



16th March 2022

Gareth Leigh
Head of Energy Infrastructure Planning
Department for Business, Energy and Industrial Strategy
1 Victoria Street
London
SW1H 0ET

Dear Mr Leigh

**East Anglia ONE North Limited (the “Applicant”)
The Proposed East Anglia ONE North Offshore Windfarm Order
Application Ref. EN010077**

East Anglia ONE North Clarifications in relation to Natural England’s letter dated 15th March 2022

We refer to the letter submitted by Natural England (“NE”) on 15th March 2022 in response to your letter of 14th March 2022.

We write to clarify one matter in respect of the proposed East Anglia ONE North offshore windfarm project (“EA1N”). In the letter NE state that a separation distance of 8km was offered by the Applicant in respect of the EA1N project in their submission on 31st January 2022 (***Applicants’ Responses to the Secretary of State Questions of 20th December 2021 (Item 5)***) (hereinafter referenced as “the 31st January response”). We can confirm that no such submission was made by the Applicant. The Applicant was requested to provide an updated layout plan showing a project boundary at a distance which would result in no disturbance of red throated divers within the Outer Thames Estuary Special Protection Area (the “SPA”). On the basis of prior discussion with NE, it was known their position would be set at a distance of 10km. The Applicants carefully considered the various distances from the SPA and were able to conclude that a project beyond 8km would not be viable.

It is understood that NE believe that the movement of the boundary to 8km in respect of EA1N is required because it is a feasible alternative in terms of the derogation tests set out in the Habitats Regulations.

The Applicant’s position in respect of this matter is set out in paragraphs 18 to 21 of the 31st January response. If the Secretary of State were to reach a conclusion that there was an adverse effect on the integrity arising with a separation distance of 2km as the Applicant has applied for, then as a matter of law the derogation tests set out in Habitats Regulations has to be applied. Paragraph 19 sets out that any buffer beyond 2km is not a feasible alternative because it would reduce the project capacity and therefore no longer meet the project objectives.

ScottishPower Renewables, 320 St Vincent Street, Glasgow G2 5AD
Telephone 0141 614 0000



The Applicant's submission in relation to this point is supported both by the existing and proposed Defra guidance on compensation. The existing guidance published in 2012, Defra's *Habitats Directive: guidance on the application of article 6(4)*, at paragraph 10, states:

"Alternative solutions are limited to those which would deliver the same overall objective as the original proposal."

Defra consulted last summer on draft further guidance *"Best practice guidance for developing compensatory measures in relation to Marine Protected Areas"*. This included paragraphs 20 and 22.

Paragraph 20: *"Alternative solutions or other means of proceeding should be limited to those which would deliver the same overall outcome for the activity whilst creating a substantially lower risk of impact to the MPA."...*

Paragraph 22: *"In considering alternative means of proceeding, the responsible authority will do so on a case by case basis in a manner proportionate to the scale of the activity and any impacts being considered."*

In that context, the Applicant set out distances in paragraphs 19 to 21 which the Secretary of State can consider in the context of the last of the derogation tests which is the effectiveness of compensatory measures. It was on that basis that the Applicant submitted the various distances from the SPA together with the 8km buffer being the last one at which the project would be viable. It enables the Secretary of State to consider the adequacy of the compensation offered given the range of scenarios presented.

Table 4-3 on page 20 of the Technical Appendix sets out the compensation ratios, including using the crude and unrealistic straight line approach. This discloses that even at 2km for EA1N the in combination compensation ratio together with the proposed East Anglia TWO offshore windfarm project is nearly 1:7 in respect of reduced shipping displacement alone. This increases to 5:1 at 6.5km and 9:1 at 8km.

Page 14 of the Technical Appendix sets out that at 6.5km the effective area of displacement would be 17.08km² with a displacement of 24.72 birds. At 8km, the figure is 8.38km² and 10.34 individual birds. Table 2 on page 4 of the 31st January response confirms the difference in installed capacity would be 88.2MW. As set out in paragraph 22 of the draft guidance, the recommendation is that a responsible authority should consider matters on a case by case basis and in a proportionate manner. Based on the compensation that is now available, it is evident that the in combination compensation would be effective for a buffer size closer to the SPA than 8km. This is clearly recognised in the ratios set out above. It was on this basis that the Applicant prepared data based on different buffer sizes. It is entirely related to the effectiveness and scale of the compensation, both in respect of the shipping and other measures.

We would be grateful if you could kindly acknowledge safe receipt of this letter.

Yours faithfully



Brian McGrellis, Senior Project Manager
East Anglia ONE North Limited

ScottishPower Renewables, 320 St Vincent Street, Glasgow G2 5AD
Telephone 0141 614 0000