

**SCOTTISHPOWER
RENEWABLES**

East Anglia ONE North and East Anglia TWO Offshore Windfarms

Applicants' Comments on the Royal Society for the Protection of Birds' Deadline 8 Submissions

Applicant: East Anglia TWO and East Anglia ONE North Limited
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Applicable to East Anglia ONE North and East Anglia TWO



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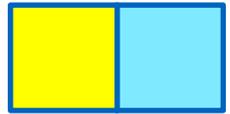
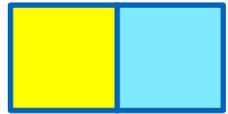


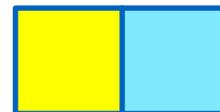
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Glossary of Acronyms

AEol	Adverse Effect on Integrity
AIS	Automatic Identification System
APP	Application Document
DCO	Development Consent Order
EC	European Commission
EIA	Environmental Impact Assessment
ExA	Examining Authority
FFC	Flamborough and Filey Coast
IROPI	Imperative Reasons of Overriding Public Interest
JNCC	Joint Nature Conservation Committee
LBBG	Lesser Black-Backed Gull
MMO	Marine Management Organisation
NE	Natural England
NSIP	Nationally Significant Infrastructure Project
OTE	Outer Thames Estuary
RSPB	Royal Society for the Protection of Birds
RTD	Red-Throated Diver
SoCG	Statement of Common Ground
SPA	Special Protected Area

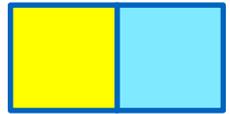


Glossary of Terminology

Applicant	East Anglia ONE North Limited / East Anglia TWO Limited
East Anglia ONE North project	The proposed project consisting of up to 67 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO project	The proposed project consisting of up to 75 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia ONE North / East Anglia TWO windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
European site	Sites designated for nature conservation under the Habitats Directive and Birds Directive, as defined in regulation 8 of the Conservation of Habitats and Species Regulations 2017 and regulation 18 of the Conservation of Offshore Marine Habitats and Species Regulations 2017. These include candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation and Special Protection Areas.
Generation Deemed Marine Licence (DML)	The deemed marine licence in respect of the generation assets set out within Schedule 13 of the draft DCO.
Horizontal directional drilling (HDD)	A method of cable installation where the cable is drilled beneath a feature without the need for trenching.
HDD temporary working area	Temporary compounds which will contain laydown, storage and work areas for HDD drilling works.
Inter-array cables	Offshore cables which link the wind turbines to each other and the offshore electrical platforms, these cables will include fibre optic cables.
Landfall	The area (from Mean Low Water Springs) where the offshore export cables would make contact with land, and connect to the onshore cables.
Meteorological mast	An offshore structure which contains meteorological instruments used for wind data acquisition.
Marking buoys	Buoys to delineate spatial features / restrictions within the offshore development area.
Monitoring buoys	Buoys to monitor <i>in situ</i> condition within the windfarm, for example wave and metocean conditions.
Offshore cable corridor	This is the area which will contain the offshore export cables between offshore electrical platforms and landfall.
Offshore development area	The East Anglia ONE North / East Anglia TWO windfarm site and offshore cable corridor (up to Mean High Water Springs).
Offshore electrical infrastructure	The transmission assets required to export generated electricity to shore. This includes inter-array cables from the wind turbines to the offshore electrical platforms, offshore electrical platforms, platform link cables and export cables from the offshore electrical platforms to the landfall.



Offshore electrical platform	A fixed structure located within the windfarm area, containing electrical equipment to aggregate the power from the wind turbines and convert it into a more suitable form for export to shore.
Offshore export cables	The cables which would bring electricity from the offshore electrical platforms to the landfall. These cables will include fibre optic cables.
Offshore infrastructure	All of the offshore infrastructure including wind turbines, platforms, and cables.
Offshore platform	A collective term for the construction, operation and maintenance platform and the offshore electrical platforms.
Platform link cable	Electrical cable which links one or more offshore platforms. These cables will include fibre optic cables.
Safety zones	A marine area declared for the purposes of safety around a renewable energy installation or works / construction area under the Energy Act 2004.
Scour protection	Protective materials to avoid sediment being eroded away from the base of the foundations as a result of the flow of water.
Transmission DML	The deemed marine licence in respect of the transmission assets set out within Schedule 14 of the draft DCO.



1 Introduction

1. 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.
2. This document presents the Applicants' comments on the Royal Society for the Protection of Birds' (RSPB) Deadline 8 submission (REP8-171).



