



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

**Submitted for Deadline 9
15 April 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 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 8 submissions for each scheme entitled “Offshore Ornithology Without Prejudice Compensatory Measures” (tracker versions, both numbered REP8-090). These represent tracked updates to earlier versions of the same document submitted at Deadline 6 (REP6-045).

Scope of Written Submission

- 1.3 This Written Submission covers the following:
 - Response to Appendices 1-6: comments where necessary on amendments since Deadline 6;
 - Response to Appendix 7: Secondary measure – Ornithological By-catch.
- 1.4 This submission should be read in conjunction with the RSPB’s previous submissions to the Examination, in particular our Deadline 4 submission on the screening of compensation measures (REP4-097) and Deadline 8 submission (REP8-171). 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 Appendices 1-6 (REP8-090, EA1N and EA2)

Introduction

2.1 Below we set out the RSPB's response to the Applicant's amendments to Appendices 1 to 6 in its original Deadline 6 submissions (REP6-045):

- Appendix 1: Kittiwake;
- Appendix 2: Gannet;
- Appendices 3 and 4: Guillemot and razorbill;
- Appendix 5: Lesser black-backed gull;
- Appendix 6: Red-throated diver.

Appendix 1: Kittiwake compensatory measures (artificial nesting sites)

2.2 The RSPB has reviewed the Applicant's amendments and consider that they represent no substantive change to the proposals set out in REP6-045 i.e. minor clarifications of approach in section 5.4.3 (Summary and Roadmap for Delivery of Compensation (if required)). Therefore, the RSPB refers the Examining Authority to its comments at paragraphs 3.8-3.10 of REP8-171.

Appendix 2: Gannet compensatory measures (encourage establishment of new colony/artificial nest sites)

2.3 The RSPB has reviewed the Applicant's amendments and consider that they represent no substantive change to the proposals set out in REP6-045 i.e. minor clarifications of approach in section 6.4.3 (Summary and Roadmap for Delivery of Compensation (if required)).

2.4 We have the following brief comments to make on the following paragraphs:

- **Paragraph 111:** the Applicant refers to the possible removal of plastic waste to reduce the risk of avoidable mortality at breeding gannet colonies. The RSPB makes the following observation based on its experience at the RSPB's Grassholm reserve and Special Protection Area (Pembrokeshire):
 - At Grassholm, the marine plastic on the island is embedded into nearly every gannet nesting pedestal. To remove it would destroy most of the c.36,000 nests and with it the fabric of the colony. There is a high risk the colony would desert and logistically it would not be possible to carry out such an operation;

- The impact plastics are having on the colony is negligible – out of a population of 72,000 birds (36k pairs) the RSPB cuts free around 50 birds a year on average (<95% fledglings) with roughly another 50 that are recorded as having died earlier in the season – i.e. ~0.15% of the population impacted. At Grassholm, the RSPB is already carrying out this measure at the end of the breeding season. This allows access to the whole colony in a way that avoids the risk of disturbance to the colony and the associated risk of desertion.
- **Paragraph 121:** the RSPB notes the additional text relating to the establishment of nesting colonies and refers the Examining Authority to its comments at paragraphs 3.11-3.14 of REP8-171.

[Appendices 3 and 4: Guillemot and razorbill compensatory measures \(rat eradication\)](#)

- 2.5 The RSPB has reviewed the Applicant’s amendments and consider that they represent no substantive change to the proposals set out in REP6-045 i.e. minor clarifications of approach in the sections entitled “Summary and Roadmap for Delivery of Compensation (if required)”.
- 2.6 We note the Applicant has added Tables 1 (Appendix 3) and 2 (Appendix 4) showing the rank order of islands identified by Stanbury *et al* (2017) for which rat eradication would offer benefits to breeding seabirds. We have the following brief comments on the tables:
- Please refer to the RSPB’s comments at paragraphs 3.15-3.20 in REP8-171;
 - The islands are identified as suited to rat eradication for the benefit of breeding seabirds in general. This does not indicate they are suitable to benefit guillemot or razorbill (see REP8-171);
 - The Shiant (Rank 4a in both tables) have already been subject to an eradication scheme;
 - Herm (Rank 25) is located in the Channel Islands and therefore outside UK jurisdiction.

[Appendix 5: breeding lesser black-backed gulls compensatory measures \(predator fencing\)](#)

- 2.7 The RSPB has reviewed the Applicant’s amendments and consider that they represent no substantive change to the proposals set out in REP6-045 i.e. minor clarifications of approach in section 9.4.3 (Summary and Roadmap for Delivery of Compensation (if required)).

