



Appeal Decision

Site visit made on 17 January 2023

by Susan Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/H0724/W/22/3309272

The Old Yacht Club, Ferry Road, Hartlepool TS24 0AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Eleni Antoniou of Orsted Hornsea Project Three (UK) Ltd against the decision of Hartlepool Borough Council.
 - The application Ref H/2022/0009, dated 26 January 2022, was refused by notice dated 28 June 2022.
 - The development proposed is demolition of the existing structure and the construction of artificial nesting structures for kittiwakes and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing structure and the construction of artificial nesting structures for kittiwakes and associated infrastructure at The Old Yacht Club, Ferry Road, Hartlepool TS24 0AE in accordance with the terms of the application, Ref H/2022/0009, dated 26 January 2022, subject to the conditions attached.

Procedural Matters

2. The appeal site lies in close proximity to the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site. It is incumbent upon the competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of its interest features. I accepted additional information¹ submitted by the Appellant on the matter, on which I consulted Natural England under Regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) and gave the Council an opportunity to comment. I deal with matters relating to the Habitats Regulations later in this decision.
3. As the proposal potentially affects the setting of listed buildings and the Headland conservation area (CA), I have had special regard to section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
4. The appeal submission includes a Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990. The UU was completed on 20 December 2022 and relates to long term maintenance and management of the proposed Artificial Nesting Structures (ANS) and landscaping. The Council were given the opportunity to comment and I make further reference to the UU later in this decision.

¹ Comments on Hartlepool Borough Council's Statement of Case and Representations (December 2022): Appendix I NIRAS Review of HRA in the context of a noise and visual assessment

Main Issues

5. The main issues are:

- i) Whether the proposed development would result in the unacceptable loss of employment land, and whether the presence of additional kittiwake would have adverse effects on existing and future industrial activities on surrounding land uses at Hartlepool Port;
- ii) Effects on living conditions and local amenity with particular reference to noise from additional kittiwake; and
- iii) Effects on the character and appearance of the area including the setting of nearby heritage assets.

Reasons

Background

6. The Appellant's Nationally Significant Infrastructure Project for the Hornsea Project Three Offshore Wind Farm (Hornsea Three) was granted a Development Consent Order (DCO) by the Secretary of State in December 2020. The DCO includes a requirement to compensate for potential collision mortality of kittiwake (black-legged kittiwake *Rissa tridactyla*) associated with the Flamborough and Filey Coast Special Protection Area (SPA). The required compensation comprises four coastal ANS of at least two different designs to ensure that potential effects from Hornsea Three are offset. Two of the ANS are proposed at the appeal site.
7. The Appellant's evidence explains that having multiple structures in distinct geographical regions aims to reduce the risk of random events or unforeseen circumstances in a particular local area which could affect colonisation or productivity. One site comprising two ANS in Hartlepool, and two nearshore ANS off the coast of Suffolk, would offer the most robust chance of success throughout the lifespan of the Hornsea Three project.
8. Following a detailed site selection process² the appeal site was identified as being an ecologically suitable location for accommodating the ANS, primarily due to its proximity to the coast and existing kittiwake colony. This is located on a pontoon bridge at the Hartlepool Royal National Lifeboat Institution (RNLI) lifeboat station, immediately adjacent to the appeal site.
9. The appeal site comprises a former yacht club building, car park and areas of grass and scrub on raised coastal headland at Hartlepool docks to the end of Ferry Road. It is situated opposite the Headland area of Hartlepool, and adjacent to industrial land associated with the docks.

² Appendix C: Site Selection Narrative Report (December 2022) and Response to Objections 8 April 2022 (footnote 2, page 8): Hornsea Three Response to the Secretary of State's Minded to Approve Letter Annex 3 to Appendix 2: Kittiwake Artificial Nest Provisioning: Site Selection and the Pathway to Securement [https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010080/EN010080-003238-HOW03_30Sep_Appendix%20Annex%203%20Site%20Selection%20and%20Pathway%20to%20Securement%20\(06543753_A\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010080/EN010080-003238-HOW03_30Sep_Appendix%20Annex%203%20Site%20Selection%20and%20Pathway%20to%20Securement%20(06543753_A).pdf)

