

East Anglia THREE
Offshore Windfarm

East Anglia THREE

Applicant's Comments on Responses of other parties to the ExA's first written questions

Document Reference – Deadline 3 / Applicant's
Comments/ First WQ Responses

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1 Introduction

1. This document contains the Applicant's comments on responses to the ExA's first written questions submitted to the East Anglia THREE examination.

1.1 The Environment Agency

ID	Comment and Applicants response
CL7	<p>We highlighted in our Relevant Representation that dewatering activities, which may be necessary during the construction of the jointing pits or transition bays, will in future require an Abstraction licence. This will only be for volumes in excess of 20m³/day, in common with other Abstraction licences. A start date for these new licencing requirements has not yet been set, and the licensing requirements are not yet finalised.</p> <p>No discussions have been held to date with the applicant on this issue. We are aware that the location of the required jointing pits is not yet established, so any dewatering requirements cannot be established at this time. We would recommend that the applicant discusses licensing requirements with us once this further detail is known, but ahead of any works. At that point we will advise on the latest regulatory requirements.</p>
Applicant's response	<p>The Applicant welcomes the EA's confirmation of the above and confirms that further discussions with regard to dewatering will take place with the EA following detailed design and once the jointing bay locations have been confirmed.</p>
CL8	<p>Our Relevant Representation highlighted our disagreement with some of the criteria used to consider the sensitivity of surface water bodies in the Environmental Statement Chapter 21 Water Resources and Flood Risk (Document Reference 6.1.21). This is in respect of the use of Water Framework Directive (WFD) classification status to define sensitivity to impacts, as detailed in Table 21.6 Definitions of Receptor Sensitivity.</p> <p>In our view it is not appropriate to classify WFD 'High' ecological status water bodies as having High sensitivity; WFD 'Good' status water bodies as Medium sensitivity; WFD 'Moderate' status water bodies as Low sensitivity; or less than 'Moderate' status water bodies as having negligible sensitivity. The basic overarching requirements of the Directive are that there will be no deterioration from the class status as defined in the River Basin Management Plan, whatever that status is; and that there should be improvement where required to 'Good' ecological status or potential by 2027.</p> <p>Given that those requirements apply to all water bodies, it is not appropriate to suggest that sensitivity to impacts will vary with status. Additionally, status classification is defined by the lowest of up to 37 elements, meaning that sensitivity to particular impacts and the resulting effect on status can vary between water bodies depending on their particular characteristics, irrespective of status.</p> <p>However, we do not object to the conclusions reached in the ES in respect of the likely magnitude of effects on surface waters. These are defined at worst as 'Negligible' (for construction of the on-shore cable route). Based on the Impact Significance Matrix (Table 21.8), the overall impact significance would remain no greater than 'Minor', even if the</p>

ID	Comment and Applicants response
	receptor sensitivity was identified as being 'High'. Therefore, based on the methodology applied, any impact would still be considered as 'not significant'. We can confirm that we are satisfied with this conclusion.
Applicant's response	The Applicant notes the EA's comments and welcomes confirmation by them that despite the differences in assessment methodology highlighted that overall the EA agrees with the outcome of the assessment.
CL9	<p>Although not specifically requested, we have taken the opportunity to comment on this question.</p> <p>Our Relevant Representation highlighted that the submitted Flood Risk Assessment (FRA) (Document reference 6.3.21(2)) did not specifically refer to the fluvial flood risk along the on-shore cable route associated with the Gipping, Lark, Fynn and Somersham watercourse. However, we recognise that the FRA does in general refer to the route passing through areas of Flood Zone 2 and 3. We would also reiterate that given the nature of the works and the mitigation measures proposed, we are satisfied that there should be little impact on flood risk as a result of the scheme and that any potential impacts will be appropriately managed</p>
Applicant's response	The Applicant welcomes the EA's clarification of the above and has nothing further to add on this matter.

1.2 Historic England

ID	Comment and Applicants response
LH1	The archaeological evaluation for EA ONE is currently underway as per the agreed WSI but has not yet been completed. We anticipate that the work will continue to proceed in a timely manner. Any findings will be used to inform the strategy for EA THREE post-consent. We agree that the majority of the archaeological work for EA THREE will be completed as part of the EA ONE project; however, provision has been made in the EA THREE WSI for new areas outside of the EA ONE corridor.
Applicant's response	The Applicant welcomes HE's confirmation of the above and has nothing further to add on this matter.
LH8	The level of impact on the setting of heritage assets was addressed through the EA ONE and EA THREE projects. We recognise that there is some harm to the setting of the heritage assets but this was deemed to be less than substantial. Any future expansion will have the potential to impact on the setting of heritage assets. However, this would be dealt with in relation to any future projects.
Applicant's response	The Applicant welcomes HE's confirmation of the above and has nothing further to add on this matter.

ID	Comment and Applicants response
OA4	<p>The mitigation measures proposed are a standard industry approach which has consistently been agreed with Historic England to prevent, limit and understand impacts before and after they occur. Should consent be given, it is in the developer’s best interest throughout the period prior to construction to apply different non-intrusive survey and investigation methods to capture an appropriate level of information as to the position, distribution and nature of features of the known and possible historic environment.</p> <p>The Offshore Renewables Protocol for Archaeological Discoveries (ORPAD) was established through collaborative work between The Crown Estate and Wessex Archaeology, for which Historic England was consulted. ORPAD works as a means to manage unexpected discoveries during the course of the project, at post-construction, construction, operation and decommissioning. ORPAD also includes provision for the training of industry staff on how to identify and protect heritage assets, and all finds of archaeological interest are reported to the ORPAD Implementation Service. It complies with the Merchant Shipping Act 1995, including notification of the Receiver of Wreck, and accords with the Joint Nautical archaeology Policy Committee (JNAPC) Code of Practice for Sea Bed Developers.</p> <p>We have been in continued consultation with the developer relating to the inclusion of appropriate conditions attached to the draft DCO and DMLs, and have agreed upon revisions included within the Deadline 1 (13th July 2016).</p>
Applicant’s response	<p>The Applicant welcomes HE’s confirmation of the above and has nothing further to add on this matter</p>
OA5	<p>We have requested this detail to be elaborated upon within the Environmental Statement, and to include additional cross references to associated figures to illustrate the proposed optional routes included (within Written Representation, dated 26 July 2016 to Planning Inspectorate, Deadline 2).</p> <p>We are satisfied as the assessment and determinations made regarding the interconnector cable corridor, as we note it was included as part of Section 17.3.2 ‘Study Area’. Furthermore, it is also included within Table 17.7 ‘Worst Case Assumptions’ within the broader term “offshore cable corridor”, as part of the assessment of data, and within Section 17.6 ‘Potential Impacts’ and 17.7 ‘Cumulative Impacts’.</p> <p>As a further point of note the interconnector cable corridor is encompassed within the draft written scheme of investigation.</p>
Applicant’s response	<p>In response to this question the Applicant confirmed that this was a typographic error. The paragraph was originally paragraph 35 in the Preliminary Environmental Information Report (PEIR) published in May 2014, which did not include an assessment of the interconnector. The PEIR was updated to produce the ES chapter, but this paragraph was not removed. Table 17.7 of the ES which covers the worst case assumptions clearly states that the</p>

