



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

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East Anglia TWO Offshore Wind Farm

Appendix A15 to the Natural England Deadline 5 Submission

Natural England's Further Comments on the Requirement for Compensatory Measures [REP3-054] and the Applicant's Derogation Case [REP3-053]

For:

The construction and operation of East Anglia TWO Offshore Windfarm, a 900MW windfarm which could consist of up to 67 turbines, generators and associated infrastructure, located 37km from Lowestoft and 32km from Southwold.

Planning Inspectorate Reference: EN010078

3rd February 2021



Appendix A15 Natural England's Further Comments on the Requirement for Compensatory Measures and the Applicant's Derogation Case

This document is applicable to both the East Anglia ONE North and East Anglia TWO applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's (ExA) procedural decisions on document management of 23rd December 2019. Whilst for completeness of the record this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it again for the other project.

1) Introduction

This document provides comments based on points raised in the following documents submitted by the Applicant at Deadline 3:

- REP3-053 HRA Derogation Case
- REP3-054 HRA Compensatory Measures

2) Summary

i. Interim Advice

1. Further to Natural England's interim advice on the proposed compensatory measures provided at D4 [REP4-088] we would like to expand on certain aspects of our advice to help inform the Examining Authorities (ExA) recommendations and project determination phase. However, please be advised that our previous advice still stands, especially in relation to ensuring that every effort has been made to avoid, reduce and mitigate the impacts from the two project thus demonstrating that there are not alternative solutions to having to consider compensatory measures for the impacts.

Please note that the Norfolk Boreas project is a better example of how a derogations case could be progressed and presented. Therefore, the focus of this



document is on how the derogation processes should be improved, rather than whether or/not the compensation measures have offset the impacts

ii) Compensation packages

2. **The East Anglia ONE North (EA1N) and East Anglia Two (EA2) outline compensation packages submitted at Deadline 3 [REP3–054] is insufficient and therefore cannot be classed as a complete compensation package.**
3. We advise that without **detailed** descriptions of the proposed compensatory packages, which are evaluated in a way that demonstrates that the adverse effects **will be offset**, including detailed information on how they will be **secured** and **delivered**; there is a significant risk that the packages will not be robust enough to satisfy the compensatory measures derogation.
4. We advise that under the Habitat Regulations the onus is on the Applicant and the wider offshore windfarm sector to identify and deliver through innovation the best ecological options for compensation either at a project specific or strategic level, doing so in a way that addresses the difficulties and uncertainties associated with compensation for mortality and displacement impacts. In addition, regulators also need to ensure that all appropriate mechanisms needed to enable delivery of the most ecologically advantageous compensation options are in place.
5. Therefore, using lessons learnt from the Hornsea Project Three decision and requirements for delivery of that project's compensation packages, if clarity , could please be provided on what a comprehensive package must include to allow certainty in the consenting and implementation phase that impacts can be fully offset and delivered either at a project specific or strategic level. For example, if required, what are the Terms of Reference for Compensation Steering Groups, the roles of members and what is the approval process for measures? There are also questions such as to how long will measures need to be delivered for before progression to the next project phase?



3) Previous Decisions

6. Natural England notes that the Applicant's arguments in both the REP3–053 and REP3-054 often reference the Norfolk Vanguard decision. However, we urge caution in assuming that similar approaches will be followed, particularly given the incremental increase in mortality impacts as projects continue to come forward. For example; the subsequent Hornsea Project 3 decision has taken a different approach, particularly in relation to consideration of in-combination impacts on Flamborough and Filey Coast SPA kittiwakes where an adverse effect on integrity (AEoI) was identified and all of that project's impacts on kittiwake had to be compensated for.

7. In preparation for the Secretary of State (SoS) potentially requiring compensation, the Applicants for Hornsea Project 3, Norfolk Vanguard and Norfolk Boreas were required to provide, in consultation with Natural England, a much more comprehensive package for each species than the ones currently presented for EA1N and EA2. Furthermore, despite provision of these packages, for Hornsea Project Three there remain considerable post consent challenges in delivering the required compensation measures. For example, investigations remain ongoing to identify and secure appropriate locations for artificial nest sites that will offset the impacts to kittiwake with any degree of certainty. **Therefore, we advise that a complete, detailed, deliverable, and secured compensation package must be provided during the examination phase to provide the required confidence to the Secretary of State that the measures are feasible and likely to prove effective.**

8. In addition, should the Secretary of State require that all ornithology impacts are fully compensated for; then we would expect as a minimum, timeframes for delivering any compensatory measures for breeding seabirds (**prior to construction**) to be similar to Hornsea Project 3 i.e. four full breeding seasons.

4) Flamborough and Filey Coast SPA - Kittiwake Nest Sites

9. Natural England continues to advise that whilst the Applicant has focused on one project specific compensation option for kittiwake i.e. artificial nest sites, other options should still be considered e.g. increasing prey availability and prey



enhancement [REP4 – 088] to allow the SoS to consider a range of compensation options.