Port Activity and Employment

10. Hartlepool Port is allocated in the Hartlepool Local Plan 2018 (HLP) under policy EMP4a for specialist industrial use. Such specialist uses include port related industrial development and renewable energy manufacturing. The Enterprise Zone Local Development Order referred to in the policy has lapsed and been replaced by the Port of Hartlepool Freeport customs zone. Whilst the appeal site is located within the wider employment allocation it lies outside the boundary the Freeport. The triangular shaped site has a peripheral location on the edge of the allocation, separated from the larger areas by Ferry Road.
11. The Appellant's evidence indicates that the 0.34ha site represents around 0.32% of the total land within the allocation, and 0.57% of the total available employment land in the borough. Having regard to these figures and the Employment Land Review 2014 (ELR) which identifies a substantial surplus of employment land in Hartlepool, the loss of the site to non-employment uses would have a negligible effect on employment land availability. Nonetheless, I acknowledge that the specialist industrial nature of the port can require vacant land to be brought forwards at short notice.
12. Concerns have been raised from PD Teesport (PDT) regarding the potential for additional ecological designations arising from the presence of additional kittiwake populations at the ANS, which could result in additional environmental constraints affecting the current and future operations at and investment within the Port.
13. The designation thresholds indicate around 3,800 breeding pairs of kittiwake and this far exceeds the ANS when at full capacity. Nonetheless, paragraph 181 c) of the Framework states that sites required as compensatory measures for adverse effects on habitats sites (in this case the Flamborough and Filey Coast SPA) should be given the same protection. Whether or not the ANS becomes a designated site, or as a compensatory measure has the same protection as a designated habitat site, this need not necessarily be an obstacle to existing operations and future development at the port. There are already designated sites in its surroundings, which have not prevented its employment allocation nor Freeport status.
14. The Appellants have provided detailed information regarding the behaviour of kittiwake. The birds are relatively tolerant to disturbance from human activities and can be found at operational ports around the UK including at their existing colonies around Hartlepool docks, which have been steadily growing over time. I understand that an additional kittiwake ANS wall at Lowestoft harbour, also part of an employment allocation, has recently been granted planning permission, providing 432 nests as a compensatory requirement for numerous offshore wind farm DCOs following the success of existing ANS there. 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.
15. Concerns have been raised that the compensation measures would not provide any economic benefits to the area given that the compensation measures have no connection with any local development. However, I do not consider that the

proposed development could be disconnected with the wider national economic benefits which would result from the development of Hornsea Three. The Appellant has provided information in relation to the supply chain for their wind farm projects, which include a number of businesses in the north east³. They also indicate that the offshore wind sector and associated supply chain is one of the key sectors that PDT is looking to attract to the port.

16. Similarities to the 'agent of change' principle in paragraph 009 of the planning practice guidance (PPG) on noise and paragraph 187 of the Framework have been put to me by PDT. However, there is insufficient evidence to persuade me that existing businesses would have unreasonable restrictions placed on them, particularly given the existing designations which affect the wider area. Paragraph 009 of the PPG specifically relates to existing businesses that may cause noise and other sources of nuisance and the likelihood that they could have a significant adverse effect on new residents/users. This is not directly comparable to the potential situation before me, where the presence of kittiwake might result in a future ecological designation. Furthermore, the evidence before me does not suggest that the existing and future industrial and port uses would result in complaint by the operators of the ANS.
17. Locally, a level of employment would arise during the demolition/construction phase. Whilst I acknowledge that operational employment would be limited to maintenance, there would overall be limited economic benefits related to employment. Consequently, I find the comments that the proposed development would not result in any economic benefits are unfounded.
18. To conclude on this main issue, the proposed development would result in the loss of employment land allocated for specialist industrial use and would therefore conflict with policies LS1 (part 12) and EMP4(a) of the HLP. However I find that the scale and peripheral location of the appeal site in relation to the overall supply of employment land means that such loss would not be unacceptable. Whether or not it is ultimately designated or protected as a habitats site in its own right, 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).

Living Conditions and Local Amenity

19. The nearest residential properties are located in the Headland area of Hartlepool, separated from the appeal site by the dock. Numerous dwellings along Town Wall directly front the site of the proposed development across the water. A number of residents of this area have raised objections to the proposals, largely in relation to noise and disturbance from seabirds as well as the deposition of guano. There are existing amenity issues related to the preponderance of herring gulls in the locality.

