

From: [REDACTED]
To: [East Anglia ONE North](#); [East Anglia Two](#)
Subject: RSPB Deadline 4 submission for East Anglia ONE North and East Anglia TWO examinations
Date: 13 January 2021 17:02:43
Attachments: [RSPB Response EA1N EA2 Deadline 4 submission \(FINAL 13012021\).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 4 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.

With kind regards

[REDACTED]
Head of Casework
RSPB



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

Submitted for Deadline 4

13 January 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 applications by Scottish Power Renewables (the Applicant) 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 Applicant’s Deadline 3 submissions for each scheme entitled “HRA compensatory measures” (both numbered REP3-054).

Scope of Written Submission

- 1.3 This Written Submission covers the following:
 - Response to Section 1 Introduction (REP3-054): the RSPB’s current position on the question of adverse effect on integrity
 - Response to Section 3 Compensation Measures (REP3-054)
- 1.4 In this submission, we will refer to the RSPB’s Deadline 1 submission (REP1-180), the latest draft Statement of Common Ground submitted at Deadline 3 (REP3-080). Due to ongoing resource constraints, we will also refer to submissions made in respect of other, recent offshore windfarm schemes where those are relevant to the issues raised by REP3-054.

2 Response to Section 1 Introduction (REP3-054, EA1N and EA2): the RSPB's current position on the question of adverse effect on integrity Introduction

- 2.1 We refer the Examining Authority to section 2 of the RSPB's Deadline 1 submission (REP1-180) for an overview of the SPAs and features affected by the EA1N and EA2 schemes, with particular reference to the site conservation objectives and associated supplementary advice.
- 2.2 In paragraph 4.3 of its Deadline 1 written submission, the RSPB set out its position on the question of adverse effect on integrity relating to various seabird species and their Special Protection Areas (SPAs). This position is also reflected in the latest draft Statement of Common Ground between the RSPB and the Applicant submitted at Deadline 3 (REP3-080).
- 2.3 In section 1 of each REP3-054, the Applicant restates its conclusions that there is no adverse effect on integrity on any of the SPAs and their seabird features.
- 2.4 The RSPB continues to be in disagreement with the Applicant on these conclusions.

Implications of in-combination impacts: illustration using outputs from population viability analyses

- 2.5 Many of the RSPB's concerns relate to in-combination impacts on the various seabird species from the succession of offshore windfarm projects. Our main point is that every additional wind farm exacerbates the cumulative impact on the relevant SPA seabird population and makes it more difficult for SPA conservation objectives to be met. These additional impacts will act to make the conservation status of the various seabird species less favourable, especially those species already in decline and for which a restore objective has been set.
- 2.6 To help illustrate our concerns, we refer briefly here to RSPB evidence submitted at Deadline 15 of the Norfolk Boreas examination (REP15-013)¹ in respect of two species of concern for the EA1N and EA2 schemes:
 - Kittiwakes from the Flamborough and Filey Coast SPA (paragraphs 7.11-7.20 of REP15-013);
 - and

¹ https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010087/EN010087-002478-DL15%20-RSPB%20response_Norfolk%20Boreas_Deadline%2015%20submission_FINAL.pdf

- Lesser black-backed gulls from the Alde-Ore Estuary SPA (paragraphs 7.37-7.43 of REP15-013).

2.7 In simple terms, the RSPB ran Population Viability Analyses (PVAs) for each species for a range of scenarios incorporating cumulative collision mortality for offshore wind farms. All models were density-independent, deterministic models. These models were designed to mimic those submitted by the Norfolk Boreas applicant, with collision mortality figures, and demographic parameters, taken from the Norfolk Boreas Assessment (and the references therein).^{2,3}

2.8 The graphs below show the relative reduction in population size of respective SPA species, known as the Counterfactual of Population Size, due to the combined collision mortality after the lifetime of the developments. The key point to note is that each bar on the graph represents the cumulative reduction in relative population size, including that added by the labelled wind farm, showing that each is contributing to that reduction.