ID	Comment and Applicants response
	<p>interconnectors have been assessed.</p> <p>The Applicant welcomes HE’s confirmation of the above and has nothing further to add on this matter</p>
OA6	<p>Currently we consider the data sources used to inform the application (as detailed in Table 17.8 Data Sources Features) acts only to provide an appropriate characterisation of the proposed development area, we have previously commented on this matter, at draft stages, and written representation (dated 26 July 2016 to Planning Inspectorate, for Deadline 2). Subject to the application being consented, the outline written scheme of investigation will initiate and detail all necessary investigations for the purposes of mitigating direct and indirect impacts to archaeology and cultural heritage, through associated method statements, thereby complementing and enhancing upon the characterisation.</p>
Applicant’s response	<p>The Applicant welcomes HE’s confirmation of the above and has nothing further to add on this matter</p>
OA7	<p>Comments have been included as part of our Written Representation, dated 26 July 2016 to Planning Inspectorate, for Deadline 2. Subject to the application being consented, we have also requested the inclusion within the draft Development Consent Order of a condition for a timetable for further site investigations. This will allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits, and allow the approval of any necessary mitigation required as a result of the further site investigations, in good time prior to commencement of licensed activities.</p>
Applicant’s response	<p>Noted. The Applicant will update Schedules 10; 11; 12; 13; 14; and 15 of the draft Order accordingly.</p>

1.3 Local Planning Authorities

ID	Comment and Applicants response
GA2	<p>Requirement 28 in the EA1 Order requires land not incorporated in the permanent works to be reinstated within 12 months of the completion of that stage. At the current time, it is envisaged that would therefore be around 2020. If the EA3 Order received consent in June 2017, that Order would need to be implemented within 5 years. Therefore, there arises a period of around of two additional years that the EA1 temporary works might remain in situ for the benefit of the EA3 project. Having regard to the traffic impacts that would arise from the removal of this temporary infrastructure and then subsequent reinstatement, balanced against the landscape and ecological effects of retaining the</p>

ID	Comment and Applicants response
	<p>infrastructure (as assessed in Appendices 23.7 and 29.5 of the EA3 application), it is likely to be preferable to retain the temporary infrastructure, and allow for partial reinstatement and thus partial discharge of requirement 28 on the EA ONE Order. If it became apparent that EA3 was not going to be implemented or for any other reason the LAs required the land to be reinstated, they could enforce against Requirement 28 in the EA ONE order. It is also important to note that reinstatement will be a phased approach as until the detailed design is done for EA3 it will not be known where the 18.05km of haul road that the EA3 ES has assessed will be located, as such the balance of approximately 16.95km (of the total 37km) not needed for EA3 will only be able to be reinstated close to the commencement of construction of EA3.</p> <p>It is important however to note that the measures originally put forward in document 8.16 (as embellished through Appendix 1 to the SOCG “Bat Mitigation Note”) to mitigate the effects of retaining the temporary infrastructure between EA3 phases is now applied to the period between EA1 and EA3 and thus the LAs would require EA1 to provide such details if applying for a partial discharge of Requirement 28 in the EA1 Order.</p>
Applicant's response	Noted: the Applicant has nothing further to add on this matter at this stage.
CL6	<p>Planning application no. DC/15/4788/OUT for outline planning application for up to 215 residential dwellings (including up to 33% affordable housing), a Convenience Store (Use Class A1, up to 400sq.m gross/280sq.m net) with associated car parking. Demolition of existing structures, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access from Ipswich Road and Top Street and associated ancillary works. All matters to be reserved with the exception of the site access, address: land and buildings to the East of Bridge Farm, Top Street, Martlesham. This application was REFUSED planning permission on the 4 March 2016. An appeal has been lodged with the Planning Inspectorate against this decision. Early indications from PINS are to expect a Public Inquiry in early 2017.</p>
Applicant's response	The Applicant has nothing further to add on this matter
TT1	See GA2
Applicant's response	The Applicant has nothing further to add on this matter
TT3	<p>This provision is secured in the Outline Traffic Management Plan (document 8.7, para 41), which is secured by requirement 27. Details of monitoring provisions are yet to be confirmed but would be done through the finalisation of the TMP. The LPAs would be the enforcing party.</p>

ID	Comment and Applicants response
	The PCCSs will be the same as those used for EA1 and that party is currently preparing detailed designs for access which would need to be to SCC's satisfaction. As such this issue will be resolved through the discharge of requirements for EA1. As stated in the examination of that project we have no issue in principle with the use of these sites, but await detailed designs
Applicant's response	The Applicant welcomes the LPA's confirmation of the above and has nothing further to add on this matter.
TT6	See TT3, details for monitoring are yet to be determined
Applicant's response	The final detail will be confirmed post consent in consultation with the relevant local Authorities.
AQ1	The District Councils are satisfied that the AQMP provides a sound basis for a fuller submission in due course
Applicant's response	The Applicant welcomes the LPA's confirmation of the above and has nothing further to add on this matter.
AQ2	The LAs consider this is a matter that can be adequately controlled through the CoCP.
Applicant's response	The Applicant welcomes the LPA's confirmation of the above and has nothing further to add on this matter.
NV3	<p>The noise mitigation measures represent the standard approach for controlling noise i.e. substitution (select quieter equipment), isolation (enclose with material of known acoustic effect), screen (erect a noise barrier) and design site layout. The exact detail of mitigation measures is to be set out in a Noise and Vibration Management Scheme at the appropriate stage of the project.</p> <p>The district councils are satisfied that the measures outlined are likely to be sufficient.</p>
Applicant's response	The Applicant welcomes the LPA's confirmation of the above and has nothing further to add on this matter.
NV5	The haul road would be a private road and thus its maintenance would not be the responsibility of SCC. Nevertheless, the Outline CoCP (document 8.1) could make specific reference to the need for regular inspections and remedial action as required (this document does already refer to Monitoring and Site Inspections) and signposts measures that will be used to minimise noise and vibration effects.
Applicant's response	The Applicant will inspect and maintain the haul road in order that it remains in a condition that ensures the health and safety of staff (and the public) and does not give rise to undue noise and/or dust. These aspects will also be controlled

ID	Comment and Applicants response
	<p>via a strict speed restriction for vehicles using the haul road. Inspection of haul road will be addressed under the Code of Construction Practice under Monitoring and Site Inspections.</p> <p>In terms of the Public Highway and the inspection for and repair of potholes, detail will be added to the OCoCP on how this will be addressed.</p>
EL1	<p>We are content with the description of the baseline and assessment of effects at this stage in the process. The Outline Landscape and Ecological Management Plan (document 8.6) requires further pre-construction surveys to be undertaken for key species. Furthermore, our understanding of the baseline will also be updated through the pre-construction surveys currently underway for EA1 and through those two avenues we can be sure we have a thorough understanding of the baseline and this with our ability to confirm the detail of the LEMP prior to construction of EA3 gives us assurances sufficient safeguards are in place.</p>
Applicant's response	<p>The Applicant welcomes the LPA's confirmation of the above and has nothing further to add on this matter.</p>
LH1	<p>The fieldwork for archaeological trenched evaluation of East Anglia ONE (EA1) cable route corridor has been completed. The report on this phase of work has been submitted to Suffolk County Council Archaeological Service (SCCAS) as DRAFT, and will require revisions before it meets the required standards.</p> <p>Based on the results of the archaeological evaluation, fifty areas (totalling 114.29ha) have been identified with significant archaeological potential, which will require further archaeological works (including fieldwork) to mitigate the impact of the project on the historic environment. The mitigation works will take the form of 67.44ha of Set Piece Excavation (SPE) across 29 sites, 25ha of Strip, Map & Excavate (SME) across 10 sites, and 21.85ha of Archaeological Monitoring of Groundworks (WB) across 11 sites. There is also a contingency of 4% to expand areas of excavation if appropriate. Notably, these areas do not include the area of the EA3 substation, for which, mitigation was recommended separately based on the results of the EA3 evaluation.</p> <p>An Interim Written Scheme of Investigation (IWSI) has been received and commented on by SCCAS.</p> <p>SCCAS understand that appointment of an archaeological contractor to undertake the mitigation phase of work, is currently out to tender. Once an archaeological contractor is commissioned, they will produce a Revised Written Scheme of Investigation (RWSI), addressing the comments made on the IWSI and providing full information around staffing, projected timescales etc. , which will be submitted to SCCAS for scrutiny, prior to approval by the LPA. This document will also provide a brief outline of Post-Excavation Analysis and archival requirements. A detailed and costed programme of post-excavation investigations and archive will be identified in the Post-Excavation Assessment</p>