10. As more offshore windfarm NSIPs propose ‘without prejudice compensation measures’ for Flamborough and Filey Coast SPA kittiwake, the ability to deliver similar measures i.e. provision of artificial nest sites to increase the overall productivity of the population sufficient to offset the predicted impact is increasingly likely to become limited. This may arise as a consequence of various factors such as limited availability of appropriate locations or a limit to the availability of birds needed to recruit to the new structures.
11. For example: Natural England has recently advised the MMO on the Lowestoft Eastern Energy Facility outer harbour redevelopment scoping EIA (works planned for 2021/2022), and based on the proposals it appears highly unlikely that the progression of kittiwake structures at Lowestoft Harbour is feasible at this time for compensation measures. Furthermore, the Lowestoft – Aldeburgh coastline has soft, rapidly eroding cliffs which are protected and therefore structures that could affect natural coastal processes should be avoided along the coastal strip. These issues present significant challenges in the ability to deliver compensatory measures in these locations, and emphasise the need to bring forward detailed, deliverable and secured measures prior to consenting decision.
12. Even with unlimited appropriate nesting sites, the efficacy of this as a compensation measure is not without limit as there are other pressures on the population such as prey availability. There is also ongoing uncertainty regarding the presence of a pool of breeding-age kittiwakes that would otherwise not breed (or experience no or low productivity) that can recruit into a new nest site.
13. Therefore, Natural England advises that artificial nest site provision remains untested as a Habitats Regulations compensatory measure for this species in the UK. It will remain so until such time as the structures planned to be constructed by way of compensation in relation to the Hornsea 3 project are built, operational and shown by monitoring over several years to have delivered the required increase in population level reproductive output. At present, experience shows that only 50% of artificial nesting structures for kittiwakes are occupied at all and none of those



were fully occupied¹, which is further compounded by availability of appropriate sites in which to locate such structures.

14. However, given the point raised above about timescales for delivery of nest site compensation prior to project commencement i.e. four full breeding seasons, it is highly likely that other strategic options could become available during this time. Therefore, if the SoS identified that prey enhancement (or similar) should be taken forward as compensation for this project, it would be fitting to expect industry and regulators to implement the delivery of the compensation measure within a four year period (or sooner) prior to the commencement of the projects. **Therefore, we would welcome further wider consideration of compensation options and mechanisms for delivery.**

5) Outer Thames Estuary SPA – Red-throated Diver (RTD)

15. Natural England notes that if mitigation of a 10km buffer is adopted to remove an Adverse Effect on Integrity on OTE SPA, then ~40-50% of the array footprint of EA1N would no longer be available. However, the remaining ~100km² would still represent a large footprint for OWF development, which is greater than most Round 2 Offshore Windfarms (OWFs) and current pre-application consultations on extensions to those projects namely Dudgeon and Sheringham Shoal extensions. It is also acknowledged that like with all OWFs, the constructed Race Bank OWF² with an array footprint of 75km² has areas within it which have 'constraints' which make them unsuitable for infrastructure, so not all the 75km² has been used.

16. Therefore, we encourage the Applicant to explore further the option of a smaller array to enable a 10km buffer between the Outer Thames Estuary SPA to be accommodated and thereby reduce the predicted impact to a point at which compensatory measures may no longer be necessary to ensure the integrity of this site.

¹ Ørsted post examination submission to SoS updated to PINs website 2 October 2020

² Race Bank is a 575MW Round 2 offshore windfarm project located 17km off the North Norfolk Coast which became operational in 2018



17. If it is demonstrated that the above mitigation option would result in the project no longer being viable, then a comprehensive compensation package would need to be provided to fully offset the AEoI on OTE SPA Red-throated Diver.

18. As set out in our interim advice [REP4- 088] management of vessel traffic was provided as an example of reducing anthropogenic influences and impacts from disturbance. However, this measure would be dependent on being able to deliver navigational management of established shipping lanes for the purposes of compensation. It is our current understanding that the only other compensatory measure with a high degree of certainty in 'reducing anthropogenic influences', would be the removal of existing turbines from within the Outer Thames SPA. But, there may be other compensatory options to offset the displacement of non-breeding RTD which could be adopted alone or as part of a package at both a project and strategic level to ensure the integrity of the SPA. Therefore, the onus is on the Applicant to consider this further to meet the SoS requirements as set out in the Hornsea Project 3 decision letter where there is ongoing debate about AEoI.

6) Alde Ore Estuary SPA - Lesser Black-backed Gull

19. Natural England broadly agrees that a potential compensatory measure is addressing predation issues through the provision of predator exclusion fencing of the kind previously proposed by Norfolk Vanguard and Norfolk Boreas at strategic locations. Although this is feasible in principle there needs to be clarity where other projects have identified this option as a potential measure and whether this is also a valid option for this project. **We would therefore expect at least the same level of detail and consideration as undertaken by Vattenfall for the Norfolk Boreas Project with additional information on how this compensation measure will be different/additional to that project and secured.**