Kittiwakes at the Flamborough and Filey Coast SPA

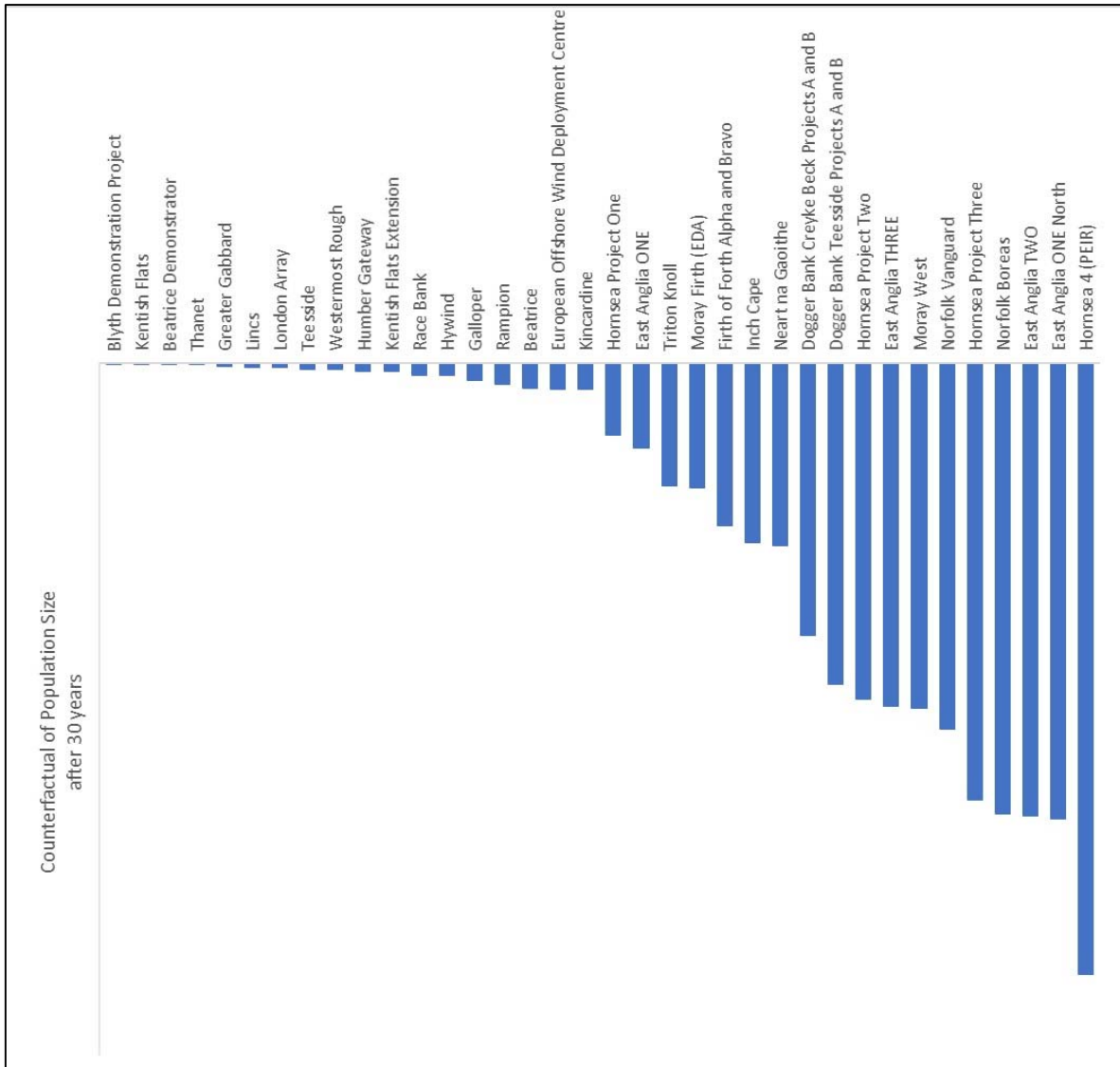
2.9 Figure 1 below repeats Figure 4 from the RSPB's Deadline 15 submission to the Norfolk Boreas examination.⁴ As noted above, it highlights that every additional wind farm exacerbates the cumulative impacts on the population, making it increasingly difficult to achieve the restore conservation objective and associated supplementary advice targets for the species at this site. It also shows that both EA1N and EA2 will act to increase the cumulative impacts acting on kittiwakes from the Flamborough and Filey Coast SPA, moving the population further away from its restore conservation objective.

