

From: [REDACTED]
To: [East Anglia ONE North](#); [East Anglia Two](#)
Subject: RSPB Deadline 10 submission for East Anglia ONE North and East Anglia TWO examinations
Date: 06 May 2021 08:21:22
Attachments: [RSPB Response EA1N EA2 Deadline 10 submission FINAL 06 May2021.pdf](#)

Dear Sir/Madam

Planning Inspectorate refs [EA ONE North; EA TWO]: EN010077; EN010078
RSPB Registration Identification refs [EA ONE North; EA TWO]: 20024733; 20024734

Please find attached the RSPB's joint written submission for Deadline 10 of the examinations into the East Anglia ONE North and East Anglia TWO offshore windfarm proposed development consent orders. We have provided a single submission as it applies equally to both proposals.

I would be grateful if you could confirm receipt of this submission.

With kind regards

Andrew Dodd
Head of Casework
RSPB



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**Written Representations
for the
Royal Society for the Protection of Birds**

Submitted for Deadline 10

6 May 2021

Planning Act 2008 (as amended)

In the matter of:

**Application by Scottish Power Renewables for an
Order Granting Development Consent for the
East Anglia ONE North/East Anglia TWO Offshore Windfarms**

Planning Inspectorate Ref: EN010077/EN010078

Registration Identification Ref: 20024733/20024734

1 Introduction

- 1.1 This representation applies jointly to the development consent order (the DCO) applications by Scottish Power Renewables (the Applicants) for the East Anglia ONE North (EA1N) and East Anglia TWO (EA2) offshore windfarms (collectively “the applications”).
- 1.2 This submission is the RSPB’s combined response to the Applicants’ Deadline 9 submissions for each scheme entitled “Applicants’ Comments on the Royal Society for the Protection of Birds’ Deadline 8 Submissions” (both numbered REP9-020).

Scope of Written Submission

- 1.3 This Written Submission covers the following a small number of the comments set out in REP9-020. It should be read in conjunction with the RSPB’s previous submissions to the Examination, in particular our submissions at Deadline 4 (REP4-097), Deadline 8 (REP8-171) and Deadline 9 submission (REP9-071). This submission also takes account of the RSPB’s final position on adverse effect on integrity conclusions that are set out in a final Offshore Statement of Common Ground (SOCG) with the Applicant (REP8-105) submitted at Deadline 8 and summarised in RSPB REP8-171.

2 Response to Applicants' REP9-020

Introduction

2.1 In Table 1 below we set out the RSPB's response to the Applicants' comments (REP9-020) on the RSPB's Deadline 8 submission.

Table 1: The RSPB's response to the Applicants' comments on the RSPB's Deadline 8 submission set out in REP9-020.

Reference	Text	RSPB comments
Main table		
Point 6	The Applicants updated the <i>Offshore Ornithology Without Prejudice Compensation Measures</i> document at Deadline 8 (REP8-090) to include more detail following meetings with Natural England and Defra.	The RSPB refers the Examining Authority to its comments on this general issue at Deadline 9 (REP9-071).
Point 6	It is important to stress that the Applicants consider the without prejudice compensation measures being proposed can all be delivered, if required, and that the nature of the RSPB's concern is merely in relation to the level of detail currently presented, which has been expanded upon in the updated document submitted at Deadline 8.	The RSPB refers the Examining Authority to its previous responses including Deadline 9 (REP9-071).
Point 7	The Applicants consider that the wording of Schedule 18 of the DCO is sufficiently flexible and allows for strategic or collaborative working	The RSPB has noted the Applicants' comment but remains of the view that there remains a lack of detail on how such strategic or collaborative working on compensation measures with other developers would be made to work e.g. in legal and financial terms.
Points 12 (& 13a)	Point 12: The Applicants strongly disagree that ' <i>the ability to create successful artificial nesting structures for kittiwakes with a reasonable guarantee of success is unproven and would be experimental</i> '. It is well documented that kittiwakes nest on artificial structures, both purpose built and otherwise (e.g. bridges etc.). It is the case that productivity varies, but this fact means there is an ample evidence base on which to draw to ensure that new structures are designed that will have a high probability of being successful (i.e. lessons can be learned from comparison of existing colonies).	The RSPB refers the Examining Authority to its previous comments on this measure. The evidence for successful, consistent and predictable establishment and growth of artificial nesting colonies for this species is equivocal and certainly not proven from the perspective of the deliberate provision of compensation measures with a "reasonable guarantee of success".
Point 14	In addition, the Applicants have included a secondary compensation measure within Appendix 7 of REP8-090 to manage ornithological by-catch from fisheries from which gannet are known to be susceptible.	Please see the RSPB's detailed Deadline 9 comments on the applicant's bycatch proposals (REP9-071).