ID	Comment and Applicants response
	<p>(PXA), which will be produced by the archaeological contractor following completion of all outstanding fieldwork.</p> <p>Commencement of archaeological fieldwork is currently planned for late July/early August, however, this will be dependent on the timely appointment of an archaeological contractor to undertake the work, and release of land (potentially following harvest). It is hoped that the majority of SPE will be completed by the end of the year, although it is expected that at least some area of SME will continue into 2017, and WB will be undertaken in conjunction with the construction phase for the project.</p> <p>SCCAS have put in place modifications to our team structure, including appointment of an additional temporary member of staff, to release Senior Archaeologists to work closely with the archaeological contractor on this project, facilitating timely sign-off of areas once the archaeological investigations have been completed.</p> <p>Based on the results of both EA1 and EA3 archaeological evaluations, SCCAS recommended, in addition to the areas identified in the Interim WSI (submitted to SCCAS/HE MAY 2016), that all groundworks associated with the proposed converter station, including preparation of the site, are archaeologically monitored to ensure that any heritage assets that may exist are appropriately investigated and recorded. In order to ensure that the understanding of the significance of any heritage asset encountered is advanced and recorded an appropriate requirement is necessary and the draft Requirement 20 is acceptable. The WSI should be revised to incorporate this.</p>
Applicant's response	Noted: the Applicant has nothing further to add on this matter.
LH6	Annexed to the Statement of Common Ground is a note detailing a site visit and meeting related the implications of Chalara at the substation site. Two management options are outlined in the report: A to undertake planting along the western edge of the Woodland at Gorbets Grove and B: Woodland Management. It has been agreed that in respect of option A a planting strip of around 10m offset from the woodland by around 5m will be installed. With regards to Option B, it is understood from the applicant they are in active discussions with the landowner of Gorbets Grove to secure the ability to maintain these woodlands to mitigate the likely effects of Chalara
Applicant's response	The Applicant considers the primary and adequate mitigation is secured by means of a commitment to Option A. The Applicant is also investigating opportunities associated with Option B, however as this requires landowner negotiation and agreement there is no certainty that Option B will come to fruition.
LH10	EA3 cannot proceed without EA1, which is accompanied by a S106 agreement providing £112,000 for offsite landscaping on implementation of the development (which is expected in January 2017). MSDC as the beneficiary of that agreement is responsible for negotiating with landowners to secure that provision. As part of the EA ONE

ID	Comment and Applicants response
	examination a plan was produced to indicate, from a visual impact point of view, where it may be appropriate to locate such planting. This plan which is attached for information will help inform discussions with landowners but does not indicate their assent to the proposals.
Applicant's response	The Applicant welcomes the LPA's confirmation of the above and has nothing further to add on this matter
SE2	As it stands, the Rate relief will not be extended beyond March 2018 however the Enterprise Zone Partners are in discussion with DCLG to investigate the possibility of an extension.
Applicant's response	N/A
SE3	The LAs would support the provision of such a fund and expressed similar sentiments at the examination of EA1, though the EA1 Examining Authority's judgement was that "in view of the applicant's contribution through the project's benefits and more general initiatives providing mitigation, there is little in existing legislation or policy which would support the alteration of the DCO to include a requirement to this effect." Having regard to the generally lesser effects of EA3 than EA1 it would follow in the absence of change in legislation and policy that the conclusion above would remain the same in respect of EA3 and as such any planning obligation would not meet the tests as set out in paragraph 4.1.8 of NPS EN-1
Applicant's response	The Applicant does not consider that an environmental fund is appropriate or necessary to make the project acceptable in planning terms. No environmental fund was required for East Anglia ONE. It is considered that environmental benefit is derived from the major financial investment to be made by undergrounding the onshore cables and through the installation of ducts by East Anglia ONE for the use of East Anglia THREE, substantially minimising onshore construction activities.
SE6	The low, medium, high is based on the proportion of UK content (ES Chapter 28, paragraph 13). As stated in subsequent paragraphs the target within the EA 1 supply chain plan is for a high impact and aimed to be as high for subsequent developments. The LAs can only assume that a high impact is a reasonable prospect and therefore the mitigation secured should be commensurate with/flexible enough to accommodate, that scenario
Applicant's response	The Applicant has nothing further to add over and above its previous response to this question, but notes that Chapter 29 Socio Economic Impact Assessment concludes a high beneficial impact for this.
SE7	The EA1 skills strategy should be seen as a foundation for further initiatives. The LAs are currently discussing with the applicant what these may encompass

ID	Comment and Applicants response
Applicant's response	<p>The Applicant can confirm that discussions are ongoing on socio economics in general. The Applicant's Socio Economic assessment submitted as part of the application for Development Consent did not conclude that any further skills interventions were necessary specifically for the East Anglia THREE project over and above those already secured by or in some cases already underway as part of the East Anglia ONE project. In addition, the East Anglia ONE skills strategy makes a clear commitment to future ScottishPower Renewable offshore wind projects in East Anglia and as such, East Anglia THREE will fully support this strategy.</p> <p>It should also be noted that as part of the bidding process for regulatory support under the contracts for difference mechanism, East Anglia THREE will be required to provide, as part of wider supply chain strategy, a project specific skills plan. This will be done at a time when details of the project itself, the employment market and the effects of East Anglia ONE skills interventions will be more clearly understood, allowing more informed planning to be undertaken.</p>

1.4 Marine Management Organisation

ID	Comment and Applicants response
CO3	<p>Condition 17 is a standard pre-construction licence condition for offshore wind farm consents. As it is not possible to fully assess the presence of unexploded ordnance (UXO) at such an early stage it is standard practice for projects to apply for a separate marine licence for the assessment and clearance of UXOs following consent of the project. The MMO is content that the risk associated with UXOs can be dealt with through a separate marine licence application post determination of the DCO.</p>
Applicant's response	<p>The Applicant concurs and has nothing further to add on this matter.</p>
BE3	<p>The MMO is content that the In-Principle Monitoring Plan adequately addresses the monitoring of benthic habitats as agreed in the Evidence Plan and that this is secured under DML conditions 17(2) and 19(2).</p>
Applicant's response	<p>The Applicant concurs and has nothing further to add on this matter.</p>