² Norfolk Boreas Offshore Wind Farm. Offshore Ornithology Assessment Update Cumulative and In-combination Collision Risk Modelling (Clean) April 2020, Version 2 (REP8-025). Table 2.2 for Kittiwake and Table 2.3 for Lesser Black-backed Gull

³ In respect of kittiwake PVA analysis, the RSPB notes that some of the figures differ from those given in Natural England's response to the Norfolk Boreas Examining Authority's Fifth round of Written Questions (Q5.8.6.2, REP14-064), where the CPS value is 13.7%. This is because, while the RSPB agrees with the more precautionary parametrisation of the model that Natural England use, in order to illustrate the scale of the impacts we decided to use the applicant's less precautionary approach and therefore mirrored their approach.

⁴ See Norfolk Boreas Examination Rep15-013: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010087/EN010087-002478-DL15%20-RSPB%20response_Norfolk%20Boreas_Deadline%2015%20submission_FINAL.pdf

Figure 1: Extract from REP15-013 to the Norfolk Boreas Examination. Outputs of a Population Viability Analysis showing the predicted % reduction in population size of the Flamborough and Filey Coast SPA kittiwake population after 30 years (the Counterfactual of Population Size, CPS) due to the combined collision mortality for all offshore wind farms where collision risk has been estimated for this SPA (including operational, under construction, consented and in planning). Each bar on the graph represents the reduction in relative population size caused by the labelled wind farm and all previous wind farms (i.e. all those to the left of it on the graph).