2.8 We note that at paragraph 227, the Applicant refers to a Natural England approach to Defra with proposals for a strategic compensation option. While the RSPB welcomes the exploration of a strategic approach (see paragraph 2.8 in REP8-171), we note that the initiative cannot be relied upon for the purpose of these examinations as no legal mechanism to secure such an approach has been put forward for consideration.

[Appendix 6: non-breeding red-throated diver compensatory measures \(navigation management\)](#)

2.9 The RSPB has reviewed the Applicant's amendments and while we welcome the additional detail that is now provided, we consider that they represent no substantive change to the proposals set out in REP6-045. Therefore, the RSPB refers the Examining Authority to its comments at paragraphs 3.32-3.35 of REP8-171.

3 Response to Appendix 7: Secondary measure – Ornithological By-catch (REP8-090)

Introduction

3.1 Below we set out the RSPB’s response to the Applicant’s Appendix 7 “Secondary measure: Ornithological By-catch” under the following headings:

- The RSPB’s work on bycatch: UK and international;
- Comments on Appendix 7.

The RSPB’s work on bycatch: UK and international

3.2 The RSPB, through its hosting of the BirdLife International Marine Programme since 2004, has long-running and substantive expertise in mitigating seabird bycatch from both a grassroots and policy perspective. We have successfully pushed for seabird bycatch mitigation requirements in all the major tuna Regional Fisheries Management Organisations and established the ‘Albatross Task Force’ in South America and southern Africa, which has led to large reductions in seabird bycatch in target fishing fleets^{1,2}. We are active participants in the Seabird Bycatch Working Group of the Agreement on the Conservation of Albatrosses and Petrels (ACAP), helping to review and determine best practice ways to reduce the impacts of fisheries on seabirds, and in the past eight years have driven efforts to identify technical means of mitigating gillnet bycatch of seabirds.

3.3 The overall context for bycatch work in the UK is familiar across other marine conservation issues: characterised by a lack of data. Most notably, this includes:

- Poor understanding of the at-sea distribution of seabirds, but especially in the winter (where there is the suggestion of higher levels of bycatch in static nets based on the limited existing data set³);

¹ See: [Maree, B.A., Wanless, R.M., Fairweather, T.P., Sullivan, B.J. and Yates, O. \(2014\) Significant reductions in mortality of threatened seabirds in a South African trawl fishery. *Animal Conservation*, 17, 520-529.](#)

² See: [Da Rocha, N., Opper, S., Prince, S., Matjila, S., Shaanika, T.M., Naomab, C., Yates, O., Paterson, J.R.B., Shimooshili, K., Frans, E., Kashava, K., and Crawford, R. \(2021\) Reduction in seabird mortality in Namibian fisheries following the introduction of bycatch regulation. *Biological Conservation*, 253, 108915](#)

³ Northridge, S., Kingston, A. and Coram, A. (2020) Preliminary estimates of seabird bycatch by UK vessels in UK and adjacent waters. Report prepared for the Department for Environment Food and Rural Affairs (Project Code ME6024)

- Limited understanding of small-scale fisheries effort (the majority of the static net fleet – over 1,500 vessels – is <10m in length, with no requirement to carry a Vessel Monitoring System);
- Poor observer coverage of the riskiest fleets (longline and static net) for seabird bycatch, sitting at 1-2% and <1% of annual effort respectively.

3.4 The two gear types responsible for the majority of the bycatch recorded in the UK are identified as demersal longlines and static nets. For longlines, ACAP has identified a suite of best practice mitigation measures to reduce bycatch. There is limited evidence for effective implementation of these measures in UK longline fisheries. It should be noted that apart from the fishery that operates offshore of north-west Scotland, there is relatively little effort from longlines elsewhere in the UK. From a meaningful conservation perspective, mitigation efforts (targeted primarily at fulmars) should therefore be invested in the fleet operating in the Atlantic. Static nets, in spite of vastly increased research effort in recent years, do not have an identified suite of effective technical bycatch reduction options⁴ and, as such, present substantively bigger challenges in terms of delivering compensatory benefits through reduced bycatch mortality. While BirdLife/RSPB continue to pursue potential options (including development of an above water ‘looming eyes’ deterrent device⁵), the only methods that will guarantee a reduction of seabird bycatch levels is the removal of gillnets.