Reference	Text	RSPB comments
Point 15	The Applicants have updated the <i>Offshore Ornithology Without Prejudice Compensation Measures</i> document at Deadline 8 (REP8-090) to include more detail following meetings with Natural England and Defra and have included additional detail as far as this is possible on the rat eradication measure including a shortlist of potential sites	Please see the RSPB's Deadline 9 comments (REP9-071). We do not consider the additional information provided at Deadline 9 sufficient to demonstrate that the Applicants' have secured each compensation measure with a "reasonable guarantee of success".
Table 1		
Targeted	The compensation measures proposed are all ecological in nature (e.g. reduced predation, improved productivity, reduced displacement) and have been selected on the basis of their ability to compensate for the predicted impacts and will last for the duration of the Projects (and in some cases beyond, e.g. rat eradication from islands).	The RSPB refers the Examining Authority to its previous comments on the various individual compensation measures proposed by the Applicants' in terms of their proven ecological applicability for the impacted species.
Effective	Regarding timescales, the Applicants note that the EC guidance does not state that compensation measures are required to be implemented in perpetuity.	<p>The RSPB notes that the Secretary of State required the Hornsea Three kittiwake compensation to be provided beyond the lifetime of the development (Schedule 14, Part 1, paragraph 7¹):</p> <p><i>"The artificial nest structures must not be decommissioned without written approval of the Secretary of State. The artificial nest structures shall be maintained beyond the operational lifetime of the authorised development if they are colonised, and routine and adaptive management measures and monitoring must continue whilst the artificial nesting structures are in place."</i></p> <p>This recognises the case put forward by Natural England and the RSPB that limiting the compensation to the lifetime of the development was inappropriate. The Secretary of State specifically amended the condition proposed by Hornsea Three.</p>
Extent	For clarity, all the proposed compensation measures are considered to have a high probability of success.	The RSPB refers the Examining Authority to its previous comments on the various individual compensation measures proposed by the Applicants' in terms of their <u>proven</u> ecological success for the impacted species.

¹ [The Hornsea Three Offshore Wind Farm Order 2020](#)

Reference	Text	RSPB comments
Timing	<p>The Applicants have taken account of the need for compensation to be fully functional in advance of predicted impacts occurring. It is important to stress that the suggestions of ‘time lags’ referred to by the RSPB would only be of a short duration (e.g. 1-2 years) and have only been included as an acknowledgement of the potential for unforeseen circumstances to introduce delays. The Applicants would endeavour to avoid such situations but have taken a pragmatic view on this matter.</p>	<p>The RSPB refers the Examining Authority to its previous comments on the various individual compensation measures proposed by the Applicants’ in terms of their proven ecological success for the impacted species.</p> <p>More detailed work is required to demonstrate the Applicants’ point for each impacted species given each species’ different breeding ecology, and the level of confidence associated with the proposed compensation measure for that species.</p> <p>For example, in respect of kittiwakes, the RSPB noted in the final paragraph of page 13 in REP4-097:</p> <p><i>“Productivity rates and timescale to achieve and the required population levels: If colonisation occurs it would likely then take several years for a new structure to be fully occupied. If colonised by new recruits, it is also likely that productivity would be lower in the first few years after colonisation than in later years. Therefore, it could be many years before the projected productivity could be achieved from any new structure”</i></p> <p>This is a summarised version of detailed concerns set out in respect of the Hornsea Three kittiwake compensation proposals. For example, we refer the Examining Authority to paragraphs 2.13 to 2.22 of the RSPB’s response to the Secretary of State’s “minded to approve” consultation for the Hornsea Three project.² These relate to the following:</p> <ul style="list-style-type: none"> • The size of the compensation population required; • The length of time the compensation is required; • The inherent uncertainty as to whether artificial nesting structures will succeed.

RSPB
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² [RSPB comments on Responses to the Secretary of State Consultation 3 for Hornsea Three Offshore Wind Farm](#)