³ Annex A Orsted UK Supply Chain Map April 2022

20. A Noise Impact Assessment (NIA) was submitted with the application and updated for the appeal submission⁴. The original desk-based assessment was produced during the winter months of 2021 and I note that this approach was agreed with the public protection team, who had no objections to the proposals overall. The nearest noise sensitive receptors (NSR) were identified at Town Wall, 220m northeast from the proposed ANS, and at Queen Street, 339m to the west.
21. The updated NIA provides the results of a noise survey taken in August 2022 towards the end of the breeding season. The assessment was informed by an additional kittiwake survey count of the existing colony at the RNLI bridge in July 2022. The timing of the survey is considered to be appropriate, given that in late summer there would be a higher frequency of change-over between adult kittiwake in attending to nests, and noise from the kittiwake would be more prevalent. I am also satisfied that the sound monitoring took place with due regard to BS 7445-2 1991 'Description and Measurement of Environmental Noise'.
22. The updated NIA notes the range of other noise in the vicinity of the site and NSRs, including cargo unloading, HGV's, container handling and other general port activity, together with the sound of various vessels and highway traffic. Other bird calls were noted to be clearly audible, from various gull species. The assessment notes that kittiwake (who have a distinctly different call to herring gulls) were audible during lulls of these other noise sources and intermittently during the night time at the Town Wall NSR only, and not from Queen Street. Importantly, the NIA confirms that the kittiwake were observed to only emit sound when at their nesting sites; foraging bird sounds came from other gull species.
23. The NIA extrapolates the noise created from the existing nests to the increased numbers expected from the ANS over time, from 10% occupancy up to 100%. The highest change in ambient sound levels when experienced at the Town Wall NSR was assessed to be less than the 3dB threshold of perceptibility set out in the Institute of Environmental Management and Assessment (IEMA) 'Guidelines for Environmental Noise Impact Assessment', representing the situation at full occupancy. The NIA also explains that that the predicted maximum sound levels from kittiwake calls is at least 11dB below the existing sound levels experienced at the NSRs. Other sounds include gull species, which are 6 to 10 dB louder than the kittiwakes and the dominant source of disturbance for local residents. The kittiwake sounds would also be 8 to 10dB below other sources of sound resulting from the port and other activities. Overall the impact of change to noise levels, is predicted to be less than 3dB at 100% occupancy of the ANS. The NIA states that this effect would be negligible and unlikely to be perceptible according to the IEMA Guidelines. Consequently, I would agree with the conclusions of the NIA that significant adverse effects are not anticipated.
24. The Council have questioned whether the original desk-based NIA was deficient, however the approach was agreed with the public protection team, and the updated NIA provides more detailed empirical evidence which substantiates the original findings. I note that no specific comments have been provided by the public protection team regarding the NIA update.

⁴ Orsted Statement of Case Appendix 11: Assessment of Construction Noise on Designated Sites (NIRAS, December 2022)

25. The evidence indicates that the introduction of purpose built ANS is expected to alter the distribution of existing nesting kittiwake across the town over time. Kittiwake nesting sites around Hartlepool Headland and the Port area⁵, are predicted to decline over time as current nesting pairs die and new first-time breeding birds are attracted to nest on the ANS. Hence, noise levels from kittiwakes which currently nest relatively close to residential properties are likely to decrease, which would be of benefit in terms of effects on living conditions.
26. A number of third parties have also referred to the propensity of seabird guano in the area which may be exacerbated by the expected increase in kittiwake. The Appellant's response adequately deals with this matter, in stating that accumulation of guano is only likely to be a major issue at or below the ANS. Kittiwake remain in their breeding colonies and fly directly out to sea to feed, and do not travel inland in urban areas to forage for food as other gull species do. Furthermore, the provision of the ANS would, over time, attract the existing nesting kittiwake away from the Headland and therefore decrease guano levels in residential and industrial areas. I am therefore satisfied that any guano issues created by other seabirds would not be worsened by the presence of additional kittiwake at the ANS.
27. The effects of the use of the proposed ANS by additional kittiwake, in terms of both noise and deposition of guano, would not have a significant adverse effect on living conditions and local amenity in compliance with policy QP4 of the HLP which at point 9) seeks to ensure developments should not negatively impact upon the amenity of occupiers of nearby properties, and policy QP6 which at point 8) seeks to ensure that effects of noise are investigated. In turn, the proposals would not conflict with paragraph 185 of the Framework which requires planning decisions to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment.

