



**The RSPB's responses to the Examining Authority's
R17QF Written Questions**

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

**Submitted for Deadline 12
28 June 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 RSPB response to the Examining Authority's R17QF Questions

1.1 We have set out the RSPB's answers to the Examining Authority's R17QF questions in the table below.

Question	Question to:	Question	RSPB answer
R17QF.4	The RSPB	<p>Offshore Ornithology Without Prejudice Compensation Measures [REP11-070]</p> <p>In page 57 of [REP11-070], the Applicants have referenced perceived benefits due to reducing conflict between recovering gull breeding numbers and protecting avocets and other ground nesting birds from gull predation.</p> <p>To the Applicants:</p> <p>a) Please expand on how any particular benefits for avocets and other ground nesting birds at Havergate Island would occur should fencing be erected at Orford Ness.</p> <p>b) Is there a danger that an increased gull population at Orford Ness could actually have the effect of increasing gull predation of ground nesting birds at Havergate Island?</p> <p>c) As a more general matter with regard to all of the compensation measures proposed within [REP11-070], please set out how any wider knock-on effects, either beneficial or negative, on other species that might arise from the implementation of the proposed without prejudice compensation measures (for example, rat eradication, predator proof fencing, by-catch measures and artificial nesting sites) have been or would be assessed. This should cover both SPA-qualifying and other species.</p>	<p>The RSPB has sought to respond to the Examining Authority's questions as far as we can. Our answers are based on our experience of discussing and negotiating compensation proposals with developers over the last 20 years or so and the lessons learned from that experience.</p> <p><u>Question (a)</u></p> <p>The RSPB refers the Examining Authority to its previous response on the same issue. At paragraphs 3.26-3.28 of our Deadline 8 submission (REP8-171) we stated:</p> <p>"3.26 At paragraph 209 (Appendix 5, lesser black-backed gull), the Applicant states that: <i>"Establishing a protected area for lesser black-backed gulls at Orford Ness would also reduce the conflict between recovering gull breeding numbers and protecting avocets and other ground nesting birds from gull predation at Havergate Island."</i></p> <p>3.27 The reference to a claimed benefit to the RSPB's Havergate Island reserve (part of the Alde-Ore Estuary SPA) is mistaken and based on an outdated understanding of the RSPB's management priorities for this reserve which we have corrected in other offshore wind farm examinations.</p> <p>3.28 The RSPB is already managing Havergate Island to benefit breeding lesser black-backed gulls. Separately, site management measures at Orfordness are also required to benefit breeding lesser black-backed gulls and restore</p>

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		<p>d) What would be the decision-making mechanism regarding the overall acceptability (or not) of any such knock-on effects that have been identified, and how would these effects be monitored and, if required, mitigated?</p> <p>e) For example, would it be appropriate to amend article 3 of parts 1-6 of Schedule 18 of the dDCO to include a requirement to include within the relevant Implementation and Monitoring Plan an assessment of any potential wider ecological effects (positive and negative) of the proposed compensation measures? If not, why not?</p> <p>To Natural England and RSPB:</p> <p>f) Do Natural England or RSPB have any observations to make on these points, or practical experience of relevance?</p>	<p>the SPA population. Below we quote from paragraph 5.5 in the RSPB’s Deadline 18 submission to the Norfolk Boreas examination (REP18-038, dated 12 October 2020)¹:</p> <p><i>“...As stated by the RSPB in REP10-067 and other submissions, the RSPB’s management priority at Havergate Island is now to provide positive management for breeding lesser black-backed gulls. This will inevitably respond to the specific management needs at Havergate Island, distinct from the management challenges faced at Orfordness.</i></p> <p><i>Relying on Havergate Island alone will not enable the [Alde-Ore Estuary] SPA population of lesser black-backed gulls to be restored, as the carrying capacity of Havergate Island has largely been reached and cannot accommodate the additional pairs necessary to achieve the target population. To restore the SPA population to favourable condition requires site management measures to be carried out at Orfordness. This requires the experimental research to be carried out; to date, this has not taken place. Given that lesser black-backed gulls typically breed in their fourth year, should the research be commissioned it will take several years before results would be available to identify the most appropriate SPA site management measures to restore the colony at Orfordness...”</i></p> <p>In its Deadline 9 response (REP9-020) to the RSPB’s Deadline 8 submission repeated above, the Applicants’ comment (at Point 17 on page 23) was “Noted”. Therefore, we are surprised that the Applicants’ have not amended the relevant text in their</p>