ID	Comment and Applicants response
BE5	<p>The MMO has had further discussions with the applicant regarding site 30 and it has been agreed to include a new condition in the deemed marine licence to the effect that:</p> <p>"No licenced activities may take place within the area hatched black on the works plan being 250m from site 30 ("restricted area") until the MMO has confirmed in writing that it is satisfied with the results of a sediment sample survey or that sufficient mitigation has been secured in the approved method statement secured under condition 13(g), to prevent impacts from contaminated sediment.</p> <p>"sediment sample survey" means a survey to be carried in the event that works are proposed in the restricted area which:</p> <ul style="list-style-type: none"> • samples sediment for arsenic contamination in the restricted area; and • must be carried out in accordance with details first been approved by the MMO" <p>"site 30" means site 30 shown on the works plan (offshore) which has the following grid coordinates: 52 27 32.889 N , 02 36 9.019 E</p> <p>The applicant has proposed a buffer zone 250m around site 30. While the proposal seems proportional and we are content with the approach, it is appropriate to highlight due to the distance of other sample points from site 30, the 250m buffer zones is based upon judgement of risk rather than supported by strong evidence provided within application or subsequent information.</p>
Applicant's response	<p>The Applicant is content with the agreed position and has nothing further to add on this matter.</p>
BE6	<p>The MMO wish to highlight that it is the duty of the relevant public authority to consider the potential impacts on MCZs prior to determining the application. If Orford Inshore rMCZ is determined to be a material consideration of the project, dependent upon confirmation of its current status, the MMO is content to defer to Natural England, as the statutory nature conservation body, with regards to whether the applicant's Environmental Statement (ES) adequately assesses the features of the rMCZ.</p>
Applicant's	<p>Following further discussion with Natural England at a meeting on the 8th of June, the Applicant has undertaken an assessment of the potential impacts of the proposed project upon the Orford Inshore rMCZ. This is currently being</p>

ID	Comment and Applicants response
response	consulted upon as part of Other Environmental Information and will be submitted to the ExA once the consultation is complete.
ECO6	The MMO is content that the current DML conditions provide sufficient certainty on the delivery of monitoring measures as specified in the IPMP.
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and has nothing further to add on this matter
ECO10	The MMO is content that the construction method statement should ensure that piling events and resulting impacts do not exceed those assessed in the ES.
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and reiterates that there would be a maximum of two concurrent piling events.
ECO11	The MMO is content that this can be ensured through the construction method statement, secured under DML condition 13(c).
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and has nothing further to add on this matter
ECMM1	The MMO is content that this can be controlled through the construction method statement and Marine Mammal Mitigation Protocol, secured under DML conditions 13(c) and 13(f).
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and has nothing further to add on this matter
ECMM2	The MMO is content that this can be controlled through the construction method statement and Marine Mammal Mitigation Protocol, secured under DML conditions 13(c) and 13(f). However, hammer energy is not monitored in real time through the DML, and therefore the MMO cannot in practice prevent exceedance from occurring – this is common across offshore wind farms. It is however, standard practice that Marine Mammal Mitigation Protocols include reporting

ID	Comment and Applicants response
	requirements to demonstrate maximum hammer energy used, soft starts etc., so any exceedance, should it occur, will be reported to the MMO to consider what action, if any, should be taken. We are content with this approach and the wording of the DML.
Applicant's response	The Applicant welcomes the MMO's confirmation of the above. In addition, Natural England has requested that the maximum hammer energy is included in the draft Order, which the Applicant has agreed to (see section 1.5, ECMM 2).
ECMM3	The MMO acknowledges that the mitigation zone may extend beyond the order limits but does not believe that this would preclude its implementation.
Applicant's response	The Applicant concurs and has nothing further to add on this matter.
ECMM8	<p>The MMO is satisfied that the wording of Condition 13(f) provides adequate protection for marine mammals with regards to injury and mortality and that final detail will be agreed in the MMMP. We are content with the wording and for its inclusion in the DML and consider that the requirements do not need to be duplicated within the DCO.</p> <p>We further advise that following the completion of any Habitat Regulations Assessments and following further conservation advice by NE, should additional mitigation measures need to be secured, then the MMO is consulted if they are proposed to be included within the DML.</p>
Applicant's response	The Applicant welcomes the MMO's confirmation of the above. The Applicant will continue discussion with both MMO and Natural England to determine any requirement for additional mitigation measures following the completion of further reports to inform the HRA.
ECMM9	The MMO has been in further discussion with the applicant regarding this and following clarification from the applicant on how underwater noise modelling has been presented in the ES, the MMO is satisfied with the methodology used.
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and has nothing further to add on this matter.

ID	Comment and Applicants response
ECMM14	The MMO provided a letter to the applicant on 8 July 2016 advising, that based on available information and current evidence, the MMO could see no reason why an EPS licence would not be granted upon application.
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and has nothing further to add on this matter. Note that this letter forms Appendix A of the Habitats Regulations Assessment: interim marine mammal assessment for the Southern North Sea pSAC (Document reference: Deadline 3/Interim Information to Inform the HRA for the Southern North Sea pSAC Report).
OA4	The MMO is content to defer to Historic England in regard to the proposed mitigation measures and believes that this is adequately secured under DML condition 13(h).
Applicant's response	The Applicant welcomes the MMO's confirmation of the above. The Applicant will continue discussion with Historic England on mitigation measures.
OA5	The MMO believes adequate assessment of the interconnector cables has been undertaken, as detailed in Chapter 17 of the ES, (Table 17.7 considers worst case assumptions, which includes interconnectors) and that they are adequately addressed under Schedules 14 and 15 of the draft DCO.
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and has nothing further to add on this matter.
OA6	The MMO is content to defer to Historic England as the statutory conservation body, with regard to data sources for Offshore Archaeology and Cultural Heritage
Applicant's response	The Statement of Common Ground between the Applicant and Historic England (Document reference: Deadline 3/SoCG/ Historic Buildings and Monuments Commission for England and Applicant) notes that both parties agree that the survey data used to inform the baseline is adequate, and sufficiently detailed to undertake the assessment.
MGPP1	The MMO concurs with the applicant's worst case scenarios regarding the potential effects on marine geology, oceanography, physical process, marine water and sediment quality, as agreed under the Evidence Plan process.

ID	Comment and Applicants response
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and has nothing further to add on this matter.
MGPP6	The MMO is satisfied that the borehole logs undertaken within the East Anglia THREE site, and the modelling simulations, are acceptable for the assessment undertaken.
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and has nothing further to add on this matter.
HRA4	The MMO is satisfied that the current wording of the draft DMLs is sufficient to ensure delivery of the mitigation considered in the HRA report with regards to lethal effects from underwater noise.
Applicant's response	The Applicant welcomes the MMO's confirmation of the above and has nothing further to add on this matter.
FN1	The MMO is in agreement with the applicant's assessment of impacts on fish and shellfish species and that no additional mitigation is required. However any representations from the fishing industry should be carefully considered
Applicant's response	The Applicant welcomes the MMO's confirmation of the above. The Applicant has consulted widely with the fishing industry to date and will continue to do so and to consider any questions they raise.

1.5 Natural England

ID	Comment and Applicants response
EL1	Natural England is satisfied that the ecological surveys and data sources referenced in the ES are fit for purpose.