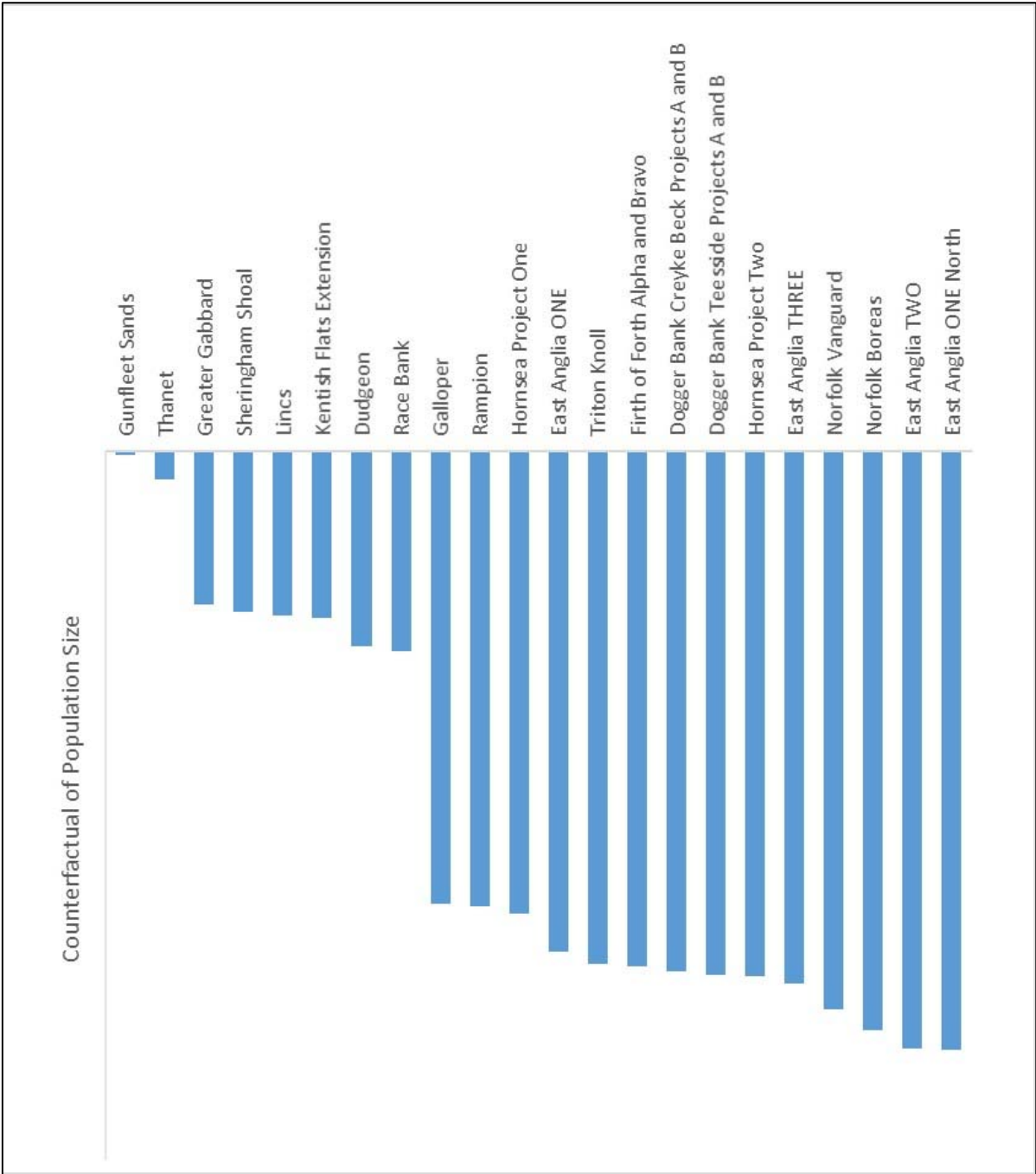


Lesser black-backed gulls at the Alde-Ore Estuary SPA

2.10 Figure 2 below repeats Figure 6 from the RSPB's Deadline 15 submission to the Norfolk Boreas examination.⁵ It highlights the further deterioration from its current unfavourable population level, making it increasingly difficult to achieve the restore conservation objective and associated supplementary advice targets for the species at this site. It is therefore not possible to conclude no adverse effect on integrity as a result of collision mortality through the project in-combination. It also shows that both EA1N and EA2 will act to increase the cumulative impacts acting on lesser black-backed gulls from the Alde-Ore Estuary SPA, moving the population further away from its restore conservation objective.

Figure 2: Extract from REP15-013 to the Norfolk Boreas Examination. Outputs of a Population Viability Analysis showing the predicted % reduction in population size of the Alde-Ore Estuary SPA Lesser Black-backed Gull population after 30 years (the Counterfactual of Population Size, CPS) due to the combined collision mortality for all offshore wind farms where collision risk has been estimated for this SPA (including operational, under construction, consented and in planning). Each bar on the graph represents the reduction in population size caused by the labelled wind farm and all previous wind farms (i.e. all those to the left of it on the graph).

⁵ See Norfolk Boreas Examination Rep15-013: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010087/EN010087-002478-DL15%20-RSPB%20response_Norfolk%20Boreas_Deadline%2015%20submission_FINAL.pdf



2.11 Due to ongoing capacity constraints, we have been unable to repeat this work for EA1N and EA2 using the Applicant’s and Natural England’s figures but would recommend this work is carried out if possible.

Summary of the RSPB's current position on adverse effect on integrity arising from EA1N and EA2

2.12 In summary, the RSPB's current position remains as follows:

Flamborough and Filey Coast SPA

- **Gannet:** alone and in-combination effects due to collision risk
- **Kittiwake:** in-combination effects due to collision risk
- **Guillemot:** in-combination effects due to displacement
- **Razorbill:** in-combination effects due to displacement
- **Seabird assemblage:** in-combination effects due to the combined effects of collision risk and displacement on the above species.

Alde-Ore Estuary SPA

- **Lesser black-backed gull:** in-combination effects due to collision risk.

Outer Thames Estuary SPA

- **Red-throated diver:** in-combination effects due to displacement although this position, and that on project alone effects, is under review following further submissions from the Applicant.

3 Response to Section 3 Compensatory Measures (REP3-054)

Introduction

3.1 This section sets out the RSPB’s comments on section 3 “Compensatory Measures” in the REP3-054 documents for both EA1N and EA2 applications. Unless otherwise stated, our comments apply to both applications. We have set our comments out under the following headings:

- “Initial screening” (section 3.1)
- Compensation measures: Flamborough and Filey Coast SPA
 - Kittiwake
 - Gannet
 - Guillemot and razorbill
- Compensation measures: Alde-Ore Estuary SPA
 - Lesser black-backed gull
- Compensation measures: Outer Thames Estuary SPA (EA1N only)
 - Red-throated diver

3.2 Based on the RSPB’s view on adverse effect set out in section 2, we consider the matter of compensatory measures remains relevant to all the above SPA features and that significantly more evidence is required from the Applicant to be able to demonstrate both to the Examining Authority and the Secretary of State for Business, Energy and Industrial Strategy that it has secured the necessary compensation measures to address the potential adverse effects. Such evidence should be submitted in a timely manner to enable it to be fully scrutinised as part of the examination process. This would be necessary in order to meet both the relevant legal tests and the standards set out by the Secretary of State in both his “minded to approve”⁶ and “decision letter”⁷ in respect of the Hornsea Three offshore wind farm (paragraphs 7.3-7.4 and paragraphs 6.3-6.4 respectively).