Comments on Appendix 7

Overview

3.5 Below we set out detailed comments on the Applicant’s proposed bycatch compensation measure. Our position can be summarised as follows:

- The UK Seabird Bycatch Plan of Action is scheduled to be published by the end of 2021 (so the claim the wind farm proposal will be up and running already is incorrect);

⁴ For example, see: [Field, R., Crawford, R., Enever, R., Linkowski, T., Martin, G., Morkunas, J., Morkune, R., Rouxel, Y and Opper, S. \(2019\) High contrast panels and lights do not reduce bird bycatch in Baltic Sea gillnet fisheries. *Global Ecology and Conservation*, 18, <https://doi.org/10.1016/j.gecco.2019.e00602>](#)

⁵ See <https://www.cleancatchuk.com/mitigation/looming-eye-buoys/>; and Rouxel *et al*, in prep

- The RSPB considers the logic of the sequenced approach is sound and along the lines that the RSPB would follow. However, its scale and the proposed timescales are wholly unrealistic for a variety of reasons detailed below. Examples include:
 - Action 2: to be effective, the number of observers would need to be massively scaled up from the single observer proposed;
 - Action 3: trialing multiple mitigation measures will take longer than the one year suggested.
- The geographic target area is inappropriate. Current evidence suggests East Anglia is not one of the areas considered worth targeting by those experts working in this field;
- While continued effort to identify the scale of and potential solutions to bycatch in static net fisheries is imperative, based on current literature, mitigation measures for static net fisheries cannot reasonably guarantee reductions in seabird bycatch levels at this stage, and therefore cannot be relied upon as a compensation measure;
- Therefore, as currently described, the proposal is not fit for purpose as a possible compensation measure.

Detailed comments

3.6 We have set out our detailed comments on Appendix 7 in Table 1 below. Due to the limited time available, we have identified the more significant comments only.

Table 1: RSPB’s detailed comments on Appendix 7. Secondary measure: Ornithological By-catch

| Paragraph | Text | RSPB comments |
|----------------------|--|---|
| 11.1 Overview | | |
| 268 | Defra priorities include improving upon these estimates to create a more accurate and representative estimate of by-catch by identifying enhancements to the monitoring programme and the effects of mitigation measures on seabird populations. | The imprecision of the preliminary estimates in Northridge et al. (2020) is a symptom of the current monitoring programme. Current estimates for seabird bycatch mortality are based on very low observer coverage which amounts to <1% total annual UK effort in the static net fleet and 1-2% of total annual UK effort in the longline fleet (see also comment under paragraph 286, bullet 2). It is also important to note that, particularly in the static net fleet, the UK Bycatch Monitoring Programme was designed to record cetacean bycatch, so fleet segments that may impact birds more severely could be missed. |

| Paragraph | Text | RSPB comments |
|--------------------------|---|---|
| 269 | Estimates presented in Northridge et al (2020) suggest guillemot, gannet, gull species, and razorbill would benefit from by-catch reduction action. They report median UK annual by-catch estimates of approximately 50 kittiwake, 4,000 guillemot, 600 gannet and 260 razorbill... | The relative potential benefits of bycatch mitigation across these species is going to differ substantially depending on the gear type and location of intervention (notwithstanding the lack of available mitigation for static net fisheries in the first place) i.e. guillemots account for 75% of all bycatch in set nets (Northridge et al. 2020) |
| 11.2 Delivery | | |
| 272 | Although the Applicant considers the project-alone effects on guillemot, gannet, gull species, and razorbill (those species vulnerable to by-catch) to be low, the Applicant does note that this low ceiling for Compensation presents an opportunity to progress indirect measures which could have a UK-wide positive effect well beyond that of any other direct Compensation measures available to the Applicant. | <p>This is fundamental; for static net fisheries – where the majority of the species impacted by this development are likely to be caught – we do not have best practice technical measures for minimising bird bycatch. To reduce bycatch this leaves more drastic changes to fishing: e.g. the wholesale replacement of static nets with other gear types (with potential for unintended consequences and requiring substantial investment) or the closure of fisheries in space/time (given the dearth of data, these would likely be designed in a way that results in high economic and social impacts).</p> <p>There is more potential for technical mitigation to reduce bycatch in longlines, though notable that this contributes to a substantially lower proportion of the bycatch totals of these species, and most likely does not have any direct links from the SPA breeding colonies of concern to these projects (Northridge et al. 2020).</p> |
| 275 | Therefore, rather than setting out prospective mortality avoidance numbers and associated population increases, the Applicant assumes that there is potential for a UK-wide beneficial effect well beyond the project-alone impacts if suitable by-catch mitigation is identified and can be adopted widely... [emphasis added] | <p>This 'if' is a huge 'if'. The RSPB (and many others) have spent 8 years looking for effective broad-species technical mitigation measures (akin to bird-scaring lines in longline fleets) and have been unsuccessful.</p> <p>The RSPB remains hopeful that it is possible to reduce bycatch through technical means, but the necessary investment needs to be greater than that outlined in the plan set out here.</p> |
| Action 1 (Year 1) | | |
| 277 | Engagement with academics, nature conservation bodies and the fishing industry to form a by-catch reduction working group with a focus on the East Anglia region, or, to join any existing working group with the same objective... | Given the limited static net bycatch recorded in this region (East Anglia), if there were to be a regional focus on bycatch mitigation, it may be better placed elsewhere. Based on the current best-available data, there are places where there is potential for more substantive conservation gain compared to East Anglia that could benefit from a comprehensive seabird bycatch reduction project. Mitigation trials are |