ID	Comment and Applicants response
	Therefore, we have no outstanding concerns with the terrestrial ecology baseline data.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
EL6	<p>Since the EA ONE Terrestrial Ecology Chapter and water vole survey report were completed a new displacement licence for water voles has become available, which can be found here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/532191/cl31-watervole-displacement-licence.pdf</p> <p>This licence covers intentional damage or destruction of water vole burrows and disturbance and displacement to water voles occupying burrows during lawful development works.</p> <p>And anyone wishing to use it must first apply to Natural England to be registered to do so.</p> <p>Natural England agrees that, due to the presence of water vole signs at six water courses that may be affected during the onshore cabling process, pre-construction surveys should be carried out at the six watercourses that previously showed signs of water vole presence. We advise that if the survey confirms presence of water voles and it is not possible to avoid impacts to the burrows (due to the installation of the bailey bridges) then it is likely that a licence will be required. However note that Natural England does not decide whether a licence is required; this is the responsibility of the applicant</p>
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
EL7	<p>In our view it is not possible to mitigate for the effects of temporary loss of sections within bat linear features, such as, field drains and ditches due to the construction of the cable and haul roads, but we do not anticipate that the loss of habitat is likely to result in a significant effect on any bat species. We note that the majority of passes during the bat activity surveys were common and soprano pipistrelles, with half of the linear features surveyed also noting presence of Myotis and Plecotus species. The works may evidently affect the species most commonly found around the site on a local level, but we do not consider that the works, due to their temporary nature and the conservation status and behaviour of the bat species most often surveyed within the area, that this will result in a significant effect on to any species on a local or national level. We therefore agree that this issue has been assessed correctly as minor adverse</p>

ID	Comment and Applicants response
	<p>at district level. We also welcome the lighting mitigation, in accordance with the Bat Conservation Trust’s Bats and Lighting in the UK guidelines (2009).</p> <p>However, if Local Planning Authorities decide that mitigation measures are required then it may be possible in some locations to mitigate temporary loss of hedgerows, by placement of appropriate ‘gap fillers’ when construction activities are not happening. But that will have to be determined on a site by site basis.</p>
Applicant’s response	<p>The Applicant welcomes Natural England’s confirmation of the above. It should be noted that the retention of the haul road would now only be between projects (i.e. the completion of East Anglia ONE and commencement of East Anglia THREE) with phasing of works along the onshore cable route no longer being a consideration.</p>
ELO1	<p>Natural England advises that standard best practice is that at least two years of data is collected, to ensure inter-annual variation is taken into account and providing a robust assessment. However, combining the baseline surveys for East Anglia One (winter 2011-12), the 2013-14 survey, and consideration of the WeBS data does provide sufficient information to make an assessment in this instance.</p> <p>It is also important to consider that mitigation, in the form of a winter working restriction, which will be secured through the DCO, is already proposed. This means that regardless of how high the wintering bird population is the impact will be minimal due to the restrictions to working when disturbance may have otherwise occurred.</p>
Applicant’s response	<p>The Applicant welcomes Natural England’s confirmation of the above and has nothing further to add on this matter</p>
BE3	<p>Natural England is content that a preconstruction survey of habitats of ecological importance (including all biogenic reef) is secured under condition 13(b)(iii) of the DML.</p> <p>Also in Table 3 of the In Principle Monitoring Plan (IPMP) [APP-295] the Applicant states that drop down video will be used for pre-construction monitoring surveys where <i>Sabellaria spinulosa</i> reef have been identified by geophysical surveys. Natural England is content that this addresses our concerns regarding the ground truthing of the geophysical surveys to assess ‘reefiness’.</p> <p>In the Applicant’s relevant representation reply letter to Natural England (31st May 2016) they commit to agree any survey methodology with Natural England at least 4 months prior to the survey works. Natural England is content that this undertaking by the applicant addresses the issues raised in the Examiners question. Recognising that the MMO</p>

ID	Comment and Applicants response
	will consult Natural England on the survey results and the requirement for any mitigation measures.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter
BE4	<p>The Applicant has proposed to amend the DCO with the following condition: "No gravity base foundations may be installed in any area of the seabed with mobile sand waves of 5 metres or more, as identified by the swath-bathymetry survey carried out under condition 17(2)(b), unless otherwise agreed in writing by the MMO."</p> <p>Natural England is content with the inclusion of the condition above.</p>
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter
BE5	Natural England's position on sample site 30 following further discussions with the Applicant is discussed in paragraph 6.6.9. of its Written Representations.
Applicant's response	The Applicant has agreed wording with the MMO for a DML condition to be included in the draft Order. The Applicant welcomes Natural England's confirmation that they are content with this approach and has nothing further to add on this matter
BE6	Natural England's position on Orford rMCZ following further discussions with the Applicant is discussed in paragraph 6.6.10. of its Written Representations.
Applicant's response	Following further discussion with Natural England at a meeting on the 8th of June, the Applicant has undertaken an assessment of the potential impacts of the proposed project upon the Orford Inshore rMCZ. This is currently being consulted upon as part of Other Environmental Information and will be submitted to the ExA along with all responses received once the consultation is complete.
BE8	Natural England and the Applicant have discussed the homogeneity comment in the ES and have come to the agreement that the intention of the Applicant's comment was to highlight that the habitats in the site are relatively common across the southern north sea. Natural England is content with this explanation and therefore doesn't request

ID	Comment and Applicants response
	any further information.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter
BE9	The Applicant has agreed to use the southern north sea throughout its assessment of cumulative impacts. Natural England is satisfied with this consistency
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter
ECO1	Natural England's outstanding issues in regard to offshore ornithology are discussed in-depth in section 6.5. of its Written Representations.
Applicant's response	The Applicant has responded to any points covered in Natural England's Written Representation in a separate document (Deadline 3/ Applicant's Comments/WR). Therefore we only respond in this document and the answers below to those matters not covered elsewhere.
ECO3	<p>Natural England's outstanding issues in regard to offshore ornithology are discussed in-depth in section 6.5. of its Written Representations. Specifically the points raised in the Examiner's Question are covered in the following paragraphs of NE's Written Representation:</p> <p>Question (a) – paragraphs 6.5.5. – 6.5.8.</p> <p>Question (b) – paragraphs 6.5.9. – 6.5.18</p> <p>Question (c) – paragraphs 6.5.19 – 6.5.25 Question (d) – paragraphs 6.5.26 – 6.5.28</p>
Applicant's response	The Applicant has responded to any points covered in Natural England's written representation in a separate document (Deadline 3/ Applicant's Comments/WR). Therefore we only respond in this document and the answers below to those matters not covered elsewhere.

ID	Comment and Applicants response
ECO4	<p>As with Natural England’s answer to question ECO3 (above) the points raised in the Examiner’s Question are covered section 6.5 of Natural England’s Written Representation.</p> <p>Specific questions not covered in our Written Representation are answered below:</p> <p>(c)(iv) - The only proposal that is likely to result in reducing collision would be to increase the hub height of turbines, thereby reducing the proportion of birds flying at potential collision height. NB: other options are available, but these affect the viability of the project.</p> <p>(d) – Agree with the Applicant’s assessment in ES for LBBG, therefore there is no requirement for further consideration of collision risk</p> <p>(e)(i) – NE considers there is no need for further consideration for herring gull collision risk.</p>
Applicant’s response	<p>The Applicant welcomes Natural England’s confirmation of the above and has nothing further to add on these matters.</p>
ECO5	<p>The following agreements have been reached between Natural England and the Applicant:</p> <p>(a) (ii) – Natural England and the Applicant have come to agreement regarding impacts on gannet from the project alone (Section 3f of SoCG).</p> <p>(iii) - Please see section 6.5.9 – 6.5.18 of the WR.</p> <p>(iv) - Natural England and the Applicant have come to agreement regarding red-throated diver (section 6c of SoCG).</p> <p>(b) (i) – In their Relevant Representation reply letter of the 31st of May 2016 the Applicant clarified that the MigroPath model was used and Natural England agree that this model is suitable.</p> <p>(ii) – In their Relevant Representation reply letter of the 31st of May 2016 the Applicant confirmed that breeding season impacts were used</p> <p>(iii) – In their Relevant Representation reply letter of the 31st of May 2016 the Applicant made it clear that</p>