⁶ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003225-Hornsea%20Project%20Three%20Minded%20To%20Letter%20-%201%20July%202020.pdf>

⁷ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003265-EN010080%20Hornsea%20Three%20-%20Secretary%20of%20State%20Decision%20Letter.pdf>

In those letters, the Secretary of State was clear that the examination was the appropriate place to consider any such proposals and that no reliance could be placed on post-examination consultation as occurred with the Hornsea Three scheme.

Comments on “initial screening” section (section 3.1)

- 3.3 Paragraph 11 could be read to imply that the RSPB considers all “screened in” compensatory measures as “suitable” to be taken forward. The RSPB notes that this is not necessarily the case. Therefore, in order to assist the Examining Authority understand our current position on the “screened in” compensatory measures, we have set out below our relevant comments on the Applicant’s screening document.
- 3.4 The RSPB notes that in paragraph 12, the Applicant refers to the RSPB’s comments on the issue of prey enhancement as a potential compensation measure during the screening exercise. The Applicant is correct in stating that the RSPB did not consider it a viable measure for a developer at this time. However, in order to aid the Examining Authority, we thought it would be helpful to provide the text of our full comment:

“Agree, do not progress. It is not a viable measure for a developer at this time. It is properly for Government to take the lead in order to ensure adequate food supply for those breeding seabirds in the North Sea and elsewhere affected by fishery management.

As we have noted elsewhere (e.g. see [RSPB comments on Hornsea 3 and Norfolk Vanguard compensation proposals, dated 22 April 2020](#)⁸), the RSPB agrees that reversing the reduction in prey availability to kittiwakes (caused by a combination of climate change and fisheries pressure) is essential to secure recovery of the general kittiwake population and specific colonies. For (SPA) colonies in unfavourable status, such as the FFC SPA, it would properly be regarded as a site management measure at this time. Further work is required to understand how it might be put into effect and what benefit particular measures (type and scale) could provide.

⁸ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003217-The%20Royal%20Society%20for%20the%20Protection%20of%20Birds%20-%20Resposne%20to%20SoS%20Consultation%203.pdf>

Any consideration of fisheries management as a possible future compensation measure requires careful analysis (ecological, legal and policy) to determine whether or not it is appropriate to be considered as a potential compensation measure and under what circumstances.”

- 3.5 To summarise, we considered it was, in principle, a viable measure but that it was not currently in control of the developer to secure. This is consistent with our view in respect of similar proposals relating to the Hornsea Three offshore windfarm. In that context, the RSPB notes that the Secretary of State for BEIS’s recent consent for the Hornsea Three offshore windfarm scheme includes a requirement for research into prey enhancement as a potential compensation measure should it be required in the future as alternative compensation for impacts on breeding kittiwakes from the Flamborough and Filey Coast SPA (see Hornsea Project Three Development Consent Order, Article 45 and Schedule 14 (Compensation Measures), Part 1 (Kittiwake Compensation Measures), paragraph (3)(i)).⁹ The RSPB is still in the process of giving detailed consideration of that decision and reserves the right to make further comment if it is deemed relevant to the EA1N and EA2 schemes.

Comments on compensation measures: Flamborough and Filey Coast SPA

- 3.6 Table 1 in each REP3-054 document sets out the potential compensation measures the Applicant proposes to take forward in respect of two FFC SPA species: gannet and kittiwake. We make more detailed comments on these immediately below. However, we wish to record that we also consider compensatory measures for guillemot and razorbill should remain under consideration given the RSPB’s view that potential adverse effects on these two features of the FFC SPA cannot be ruled out at this stage. For this reason, we also set out the RSPB additional suggestion in respect of these species made in our comments on the Applicant’s screening exercise.

Gannet compensatory measures

- 3.7 In Table 1, the Applicant has proposed the construction of artificial nesting sites as a potential compensatory measure for breeding gannets and made the following comment under “Further work required”:

⁹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003266-EN010080%20Hornsea%20Three%20-%20Development%20Consent%20Order.pdf>

“This measure was accepted as feasible in principle. Further work will be undertaken to explore this measure based on the following point raised by NE and RSPB:

Clear evidence of the efficacy of this measure for this species (including the use of models and playback) required”

- 3.8 The RSPB’s comment at screening was much more sceptical of this measure than is implied by the point set out above: we did not accept it as feasible in principle. We set out our comment in full below:

“We question the sense in progressing this as there is no evidence this will work for gannet. We would need to be provided with good quality scientific evidence demonstrating the efficacy of this measure for this species (including the use of models and playback) before we consider it a possible viable measure.”