Character and Appearance

28. The former yacht club building is a low, flat roofed brick and render building which has some degree of architectural merit when viewed from the Headland, and I find that it appropriately reflects the marine character of the port. However on closer inspection from Ferry Road and the foreshore it fails to enhance the locality and is in poor condition having been vacant for a number of years. Adjacent to the site a small number of fishing cabins remain. The appeal site's location on raised coastal headland enjoys panoramic views towards the historic Headland area of Hartlepool and further afield to the Cleveland hills beyond distant industrial and marine structures at Teesside. Behind the site lie large areas of vacant hardstanding, and substantial warehouse buildings associated with the port.
29. The redevelopment of the appeal site therefore has the potential to affect the setting of a range of heritage assets as well as the character and appearance of the wider area as a whole. The submitted Landscape and Visual Assessment (LVA) includes a description of national and local landscape areas. I would agree with the Appellant's assessment of landscape character as described in section 4.3 of the LVA and note that there are no landscape designations.

⁵ Appendix E of Appellant's comments – Existing kittiwake colony in Hartlepool

30. The LVA also includes an assessment of the zone of visual influence (ZVI) which indicates that the proposed ANS buildings would not extend more than 1km from the site boundary, encompassing the Town Wall and old pier area of Headland, and parts of Hartlepool marina/waterfront. Other views are screened by large structures associated with the port.
31. Views of the appeal site are particularly prominent from the Headland. Here, there are a range of designated heritage assets. These include listed buildings, a range of coloured Georgian townhouses concentrated around the central area of Town Wall, and the Headland Conservation Area (CA). The Town Wall itself is a Grade I listed building (ref. 1250535) and scheduled monument (SM). Further to the east, the Heugh coastal artillery battery is also designated as a SM (ref. 1020801). Further inland but clearly visible behind the dwellings which line the Town Wall is the Grade I listed Church of St Hilda (ref. 1263355) which forms a landmark feature on the skyline of the Headland. The CA Appraisal notes that the open views towards Hartlepool's harbour and its industrial buildings offer an exciting and interesting view, reinforcing its strong relationship with the area. It notes the spectacular and characteristic view of the colourful town houses along the Town Wall which can be appreciated from the harbour and marina.
32. The character of the area of Headland overall is shaped by its geographical peninsula location, and reflected in its historic defence role and its more recent function as supporting the fishing and commercial ports of Hartlepool. Sensitive receptors who would be potentially affected by the visual effects of the proposed development include the residential occupiers of dwellings which line the Town Wall, and recreational users including those who enjoy the views around the perimeter of the peninsula and visitors to the heritage assets. The LVA includes six viewpoints, which I am satisfied are representative of sensitive visual receptors both on the Headland and the Middleton jetty/foreshore area immediately adjacent to the site (viewpoint 4), although I note that this particular viewpoint is private land.
33. The ANS would consist of two structures. One tower, whose design is derived from lighthouses, watchtowers and castles that are often seen along the coastline, and one structure based on traditional fisherman's huts, commonly found along the northeast coast. The design approach has been appropriately explained in the Design and Access Statement (DAS) both in relation to the function of the buildings as ANS and their visual appearance. The proposed structures would be of a high quality of design, and I acknowledge the efforts made to reflect the marine heritage of the area. The use of materials would be appropriate for this coastal location, including timber cladding and glass, and the use of one way reflective glass would provide visibility of the nesting spaces. Maintenance of the structures would be important given the use of glass and this would be appropriately secured for the lifetime of the development in the submitted UU.
34. The landscape design approach has also been appropriately explained in the DAS. This includes car park surfacing, perimeter fencing and planting. It is proposed to seed areas with a coastal species of grass and wildflower mix, and coastal scrub planting to the northern boundary. The planting would not only enhance the visual appearance of the site but would result in biodiversity benefits. As with the buildings, the landscape would require ongoing maintenance and this is also appropriately secured in the UU.