ID	Comment and Applicants response
	<p>they based their assessment of collision impacts using nocturnal activity factors, and did not propose that these are amended, despite their concerns that they may be precautionary. Natural England is content with this approach.</p> <p>(iv) – the Applicant has provided a combined assessment for gannet (in the: ‘Response to NE Section 56 Consultation Annex 1:Ornithology and Updated Cumulative Collision Risk Tables’ dated 31st May 2016). Natural England is content with this approach.</p> <p>(v) – We agree with the Applicant’s position in their response letter (31st May 2016) that updating Table 13.35 will have no material change to the assessed impact.</p>
Applicant’s response	<p>The Applicant welcomes Natural England’s confirmation of points (a) ii, (a) iv, (b) I – v above and has nothing further to add on these matters.</p> <p>The Applicant has responded to (a) iii in our response to Natural England’s Written Representation (Deadline 3 / Applicant’s Comments /WR).</p>
ECO6	<p>(c) Natural England discusses the suitability of the In Principle Monitoring Plan (IPMP) in paragraphs 6.5.30 and 6.5.31 of the Written Representation. Natural England’s view is that kittiwake is not the only receptor where there may be adverse ecological impacts. The offshore ornithological monitoring as currently proposed in the In Principle Monitoring Plan [APP-295] does not give consideration to monitoring impacts to these receptors in particular the displacement of auks.</p> <p>(d) Natural England is content that the current conditions in the dDMLs provide sufficient certainty about the delivery of monitoring measures. Natural England considers the IPMP to be a live document which will be updated in recognition of evolving technologies and knowledge. With detailed methodologies being agreed upon on before commencement of surveys</p>
Applicant’s response	<p>The Applicant acknowledges Natural England’s comments on the IPMP but notes that this document is at an early stage of development. The Applicant will continue to engage with Natural England on the content of the IPMP to ensure that appropriate monitoring requirements are identified.</p>

ID	Comment and Applicants response
ECO7	(c) – Natural England has no outstanding concerns regarding the impacts on SSSIs as a result of the proposed development.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
ECO8	Following submission of NE's relevant representations the Applicant acknowledged the change in conservation status of kittiwake, puffin, and red-throated diver in their Relevant Representation reply letter of the 31st of May 2016. Natural England does not consider the change in conservation status will materially alter the conclusions of the impact assessment.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
ECO9	Natural England recognises that the evidence is unclear as to the sensitivity of guillemot to the presence of wind farms. As the Applicant has presented matrices based on a full range of displacement and mortality Natural England are content with the Applicant's assignation of sensitivity.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
ECO10	Natural England is in agreement with the Applicant that dDML Condition 13 (a) A design plan, (b) A construction programme and monitoring plan (c) A construction method statement in accordance with the construction methods assessed in the environmental statement is sufficient to ensure that no piling events will exceed scenarios assessed in the ES.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
ECO11	Natural England is in agreement with the Applicant that dDML Condition 13 (a) A design plan, (b) A construction programme and monitoring plan (c) A construction method statement in accordance with the construction methods

ID	Comment and Applicants response
	assessed in the environmental statement is sufficient to ensure maximum vessel numbers will not exceed the scenarios assessed in the ES.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
ECMM1	Natural England is content that the overall project piling durations presented and assessed in the EIA are realistic and based on what the Applicant thinks is achievable and realistic.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
ECMM2	Natural England does consider that maximum hammer energy should be a condition of the DCO. The Applicant has run worst case scenario assessments in their Environmental Statement using hammer energy of 3500kJ; we consider this to be an appropriate maximum as a condition of the DCO.
Applicant's response	The Applicant proposes to amend the draft Order to include this.
ECMM4	Natural England is satisfied that inter-related effects on marine mammals have been considered in the Applicant's ES. However, assessment of in-combination effects may be necessary during the harbour porpoise pSAC HRA, details of which are still being developed by NE and JNCC in order to advise the Applicant.
Applicant's response	<p>The Applicant welcomes Natural England's confirmation of the above with regard to inter-related effects and has nothing further to add on this matter.</p> <p>The Applicant will continue to discuss the approach to in-combination effects with regard to the pSAC HRA with NE once the advice of JNCC and NE is available.</p>
ECMM5	Natural England is content with the Applicant's assessment of impacts from oil and gas exploration. However, underwater noise generated by oil and gas exploration and other activities may contribute to the assessment of in-combination effects during the harbour porpoise pSAC HRA, details of which are still being developed by NE and

ID	Comment and Applicants response
	JNCC in order to advise the Applicant.
Applicant's response	<p>The Applicant welcomes Natural England's confirmation of the above with regard to impacts from oil and gas exploration and has nothing further to add on this matter.</p> <p>The Applicant will continue to discuss the approach to in-combination effects with regard to the pSAC HRA with NE once the advice of JNCC and NE is available.</p>
ECMM6	<p>Version 1 of the DEPONS model has now been completed, with further work planned to improve the model and refine the input data. However, the model still needs to be run under various scenarios which reflect the currently anticipated cumulative piling schedules of projects in the North Sea.</p> <p>As previously agreed, Natural England is content that the delivery of DEPONS (if it is as expected) provides a more appropriate level of monitoring at the population scale than site-based studies and that this scale is more appropriate for monitoring the effects of wind farm construction on the harbour porpoise population in the North Sea.</p> <p>Work is still being undertaken on the PCoD model and results are expected by the end of Summer 2016. When the PCoD results are available, they will provide further information to assess the impacts of cumulative pile driving in the English part of the North Sea. However, this model is not currently set up to provide information about piling across the entirety of the North Sea (which is what is anticipated from the DEPONS work).</p>
Applicant's response	The Applicant has nothing further to add on this matter.
ECMM7	Natural England agrees with the Applicant's cumulative impact assessment presented in ES Chapter 12, but reiterates that there is still a need to undertake a HRA for the harbour porpoise pSAC.
Applicant's response	<p>The Applicant welcomes Natural England's confirmation of the above with regard to the CIA and has nothing further to add on this matter.</p> <p>The Applicant will continue to discuss the approach to the pSAC HRA with NE once the advice of JNCC and NE is available.</p>