- 3.9 The RSPB added:

“Given the challenges associated with compensating for the impacts on breeding gannets, the RSPB would be happy to continue to explore and discuss the identification of possible viable compensation measures for this species.”

Kittiwake compensatory measures

- 3.10 In Table 1, the Applicant has proposed the construction of artificial nesting sites as a potential compensatory measure for breeding kittiwakes. The RSPB did agree that, in principle, this was a viable measure to take forward, albeit with significant caveats. To assist the Examining Authority, we set these out in full below:

RSPB comments

“The RSPB agrees with taking forward this measure for this species. However, we have serious concerns which have been expressed elsewhere, most recently in our comments on the Norfolk Boreas equivalent proposal (e.g. see [REP17-012](#): sections 2(c), 2(d),). We have summarised those comments in the “Barriers to be overcome” section.

We specifically refer SPR to our comments in section 3 (c) and Table 5 of Norfolk Boreas [REP17-012](#) on the approach to setting the compensation objective (c.f. benefit here). We consider a focus on recruiting birds to the Flamborough and Filey Coast SPA itself to be inappropriate.”

Barriers to be overcome

The RSPB considers that the ability to create successful artificial nesting structures for kittiwakes with a reasonable guarantee of success is unproven and would be experimental, whether the structures are located onshore or offshore. A number of factors require careful consideration, and in some areas critical additional research is needed in order to have any degree of confidence of success.

Location: *Access to a good food supply is critical to the likely success of this measure. Evidence suggests that a key limitation to kittiwake productivity is food supply e.g. Carroll et al 2017.¹⁰ Impacts of additional threats such as collision risk from current and planned wind farms must also be considered in relation to location.*

Design: *Further research is needed to determine the most appropriate design for a new artificial nesting structure, including: aspect, height above sea level, shelter from sun/prevaling wind, predators.*

Likelihood of colonisation: *this remains a significant area of uncertainty, especially if the structure is located away from an existing successful colony. Even if located adjacent to such a colony, it is not clear whether any colonisation would simply be of birds from an existing colony (by encouraging a shift in local distribution) rather than adding additional birds into the overall breeding population.*

Example of deliberate provision of alternative structure: *Gateshead kittiwake tower. Only supporting about 30% (100 pairs) of original target of 300 pairs: birds have nested elsewhere instead.*

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."

¹⁰ Carroll, M.J., Bolton, M., Owen, E., Anderson, G.Q.A., Mackley, E.K., Dunn, E.K., and Furness, R.W. (2017) *Kittiwake breeding success in the southern North Sea correlates with prior sandeel fishing mortality*. Aquatic Conservation: Marine and Freshwater Ecosystems 27: 1164-1175.

3.11 The RSPB also draws the Examining Authority's attention to its detailed comments on the Hornsea Three proposals for artificial nesting structures as a compensatory measure. The RSPB was in the process of evaluating these at the time of the EA1N/EA2 screening exercise. We consider they act as a useful reference point in respect of a "more detailed" proposal for this form of compensation.

3.12 As the Examining Authority will see, the RSPB expressed significant concerns over the adequacy of Hornsea Three's proposals as a compensatory measure.¹¹ At this stage, we draw the Examining Authority's attention to the following sections of text:

- Paragraph 1.1: overarching concerns at the lack of detail on technical and legal commitments and ecological confidence in the package of measures;
- Paragraph 1.2 et seq.: recommendations for changes to the draft Development Consent Order conditions; and
- Section 2: Introduction – in particular, paragraph 2.9 onwards where the RSPB sets out three major concerns with the approach proposed by the Hornsea Three applicant. These will all be relevant to consideration of the same measure in respect of the EA1N and EA2 projects.

Guillemot and razorbill compensatory measures

3.13 The Applicant's REP3-054 submissions omit any reference to guillemot and razorbill from the Flamborough and Filey Coast SPA. They were similarly omitted from the screening consultation. Therefore, to assist the Examining Authority, we set out our comments in full below.

"In line with the RSPB's current position that in-combination displacement impacts on guillemot and razorbill mean there are potential adverse effects on the integrity of these features of the Flamborough and Filey Coast SPA, we consider that discussions on compensatory measures should address these species."