35. Views of the structures, in particular the tower, would be prominent from the Headland. However I agree with the overall LVA assessment of effects on visual receptors at each of the six viewpoints that magnitude of change would be low or negligible, with positive effects to local residents or visitors of the Headland in particular. The high quality design of the ANS would add to the diversity and richness of this marine environment. I do not agree that the tower would be excessive in height; there are a number of tall structures in the vicinity of the site including warehousing and cranes which form an industrial back drop to the port. The height of the tower would create a symbolic feature at the entrance to the port, reminiscent of a lighthouse.
36. In relation to designated heritage assets, to which I am obliged to have special regard to⁶, there would be no direct impacts on their significance. The assets are sufficiently distanced from the appeal site and are separated by the entrance to the dock. The character and appearance of the CA is distinctly different to the appeal site, and the surroundings in which it is experienced would not be adversely affected. There would not be any harm to the marine and defence heritage of the area, from which many of the heritage assets have gained their significance. Rather, I have previously found that the visual effects would be positive, and this would in turn enhance the appreciation of many of the assets. Overall, I find that the effects on the setting of all the aforementioned heritage assets would be neutral.
37. Taking the above issues into consideration I find that the proposed development would not have an adverse effect on the character and appearance of the area, and that the setting of nearby heritage assets would be preserved. The proposed development would not conflict with HLP policy QP4 which seeks to ensure that all developments are designed to a high quality and positively enhance their location and setting, with an appropriate layout, scale and form, and which reflects and enhances the distinctive features, character and history of the local area. I also find that the proposals are in conformity with sections 12 and 16 of the Framework in relation to achieving high quality design and in respect of the historic environment.

Other Matters

38. The appeal site lies outwith but in close proximity to the Teesmouth and Cleveland Coast SPA and Ramsar site, and immediately adjacent to the Teesmouth and Cleveland Site of Special Scientific Interest (SSSI). An Ecological Appraisal was provided to inform considerations of likely significant effects. The appraisal found that the habitats present would be unsuitable for use by species associated with the SPA, Ramsar and SSSI sites and that any direct functional link is considered unlikely. Natural England provided comments on the planning application, which led the Council to conclude there would be no likely significant effect on the Teesmouth and Cleveland Coast SPA and I agree with this conclusion.
39. The Appellant has since submitted a review of the HRA⁷. This considers whether the findings would refine the conclusions of the HRA as undertaken by the Council, regarding the time period for demolition and construction works required for the proposed kittiwake ANS given the delay to their programme. The Appellants seek to amend condition 12 put to me by the Council which

⁶ Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

⁷ Appendix I: Review of HRA in the context of a noise and visual assessment (NIRAS, December 2022)

limits demolition and piling works between March and August. The HRA review indicates that the potential effects on qualifying features of the SPA during the period of construction are not significant, and this would be irrespective of the time of year, whether alone or in combination with other projects. The Appellant's proposed amended wording reflects advice from Natural England to avoid such activities during the early kittiwake breeding season between April and July.

40. As part of my duty as competent authority under Regulation 63(3) of the Habitats Regulations I consulted Natural England on this additional information, to which they responded that the proposed amendment to the construction period does not affect their previous advice that the proposed development is not likely to have significant effects on the Teesmouth and Cleveland Coast SPA and Ramsar site, either alone or in combination with other plans or projects. I would agree with this assessment and as such an appropriate assessment is not required. The proposed works are not likely to have significant effects, even if they take place during the overwintering period, therefore the condition as put forward by the Appellant is appropriate.
41. The site selection for the four ANS for kittiwake compensation required by the Hornsea Three DCO has been fully documented⁸, with search zones encompassing both the coasts of the North East and East Anglia. The selection of sites has taken place in consultation with the Statutory Nature Conservation Bodies and as presented to the Offshore Ornithology Engagement Group. I am satisfied that the approach to final selection of Hartlepool has been robustly carried out in accordance with the Kittiwake Implementation and Monitoring Plan.
42. PDT refer to representations made to Hornsea Four offshore wind farm, which would also require compensation measures to offset impacts to the kittiwake population associated with the Flamborough and Filey Coast SPA. They raise concerns that future applications may be made for additional ANS. However the Hornsea Four DCO is currently undetermined therefore the weight I attach to these comments is limited. I acknowledge that the requirement for kittiwake compensation is an issue which affects numerous offshore wind farm developments and I am satisfied that the matter has not been considered by the Appellant in isolation.
43. The potential for herring gulls to attack the kittiwake has been considered and accommodated for in the ANS, with predator mitigation built into the design. Furthermore, there is limited evidence that the presence of large number of herring gulls have any strong influence on the breeding success of kittiwake as demonstrated in other locations including Lowestoft.
44. I note that the immediate area around the site and wider port comprises private land and that there are no public right of ways within or alongside the development, although I acknowledge that the foreshore and Middleton Pier do attract visitors and that the RNL station is open to the public. The Appellants have confirmed that the site would not be publicly accessible, albeit there would be educational visits restricted to supervised tours. Interpretative boards are proposed to provide information about the ANS as well as stating that

⁸ Appendix 8.2: Response to Objections (section 3.2) and Appendix C: Site Selection Narrative Report (December 2022)

public access to the site is not permitted, and this would be secured by condition 8.