ID	Comment and Applicants response
ECMM8	Natural England is content with the Applicant’s assertion that the final MMMP will be developed in consultation with NE.
Applicant’s response	The Applicant welcomes Natural England’s confirmation of the above and has nothing further to add on this matter.
ECMM10	<p>Natural England considers measures drafted in the MMMP are in line with current best practice, and we do not consider it necessary to recommend no pile driving during construction.</p> <p>In terms of disturbance, the applicant has assessed if disturbance is likely to be significant and NE agree with their conclusions, therefore again, NE do not consider that a piling ban is recommended. However, NE again reminds the applicant and the Examining Authority that a HRA will need to be carried out for porpoise, which will assess significant disturbance in terms of the pSAC.</p> <p>If an animal enters the mitigation zone, as agreed as part of the MMMP, during the 30 minute pre piling watch, the soft start will be delayed until after the animal has moved out of the mitigation zone. However, if an animal enters the mitigation zone during piling operations they are considered to be there of their own volition, despite the noise being generated by construction works and piling is not required to cease.</p> <p>To NE’s knowledge there has never been a mortality incident seen or recorded during piling (in or out of the mitigation zone). NE agrees that any such incident would need to be recorded and investigated. Currently there is no guidance on the procedure if a dead marine mammal is seen on site and is something that may need to be developed by the SNCBs.</p> <p>However, the applicant may decide to apply for an EPS licence, which would assess whether the mitigation is suitable to prevent injury or death and in which case would cover the applicant in the event of a mortality event.</p>
Applicant’s response	The Applicant has nothing further to add on this matter.
ECMM11	Natural England considers the measures drafted in the MMMP to mitigate potential injury to marine mammals (particularly harbour porpoise) during construction. It is not the purpose of the MMMP to include measures to mitigate disturbance effects to marine mammals and a further document may be required for that. However, pending the

ID	Comment and Applicants response
	Hornsea Project two determination and conclusion of the SNCB discussions on management measures for the site, Natural England is currently unable to advise further on this.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and confirms that consultation will be ongoing with Natural England once their advice is available.
ECMM12	Please see answer above (ECMM11)
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and confirms that consultation will be ongoing with Natural England once their advice is available.
ECMM13	The consenting regime in the UK does not currently require noise levels generated by offshore wind farm construction to be kept under a certain threshold. For this to be implemented in the UK, Natural England considers a change in legislation would be required and this would be a matter for Government
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
MGPP1	Notwithstanding Natural England's concern regarding minimum burial depth of the export cable (paragraph 6.6.8. of our Written Representations), Natural England concur with the Applicant's worst case scenario regarding potential effects of the project on marine geology, oceanography, physical process, marine water and sediment quality.
Applicant's response	The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.
HRA1	<p>As the potentially impacted European sites, the conservation objectives for the Flamborough Head and Bempton Cliffs SPA and Flamborough and Filey Coast pSPA are included in section 5.3 of our Written Representation. Links to the conservation objectives for the SPA's Natural England considers to be unaffected by the project are as follows:</p> <p>Deben Estuary SPA -</p> <p>http://publications.naturalengland.org.uk/publication/5749484436848640</p>

ID	Comment and Applicants response
	<p>Outer Thames Estuary SPA - http://publications.naturalengland.org.uk/publication/4927106139029504</p> <p>Alde-Ore Estuary SPA - http://publications.naturalengland.org.uk/publication/5170168_510545920</p>
Applicant's response	N/A
HRA2	<p>Natural England does not consider the Outer Thames Estuary pSPA consultation will materially affect this project unless the operational port requires vessels to transit the pSPA to reach the array/export cables and in that instance best practice for vessel movement can be adopted to remove any LSE to rafting red throated divers (see point 6c in the SoCG between NE and the Applicant). Therefore, the Applicant's HRA report for the Outer Thames Estuary remains fit-for-purpose.</p>
Applicant's response	<p>The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.</p>
HRA3	<p>Natural England can confirm that we agree with the Applicant's screening out of the Greater Wash SPA in their HRA report.</p> <p>In terms of future consultation on this site, Natural England have submitted our formal advice to Defra and we are awaiting confirmation of the next steps.</p>
Applicant's response	<p>The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.</p>

ID	Comment and Applicants response
HRA4	<p>Natural England advises that it is unlikely that lethal effects associated with underwater noise would arise from any activities other than driven or part-driven piles.</p> <p>Natural England are content that the current wording of the draft DMLs is sufficient to ensure the mitigation considered in the HRA report, including the MMMP, will be delivered.</p>
Applicant's response	<p>The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.</p>
HRA8	<p>Natural England can confirm that herring gull is not a qualifying feature of the Alde-Ore Estuary SPA.</p> <p>We can also confirm that there have not been, nor are there any forthcoming, formal consultations that have brought about any additions to the SPA or RAMSAR site.</p> <p>However, as presented in 'Expert Report on coastal and offshore ornithology' by Richard Caldow on 30 July 2013 for the East Anglia ONE Examination – herring gull are assemblage features of the Alde-Ore Estuary SPA.</p>
Applicant's response	<p>N/A</p>
HRA10	<p>Natural England's progress with the Applicant in regard to HRA is covered in detail in its Written Representations and the SoCG which will be submitted by the Applicant on Deadline 2.</p>
Applicant's response	<p>The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.</p>
FN1	<p>Natural England can confirm that impacts on fish and shellfish species during construction, operation and decommissioning will be no greater than minor adverse; therefore, we are content that no additional mitigation is required.</p>
Applicant's response	<p>The Applicant welcomes Natural England's confirmation of the above and has nothing further to add on this matter.</p>

1.6 RSPB

ID	Comment and Applicants response
ELO1	The RSPB can confirm that it accepts the data for the onshore assessment are sufficient
Applicant's response	The Applicant welcomes the RSPB's confirmation of the above and has nothing further to add on this matter.
ECO2	The RSPB's key outstanding issue relates to the potential in-combination collision mortality to gannets (and kittiwakes) of the Flamborough and Filey Coast pSPA and Flamborough Head and Bempton Cliffs SPA (FFC pSPA/FHBC SPA). We have requested that the Applicant raises the height of the turbines by 10m in order to reduce the number of birds flying at potential collision height and therefore reduce East Anglia THREE's contribution to in-combination mortality (see our RR [RR-035] for details of height increases and subsequent mortality reductions). Following submission of our RR, the Applicant has replied to inform us that they are willing to continue discussions on this issue.
Applicant's response	The Applicant has responded to the above points in a separate document (Document reference: Deadline 3 / Applicant's Comments / WR). Therefore we only respond in this document to those matters not covered elsewhere.
ECO3	<p>The RSPB has had discussions regarding these issues with the Applicant post-acceptance but at present our position on these issues remains as follows (for more information on our concerns please see our written representations):</p> <ul style="list-style-type: none"> a) The RSPB considers that PBR is inappropriate for the assessment of significance of mortality from collisions. We recommend that PVA is used instead. b) The RSPB has no further comments regarding guillemot, razorbill and puffin displacement. c) Collision - kittiwake <ul style="list-style-type: none"> i) The RSPB welcomes the Applicant's population modelling but notes the approach of using any BDMPS population for PVA is novel, and requires greater explanation and consideration as to whether it is actually biologically meaningful. Natural England's proposed methods for examining impacts on the regional population have merit and requires further exploration

ID	Comment and Applicants response
	<p>ii) The RSPB considers that density independent PVA outputs should be used as the strength and form of density dependence is not known for this population.</p> <p>d) Collision - great black-backed gull</p> <p>i) The RSPB recommends that a PVA is developed to assess the impacts of collision risk on great black-backed gull (note that our concerns regarding this species are for in-combination impacts).</p> <p>ii) The RSPB has no comments regarding this issue.</p>
Applicant's response	<p>The Applicant has responded to the above points in a separate document (Document reference: Deadline 3 / Applicant's Comments / WR). Therefore we only respond in this document to those matters not covered elsewhere.</p>
ECO4	<p>The RSPB has had discussions regarding these issues with the Applicant post-acceptance but at present our position on these issues remains as follows (for more information on our concerns please see our written representations):</p> <p>a) The RSPB has no further comments regarding guillemot, razorbill and puffin displacement.</p> <p>b) Collision risk - gannet</p> <p>i) The RSPB's recalculation of the collision risk modelling for gannet, based on our preferred parameters, indicates that East Anglia THREE contributes around 10% of the total in-combination collision mortality to gannets of FFC pSPA. We therefore recommend that the turbine height is raised by 10m in order to reduce the percentage of birds flying at collision height. This would have the effect of reducing East Anglia THREE's contribution to in-combination collision mortality from 10.3% to 4.3%.</p> <p>ii) The RSPB agree with Natural England's position stated in their Relevant Representations that further population modelling of the in combination collision mortality impacts on the wider population be carried out.</p> <p>c) Collision risk – kittiwake</p> <p>i) As stated above, the RSPB considers that PBR is inappropriate for the assessment of significance of mortality from collisions. We recommend that references to PBR are removed and that PVA outputs alone are reported instead.</p> <p>ii) As stated above, the RSPB considers that density independent PVA outputs should be used as the</p>