¹<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010087/EN010087-002559-DL18%20-%20RSPB%20-%20Deadline%20Submission.pdf>

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			<p>Deadline 11 submission and which led to the Examining Authority's question.</p> <p><u>Question (b)</u> On the basis of the answer to Question (a) above, the RSPB's conclusion is no: this is because the priority for management at the RSPB Havergate reserve is lesser black-backed gulls.</p> <p>The RSPB also manages land outside the Alde-Ore Estuary SPA on the adjacent Suffolk coast. The management priority of this land is targeted at those SPA species displaced from Havergate by the increase in the lesser black-backed gull population e.g. avocet, terns. The management for this land already takes account of its proximity to the Alde-Ore Estuary SPA and its lesser black-backed gull population.</p> <p><u>Question (c), (d) and (e)</u> The Examining Authority's questions touch on the important issue of the sequencing of informed decision-making in respect of compensation proposals and the tension that currently exists in dealing with proposals that are very much outline proposals with little, if any, practical detail. It also relates to the answers provided to the Examining Authority's Question 3.2.8 (level of detail in relation to [compensation] implementation) at Deadline 11 and the reason why it is important to ensure the availability of sufficient information at the point of DCO consent on the implications of each proposed compensation measure e.g.:</p> <ul style="list-style-type: none"> • The nature and location of the proposed measure(s) and an assessment of whether it is likely to have a reasonable guarantee of success; • Whether it has been legally secured through relevant consents and agreements.

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			<p>As the RSPB’s answer to Question 3.2.8 highlighted (REP11-127)², there are some highly significant and detailed considerations for the various compensation measures that it is both essential and appropriate to consider before DCO consent is granted, rather than assume a highly outline compensation measure can be translated in to a detailed and workable measure “on the ground” at a later date and all the necessary consents and agreements successfully secured.</p> <p>Satisfying these issues prior to DCO consent being granted should, in general terms, ensure it is possible to:</p> <ul style="list-style-type: none"> • Identify the location and mechanism(s) of the proposed compensation measure in detail; • Identify the relevant consenting and/or licensing mechanisms required. Depending on location and mechanism, we consider these are likely to go beyond the outline changes to article 3 of parts 1-6 of Schedule 18 of the dDCO suggested in part (e) of the Examining Authority’s question; • Identify any potential impacts of the proposed measure on the receptor site and surrounding environment and carry out appropriate screening; • Based on this, identify any particular impact assessment requirements necessary which might arise from likely direct and indirect effects of the compensation measure on other receptors (e.g. Environmental Impact Assessment, Habitats Regulations Assessment, SSSI consents etc); • Once these have been completed and relevant processes completed, be satisfied that the relevant legal consents are secured, assuming consent for the compensation measure is granted by the relevant decision-making authority. If

² <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010077/EN010077-005276-DL11%20-%20Royal%20Society%20for%20the%20Protection%20of%20Birds%20Written%20Questions.pdf>

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			<p>consent has not been granted, the Examining Authority and Secretary of State would know in advance.</p> <p>This would in turn enable the Examining Authority and Secretary of State to be able to make a fully informed decision on whether proposed compensatory measures have been secured, have a reasonable guarantee of success and therefore will protect the overall coherence of the National Sites Network.</p>

**RSPB
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