45. The former yacht club site is in the ownership of the Appellant, but I understand that the access is in the ownership of PDT. Matters regarding compulsory purchase powers (in relation to Hornsea Three's powers as a generating station under the Electricity Act 1989) do not form part of this appeal and use of the access is a civil matter. Notwithstanding this, I am satisfied that such matters would not provide a significant obstacle to progression of the proposals.
46. Other potential uses for the former Yacht Club have been suggested by third parties, citing previous alternative uses, but I have considered the appeal on the basis of the proposals before me and I am not aware of any planning applications for alternative proposals (aside from the employment land allocation).
47. 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.
48. There is limited evidence before me to indicate that there has been a lack of engagement from the Appellant with local business and residents. I understand that some local residents may have protected characteristics. Whilst I have already acknowledged there are impacts on living conditions relating to existing seabird populations, there is limited information before me regarding how such persons would be specifically affected by the proposed development. I am satisfied that reasonable steps have been taken by the Appellant and the Council in publicising the proposals, with consultation carried out as required by the Town and Country Planning (Development Management Procedure) Order 2015.

Conditions and Legal Agreement

49. I have considered both the wording and reasons for the conditions suggested by the Council in accordance with the tests set out in paragraph 56 of the Framework. I have made some minor amendments in the interests of clarity and consistency. All pre-commencement conditions have been accepted by the Appellant in writing and are consequently compliant with the necessary legislation⁹. In addition to the standard time limit condition [1], a condition requiring the development to be carried out in accordance with the plans is necessary to ensure that it is implemented as approved [2].
50. An Ecological Management Plan condition [3] is required to secure biodiversity enhancement, and a method statement is required to avoid impacts to sheltering hedgehogs [4] as set out in the ecological appraisal. Details of soft landscape works would be appropriately secured by condition [5] in the interests of area character and biodiversity.
51. I have imposed a condition requiring details of existing and proposed levels [6], given that the site is situated on raised land which varies in levels, in the

⁹ The Town and Country Planning (Pre-commencement Conditions) Regulations 2018

- interests of area character and appearance. Details of lighting [7] are required so their visual and ecological effects can be assessed. Condition [8] secures provision of an interpretation board as previously discussed.
52. Condition [9] requires further details of welfare facilities and car parking as shown on the site layout plan, and condition [10] requires details of boundary enclosures. I have slightly amended condition [11] in relation to materials to make it more concise. These conditions are imposed in the interests of character and appearance.
53. I have already discussed the re-wording of condition [12] relating to timing of demolition and piling in the previous section of this decision, regarding the Habitats Regulations. I have not imposed the condition [previously 13] which requires hard landscaping to be carried out in accordance with the submitted plan, as this would duplicate condition [2] regarding approved plans. Decommissioning of the site is dealt with in condition [13], which I have slightly reworded to make it more concise and delete reference to 'its former condition' given that it would not be possible to put the site back to its current condition and use as a yacht club. Submission of a scheme would be appropriate, in the interests of area character and biodiversity.
54. In respect of the UU, I have already discussed the obligations in the main issues above. I note that the Council have raised no concerns regarding the UU and I am satisfied that the obligations meet the tests in paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

Conclusion

55. For the above reasons and having regard to all other matters raised I conclude that, subject to the attached schedule of conditions and the obligations in the planning agreement, this appeal should be allowed.