ID	Comment and Applicants response
	<p>strength and form of density dependence is not known for this population.</p> <p>iii) We recommend that the PVA should be applied at both the regional population level and for the FFC pSPA/FHBC SPA population. Is this right?</p> <p>iv) As above for gannet, the RSPB recommend that the turbine height is raised by 10m in order to reduce the percentage of birds flying at collision height. This would have the effect of reducing East Anglia THREE's contribution to in-combination collision mortality at the regional scale from 23 to 8 birds.</p> <p>d) The RSPB has no comments regarding this issue.</p> <p>e) The RSPB has no comments regarding this issue.</p> <p>f) Collision risk – great black-backed gull</p> <p>i) The RSPB considers that in-combination mortality to great black-backed gull is reaching levels that may be of concern. We do not agree that assessment based on PBR is appropriate and therefore recommend that a PVA is developed to assess the impacts of in-combination collision risk on great black-backed gull. We note that our recommendation to raise the turbine height by 10m would also be of benefit for this species. The Applicant has informed us that they are willing to continue discussions on this issue.</p>
Applicant's response	<p>The Applicant has responded to the above points in a separate document (Document reference: Deadline 3 / Applicant's Comments/WR). Therefore we only respond in this document to those matters not covered elsewhere.</p>
ECO6	<p>We wish to highlight at this stage that monitoring cannot be regarded as a mitigation measure since it has no ability to reduce or offset possible adverse effect on the SPA/pSPA nor their species.</p> <p>a) n/a</p> <p>b) n/a</p> <p>c) Our detailed comments on the monitoring proposals are set out in our Written Representations. While we agree in principle that the approach proposed is appropriate, we recommend that details of the survey design, modelling and analysis are agreed with a Scientific Steering Group. We request that the RSPB are consulted regarding these details through such a Steering Group.</p> <p>d) We note that condition 19 (3) of Schedule 10 and 11 provides for 'up to 3 years' of post-construction monitoring. We</p>

ID	Comment and Applicants response
	recommend that this is changed to 'a minimum of 3 years' to ensure consistency with the IPMP.
Applicant's response	The Applicant acknowledges RSPB's comments on the proposed monitoring but notes that these plans are at an early stage of development. The Applicant will continue to engage with the RSPB to ensure that appropriate monitoring targets and methods are identified.
ECO8	The change in status of kittiwake (from amber to red listed) adds to our concerns around in-combination mortality to this species. As previously detailed, we advocate a rise in the height of the turbines to reduce East Anglia THREE's contribution to in-combination collision mortality.
Applicant's response	The Applicant acknowledges this additional concern from the RSPB. However, the change in kittiwake status in the most recent Birds of Conservation Concern review (BoCC) from amber to red does not reflect new information (i.e. which was unavailable during the assessment) but rather reflects the ongoing decline in this species' populations. As such this information had already been taken into account in the assessment and this change in BoCC status does not materially alter our approach to the assessment or the interpretation of the results.
ECO9	The RSPB has no comments regarding this issue.
Applicant's response	The Applicant welcomes the RSPB's confirmation of the above and has nothing further to add on this matter
HRA10	Our SoCG with the Applicant covering HRA issues has been submitted at Deadline 2, as requested.
Applicant's response	N/A

1.7 The Crown Estate

ID	Comment and Applicants response
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ID	Comment and Applicants response
CA7	You will be aware of the Crown Estate Commissioners position in relation to section 135 of the Planning Act 2008 and the need for the appropriate Crown authority to provide consent to the acquisition of an interest in Crown land held otherwise than by or on behalf of the Crown before a DCO can be made. According the Crown Estate Commissioners position remains as per our letter to the Applicant of 22 June 2016
Applicant's response	The Applicant notes that TCE provided their consent in the letter of 22 June 2016 (Document reference: Deadline 1/DCO ISH/s135 Consent).
CA9	We will need to consider this and revert shortly
Applicant's response	The Applicant is in discussions with TCE regarding this matter.

1.8 The Wildlife Trusts

ID	Comment and Applicants response
HRA5	<p>We understand this question to be asking whether we are satisfied with the current wording of the draft DMLs for delivery of marine mammal mitigation in general, as we have not yet seen information in the HRA report on the Southern North Sea pSAC. In relation to the DML condition which references the MMMP, we do not believe that this is adequate as it stands. The draft MMMP submitted with the application only includes measures which mitigate the risk of death or injury and does not address the wider issue of disturbance. The draft DML condition presently only refers to the MMMP aiming to prevent acoustic disturbance, which the draft MMMP will not do, as it stands. We believe that this condition should refer to the MMMP preventing 'injury and/or disturbance' and should also define injury and disturbance by reference to the Offshore Marine Conservation (Natural Habitats, &c.) Regulations, 2007. Unless this condition is revised, we do not believe there is adequate security that the required mitigation would be delivered.</p> <p>Furthermore, we believe that further conditions will be required after consideration of an updated HRA report and subsequent conclusion of appropriate assessment of the Southern North Sea pSAC. We have strong concerns that the detail of these mitigation protocols / EPS licence applications are not done with any requirement for public consultation. We believe that this is not compliant with the Aarhus convention (pillar 2 on public participation in decision making). We set a precedent in the Dogger Bank Teesside A&B wind farm DMLs, where the Royal Society of Wildlife Trusts was named as a consultee for the MMMP and see no reasonable argument as to why that wouldn't also apply in this application. Whilst we have had confirmation from the Applicant in the Statement of Common Ground that</p>

ID	Comment and Applicants response
	they will informally consult with us, we still believe that, as per the Aarhus convention, there should be provision for public participation on these plans.
Applicant's response	<p>The dMMMP presented by the Applicant as part of the application submitted in November 2015 is intended to mitigate the risk of death or injury to marine mammals, however the draft Order states that it covers disturbance. Disturbance is traditionally covered by the requirement for a European Protected Species (EPS) licence. The Applicant proposes to update the draft DMLs accordingly.</p> <p>Discussions are currently on-going with Natural England regarding management advice for the Southern North Sea pSAC. The Applicant awaits further advice from NE in order that it can update and finalise the report to inform the HRA.</p> <p>With regard to obligations to consult on management measures post-consent, the Applicant considers that by consulting on the dMMMP at this stage, all consultation obligations are fulfilled, because the final MMMP must accord with the principles contained in the dMMMP. Therefore to the extent that relevant matters are consulted on and included in the dMMMP, they will also be included in the final MMMP. Notwithstanding this, the Applicant has already committed to engage with both TWT and Whale and Dolphin Conservation. However, formal consultation (and the range of consultees) is a matter for the MMO.</p>

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