, although it is a historic harbour, and cliff nesting space is not the primary reason for the black legged kittiwakes decline. The suggested warden would bring local educational benefits through interactions with harbour users and visitors but again this is not a direct compensation measure.

## Tourism

Tourism is an important part of the economy in East Lothian. We are aware that there is already considerable pressure on the availability of accommodation with many overnight beds being taken for contractors which reduces the amount of space available for holidaymakers (especially families). This can be exacerbated at times when the available accommodation is taken for major sporting events in the area. All of this has an effect on the visitor footfall to tourism attractions in the area. We do not believe that the evidence presented addresses or suggests adequate compensation for these effects to tourism providers.

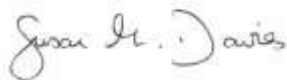
We also have concerns about the impact of the scale of the development on the coastal landscape character. At the current scale (area and density of turbines) the development is described as having a “moderate” to “major” impact from the Torness to Eyemouth stretches of coastline. The Berwickshire Coastal path follows this coastline and the experience for walkers will likely be diminished.

## Summary

We appreciate the amount of resource which goes into the preparation of the documents for a development proposal of this scale. Despite this we believe that the fundamental tests under Regulation 48 (5) and 49 (1-2) have not been met. We therefore must **object** to the proposal as currently detailed.

We are willing to continue a dialogue with the developer to find ways of reducing the scale of impact and to design, if still required, compensation measures which would be at a more appropriate scale, impact and duration.

Yours sincerely,



Susan Davies  
**Chief Executive**