Possible viable measure

Island restoration

¹¹ See RSPB Written Submission to Secretary of State for BEIS in the matter of the application by Orsted Hornsea Project Three (UK) Limited (dated 2 November 2020) <https://infrastructure.planninginspectorate.gov.uk/wp-content/jpc/uploads/projects/EN010080/EN010080-003259-RSPB.pdf>

Barriers to be overcome

The RSPB notes that there is evidence of benefits (to cliff nesting auks) in the UK in response to island restorations. It is important to note that for auks:

- *The sample size is small and therefore will not account for the potential variability in response, nor give an accurate indication of the scale of that variability;*
- *Our current UK data is very short term, so we do not have longer term studies (25 years+). This means it is not yet possible to identify long-term impacts of island eradication. Given the long-term deployment of wind farms, understanding the time span of studies is crucial to their applicability;*
- *Other factors will also be significant and will interact with predation and eradication. The most notable influence will be food supply, although this is likely to be more of a limiting factor in the more northern colonies.*

In general, the best benefits from island restoration are likely to be where populations can recover from mammal predation in situations where an abundant/regular supply of food is available.

To be properly considered as a compensation measure, a full-scale feasibility study would be required by a suitable eradication expert contractor. To be sure of a “reasonable guarantee of success”, any feasibility study must be carried out before DCO consent is granted and must be set against the 7 feasibility criteria set out in Table 1 on page 18 of the Manual of the UK Rodent Eradication Best Practice Toolkit (2018)¹² i.e.

- *Technically feasible*
- *Sustainable*
- *Socially acceptable*
- *Politically and legally acceptable*
- *Environmentally acceptable*
- *Capacity*
- *Affordable.*

Any biosecurity measures must be secured in perpetuity.”

¹² See: <http://www.nonnativespecies.org/index.cfm?pageid=613>

Comments on compensation measures: Alde-Ore Estuary SPA

3.14 In Table 2, the Applicant has proposed the use of predator control as a potential compensatory measure for breeding lesser black-backed gulls. The RSPB view is that this was possibly viable but must not be considered in isolation of other key factors and for reasons given it should not be taken forward in the form proposed. This remains our considered view.

3.15 Therefore, to assist the Examining Authority, we set out our comments in full below:

RSPB comments

“We refer SPR to our comments on the Norfolk Vanguard and Norfolk Boreas equivalent proposals on this proposed measure, most recently summarised in Norfolk Boreas [REP17-012](#): sections 2(b) and 3(b).

The proposed measure correctly identifies the need to target breeding productivity of lesser black-backed gull. However, it is too narrowly targeted at predation risk and fails to consider other key factors critical to successful breeding i.e. habitat quality, food availability, disturbance and flooding.

Focusing on one factor (predators) is short-sighted and risks inappropriately narrowing the identification of suitable sites for compensatory measures.

Besides this, predator control to benefit birds within the SPA is a site management measure necessary to restore the population to favourable status, and therefore cannot be considered a compensation measure. The search for compensation must explicitly start outside the SPA.”

Is this viable?

“Possibly but not in isolation of detailed consideration of other key factors important to successful breeding. See below for recommended broader approach to identifying suitable compensation measures and locations, including avoiding collision risk from offshore wind farms.”

Barriers to be overcome

“See RSPB comments on Norfolk Vanguard and Boreas proposals e.g. Norfolk Boreas [REP17-012](#): sections 2(b) and 3(b).”

3.16 In addition, we provided the following suggestions to the Applicant:

“Possible viable measures

Consideration of the feasibility of:

- *Creating new habitat to support breeding lesser black-backed gulls outside the existing protected area network for this species;*
- *Measures to increase the population of a large colony not protected by the existing lesser black-backed gull protected area network.*

Barriers to be overcome

In addition to agreement on detailed designs to meet agreed compensation objectives, among other things:

- *Identifying and securing suitable location to meet all the breeding requirements of the species, including necessary legal agreements with landowners and consenting authorities to demonstrate compensation measures can be delivered at the location proposed;*
- *Avoiding locations that expose birds breeding at compensation site to unnecessary risk e.g. collision risk with offshore wind farms.”*

Comments on compensation measures: Outer Thames Estuary SPA (EA1N only)

- 3.17 The proposed measure of navigation management is a new one. We note the Applicant’s statement that further work will be undertaken once the nature and scale of (residual) effects on wintering red-throated divers is understood. The RSPB therefore reserves its position on this proposal until further details are available.