Susan Hunt

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed below:
 - HOW3-LDA-0100 Rev P05 (Site Location Plan)
 - HOW3-LDA-0102 Rev P07 (Site Layout Plan)
 - HOW3-LDA-0700 Rev P06 (Elevations)
 - HOW3-LDA-0701 Rev P06 (Elevations)
 - HOW3-LDA-0200 Rev P06 (Ground Floor Plan)
 - HOW3-LDA-0204 Rev P07 (Roof Plan)
 - HOW3-LDA-0203 Rev P07 (Third Floor Plan)
 - HOW3-LDA-0202 Rev P07 (Second Floor Plan)
 - HOW3-LDA-0201 Rev P07 (First Floor Plan)
 - HOW3-LDA-0180 Rev P06 (Proposed Site Sections)
 - 7628_PL_401 (Softworks Typologies Layout and Reference Plan)
 - 7628_PL_201 (Hardworks Layout and Reference Plan)
 - 7628_PL_1-1 Rev P02 (Illustrative Landscape Masterplan)
 - HOW3-LDA-0130 Rev P05 (Demolition Plan)
- 3) Prior to the commencement of development (including any demolition), an Ecological Management Plan (EMP) and a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority, the detail of which shall be in general conformity with the Softworks Typologies Layout and Reference Plan (7628_PL_401). The content of the EMP shall include the following:
 - a) Description and evaluation of features to be managed, including retained habitats and habitats to be created;
 - b) Broad aims of management, to include mitigation for loss of hedgehog hibernacula/shelters and grassland habitat used by priority butterfly species and enhancement for invertebrates in general;
 - c) Specific actions to achieve the management aims at part (b) of this condition, including the type and/or design of habitat features to be created/installed;
 - d) Appropriate management options for achieving aims and objectives relating to vegetated habitats;
 - e) Prescribed arrangements for the ongoing management of the site for biodiversity, including maintenance of the habitats and features;
 - f) An annual work plan and details of the body or organisation responsible for implementation of the EMP; and
 - g) Ongoing monitoring and remedial measures.

- 4) Prior to the commencement of development (including any demolition), a method statement for the avoidance of impacts to sheltering hedgehog shall be submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the following:
- a) purpose and objectives for the proposed ecological measures;
 - b) working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
 - c) extent and location of proposed works shown on appropriate scale maps and plans;
 - d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - e) persons responsible for implementing the works;
 - f) initial aftercare and long-term maintenance (where relevant);
 - g) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and timetable, and any features created shall be retained in that manner thereafter.

- 5) Prior to the commencement of development details of soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:
- a) Planting plans;
 - b) Sizes, types, numbers/densities and species of plants;
 - c) Written specifications including cultivation and other operations associated with plant and grass establishment;
 - d) The proposed layout and surfacing of any parking and circulation areas;
 - e) A scheme of management and maintenance; and
 - f) An implementation programme and timetable for the works to be undertaken.

The landscaping works shall be carried out in accordance with the approved details in accordance with the agreed implementation programme, and shall be managed and maintained in accordance with the approved scheme for the lifetime of the development hereby approved. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species.

- 6) Prior to the commencement of development (including any demolition works), details of the existing and proposed levels of the site including the finished floor levels of the buildings to be demolished and erected (within and out with the site) and any proposed mounding and/or earth retention measures shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved details.

- 7) Prior to the commencement of development (including any demolition), a low-level lighting scheme to be adopted during and post development (Low Level Lighting Scheme) shall be submitted to and approved in writing by the Local Planning Authority. The Low Level Lighting Scheme shall include details of the positions, angle, type and height of lighting. The approved Low Level Lighting Scheme shall thereafter be implemented in full as approved.
- 8) Prior to the above ground construction of the development hereby approved, details of one or more interpretation boards providing information on the proposed nesting structures including construction materials and finish, and a timetable for installation, shall be submitted to and agreed in writing by the Local Planning Authority. The interpretation board(s) shall thereafter be provided and retained in accordance with the approved details and agreed timetable.
- 9) Notwithstanding the submitted details and prior to the erection of the temporary welfare facilities and buildings and installation of the associated car parking/hard standing (drawing number HOW3-LDA-0102 Rev P07 site layout plan), details of such welfare facilities shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for the erection and thereafter removal of the temporary welfare facilities, such removal to be within 12 months of the agreed installation date as submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details and timetable including the removal of the temporary Welfare Facilities.
- 10) Prior to the commencement of development (including any demolition), full details of all means of boundary enclosure including size, siting and finishing materials, including a timetable for installation, shall be submitted to and approved by the Local Planning Authority. The boundary enclosure(s) shall thereafter be installed and maintained in accordance with the approved details.
- 11) No development shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved sample details.
- 12) No demolition and piling works associated with the development shall be undertaken during the months of April, May, June and July in any given year.
- 13) When the artificial nesting structures hereby approved cease their operational use and cease to be required in accordance with the terms of The Hornsea Three Offshore Wind Farm Order 2020, all structures and associated buildings and infrastructure shall be removed in their entirety and the land shall be restored in accordance with a scheme and timetable to be first submitted to and agreed in writing with the Local Planning Authority. Thereafter the works shall be carried out in accordance with the approved scheme and timetable.