Point	RSPB Comment	Applicants' Response
Introduction		
1	<p>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”).</p> <p>1.2 This submission is the RSPB’s combined response to the Applicant’s Deadline 6 submissions for each scheme entitled “Offshore Ornithology Without Prejudice Compensatory Measures” (both numbered REP6-045).</p>	Noted
Scope of Written Submission		
2	<p>1.3 This Written Submission covers the following:</p> <ul style="list-style-type: none"> • Response to Sections 1-3 • Response to Appendixes 1-6 (species specific compensation measures). <p>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). 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, also to be submitted at Deadline 8. Due to ongoing resource constraints, we may also refer to submissions made in respect of other, recent offshore windfarm schemes where those are relevant to the issues raised by REP6-045.</p> <p>1.5 In addition, we have reviewed Natural England’s comments on the Applicant’s compensatory measures set out in their Deadline 7 submission (REP7-071). In order to save the Examining Authority’s time we have, where appropriate, set out our agreement (or disagreement) with Natural England’s comments.</p>	Noted. The Applicants have responded to the RSPB Deadline 4 submission at REP5-016 and the Natural England (NE) Deadline 7 submission at REP8-049.
2 Response to Sections 1-3 (REP6-045, EA1N and EA2)		



Point	RSPB Comment	Applicants' Response
Introduction		
3	<p>2.1 Below we set out the RSPB's response to sections 1-3 under the following headings:</p> <ul style="list-style-type: none"> • Summary of the RSPB's position on adverse effect on integrity arising from EA1N and EA2 • Overarching comments <ul style="list-style-type: none"> ○ Insufficient detail to enable full consideration of compensatory measures at examination; ○ Collaborative working with other developers on compensation measures. 	Detailed responses are provided below.
Summary of the RSPB's position on adverse effect on integrity arising from EA1N and EA2		
4	<p>2.2 As stated above, the final Offshore SOCG between the RSPB and the Applicant will be submitted at Deadline 8. As set out in that document, the RSPB's position on adverse effect on integrity is as follows:</p> <p>Flamborough and Filey Coast Special Protection Area (SPA)</p> <ul style="list-style-type: none"> • Gannet: 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. <p>Alde-Ore Estuary SPA</p> <ul style="list-style-type: none"> • Lesser black-backed gull: in-combination effects due to collision risk. <p>Outer Thames Estuary SPA</p>	<p>The Applicants position is that there would not be an AEoI on any of these sites and notes that the compensation measures have been proposed on a 'without prejudice' basis.</p> <p>The Applicants welcome RSPB agreement with NE that there would be no project-alone AEoI on the Outer Thames Estuary SPA from East Anglia TWO alone.</p>



Point	RSPB Comment	Applicants' Response
	<p>Red-throated diver:</p> <ul style="list-style-type: none"> Adverse effect on integrity cannot be ruled out due to displacement from EA1N alone; and Adverse effect on integrity cannot be ruled out due to displacement from EA1N and EA2 in-combination with existing plans and projects. 	
5	<p>2.3 The RSPB notes that in REP4-042 (and referred to in REP6-045 at para 35 in Appendix 1 (Kittiwake)), the Applicant has removed Hornsea Three in respect of kittiwake collision risk on the basis that it is compensated for. The RSPB disagrees with this for the following reasons:</p> <ul style="list-style-type: none"> The collision risk impacts of Hornsea Three will not be avoided and therefore the adverse effect on the Flamborough and Filey Coast SPA will still occur. It is appropriate to include those impacts in the model; The effectiveness of the Hornsea Three kittiwake compensation is highly uncertain (hence the Secretary of State has required provision for additional and alternative compensation measures to be made should it fail). Therefore, there is no guarantee that any benefits that might accrue will be benefits to the Flamborough and Filey Coast SPA. This underlines the first point that the adverse effects of Hornsea three on that SPA has not been avoided. <p>2.4 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.</p>	<p>The Applicants disagree with the RSPB position that kittiwakes compensated for by the Hornsea Three project should be included in the in-combination mortality figures.</p> <p>The Applicants note that within Natural England responses to R17QB 12 they state:</p> <p><i>Natural England confirms that the SoS decision is clear that the impacts from the project will be fully compensated for.</i></p>
Overarching comments		
6	<p><i>Insufficient detail to enable full consideration of compensatory measures at examination</i></p> <p>2.5 At paragraph 5 of its comments (REP7-071) on the Applicant's compensatory measures, Natural England states as follows:</p>	<p>The Applicants updated the Offshore Ornithology Without Prejudice Compensation Measures document at Deadline 8 (REP8-090) to include more</p>