| Paragraph | Text | RSPB comments |
|--------------------------|---|---|
| | | also best conducted in fisheries with higher bycatch so that statistical significance of any intervention can be detected at the lowest possible sample size. |
| Action 2 (Year 2) | | |
| 286 | The Applicant proposes to undertake one year of monitoring in collaboration with the East Anglia based fishing industry to record seabird by-catch by species and number from long-lining and static net fisheries as a proportion to fishing effort. The detailed scope of work will be as advised by the by-catch reduction working group formed by the Applicant but is anticipated to comprise: | <p>Overall, the framework of this approach is good. But the investment needs to be substantive and broader reaching to answer the questions being asked (about when bycatch is occurring and what can be done about it).</p> <p>We provide some specifics below:</p> <ul style="list-style-type: none"> • More than one year is preferred to account for interannual differences. Irrespective, the low levels of existing data mean that high levels of observer effort will be required throughout the year (i.e. more than one fisheries observer). • Longlining effort looks to be minimal from East Anglia ports – much of the bycatch recorded is occurring on the continental shelf off the UK’s west coast, and is dominated by longliners landing their catch in Spain. • Static net effort is presumably much higher than longlining effort in East Anglia, though Northridge et al. (2020) did not appear to identify much seabird bycatch in static nets here. |
| 286 Bullet 2 | The placement of a fisheries liaison officer on fishing vessels on a confidential basis to record presence and absence of by-catch in catch for different gear types that provides statistical value | <p>According to Babcock and Pikitch (2003) – <i>‘If the observer samples are an unbiased sample of the fishery, our literature review and simulation studies suggest that coverage levels of at least 20 percent for common species, and 50 percent for rare species, would give reasonably good estimates of total bycatch’</i>.</p> <p>This strongly implies a substantial investment in a number of observers would be required (depending on the size of the local fleet) to achieve enough observer coverage to make reasonable estimates of bycatch impact for just the commonly caught species.</p> |
| Action 3 (Year 2) | | |
| 287 | In parallel with (2) alternative fishing gear designs / new methods of gear deployment would be investigated by the working group. The aim would be to find a range of alternatives to the currently used gear types | As described above, at present, options are limited. This plan (notwithstanding the issues with low observer coverage and whether East Anglia is the best place to engage) is close to what we would do to determine the scale of a problem and work towards identifying solutions. The issue is that the ‘identifying |

| Paragraph | Text | RSPB comments |
|--------------------------|---|---|
| | | solutions' part is a big unknown, both in timescales and effectiveness. Therefore, whether it will save any seabirds cannot reasonably be guaranteed at this stage. |
| Action 4 (Year 3) | | |
| 288 | The alternatives identified in (3) will be trialled in at-sea tests in the East Anglia region in collaboration with the fishing industry over a one-year duration. The methodology will be determined by the working group and the trials would include suitable controls. This will determine changes in by-catch incidence, success in catching target fish species and other information to support their wider deployment within the UK fishing industry. | The nature of the trials: i.e. number of proposed measures to be trialled, the underlying bycatch rates, the actual measures themselves (e.g. wholesale gear change vs. a small addition of a measure to a gillnet) will have major impacts on the required investment, number of vessels, observers, and capital costs. Our experience is that it is best to try one measure in one place at one time because of the challenges with sample size in bycatch mitigation trials. More than one measure would imply more than one year of trials. |
| 11.7 Monitoring | | |
| 299 | General comment on Actions 2 and 4 | Note above points on sampling effort |
| 11.8 Feasibility | | |
| 300 | "...It is anticipated that Actions 1-4 will already be delivered by the time of the operation of EA1N and EA2 as work nears completion on the UK Seabird Plan of Action..." | The RSPB does not recognise the timescale described by the Applicant for the UK Seabird Bycatch Plan of Action. It is the RSPB's understanding that the UK Seabird Bycatch Plan of Action is intended to be published by 2022 ⁶ (if not sooner ⁷). Therefore, even allowing for some slippage, the UK Plan of Action should be in operation in advance of Actions 1-4 described here. |

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⁶ See page 31 in: [Defra \(March 2021\) Marine Strategy Part Two: UK updated monitoring programmes](#)

⁷ See page 18 in: [Defra \(March 2021\) Marine Strategy Part Two: UK Updated Monitoring Programmes. Summary of Responses.](#)