Point	RSPB Comment	Applicants' Response
	<p><i>“The Applicant’s assert that the details of the compensatory measures can be addressed once a decision on the need to compensate for the Project has been made by the SoS. Natural England’s view is that this is not acceptable and advise that at the point of decision the SoS should be provided with sufficient confidence that appropriate compensation measures are available and have been or can be secured. In this context, our advice is to leave as little as is possible regarding the nature and implementation of the compensatory measures to the post-consent period, as the level of specific detail provided will be a key factor with respect to confidence in the success of the measures and securing them. Please be advised that the level of outstanding detail associated with the Hornsea Project 3 compensatory measures raises significant challenges to implementation and therefore we counsel against proceeding on the basis that an equivalent level of information to that provided by Hornsea Project 3 will necessarily be sufficient.”</i></p> <p>2.6 The RSPB completely agrees with Natural England’s position and advice as set out above, including in respect of the Hornsea Three compensation measures. We consider the approach adopted to the post-consent situation by the Applicant is wholly inadequate. Each of the sections in Appendices 1-6 entitled “<i>Summary and Roadmap for delivery of compensation (if required)</i>” are too generic and lack the specific detail that would help ensure the Secretary of State guidance to offshore wind farm developers as set out in paragraph 6.3 of his decision letter (dated 31 December 2020)¹ on Hornsea Three is capable of being met: <i>“...It is therefore important that potential adverse impacts on the integrity of designated sites are identified during the pre-application period and full consideration is given to the need for derogation of the Habitats Regulations during the examination...”</i> (emphasis added)</p> <p>2.7 It is the RSPB’s overarching view that there is wholly insufficient detail provided by the Applicant in REP6-045 to enable “full consideration” to be given to the proposed compensatory measures. We consider the Examining Authority and Secretary of State can have no confidence that compensatory measures with a reasonable guarantee of success</p>	<p>detail following meetings with Natural England and Defra.</p> <p>In drafting DCO schedule 18, the Applicants have ensured that the compensation measures proposed are appropriately secured at a level that provides adequate levels of compensation to offset the impacts of the Projects (noting that the extremely low numbers required to be offset for the Projects means that over-compensation is inevitable) whilst providing the necessary flexibility to allow for refinements in detail as the specifics of the measures are developed and agreed with regulatory bodies, stakeholders and partners.</p> <p>The Applicants note that identifying suitable candidate locations, obtaining the necessary rights (land, access, etc.) and implementing the measures are all considered to be feasible undertakings that the Applicants could achieve within the relatively short time-frame that would be required.</p> <p>Given the very small number of predicted mortalities for all of the species considered in the compensation measures document, the Applicants consider that while there is a risk of incurring a ‘mortality debt’, the size of debt for a delay of 1 to 2 years (i.e. the anticipated maximum time required to implement the</p>

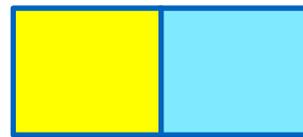
¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003265-EN010080%20Hornsea%20Three%20-%20Secretary%20of%20State%20Decision%20Letter.pdf>



Point	RSPB Comment	Applicants' Response
	<p>have been both identified and secured in ecological, legal and financial terms. For all proposed measures, no (truly) specific locations are identified and for most, no meaningful detail is provided to enable the measures to be properly explored at the Examination. We provide additional comment in section 3 below on the measures proposed for each species.</p>	<p>compensation measure(s) following a determination from SoS that this will be required) remains extremely small and would readily be recouped within a year or two of measures becoming effective. Therefore, since the requirement for a long lead -in time is a lower concern for the Projects than, for example Hornsea Project Three, it follows that there is also less requirement for the current compensation schedule to contain detailed designs and site locations. Instead, these aspects can be addressed once a decision on the need to compensate for the Project has been made by the SoS.</p> <p>It is important to stress that the Applicants consider the without prejudice compensation measures being proposed can all be delivered, if required, and that the nature of the RSPB's concern is merely in relation to the level of detail currently presented, which has been expanded upon in the updated document submitted at Deadline 8.</p> <p>Many of the compensation options presented in REP8-090 are based on recent similar examples which have been through the NSIP process (e.g. for kittiwakes in the Hornsea Project Three application and for lesser black-backed gull in the Norfolk Vanguard application) and have therefore been subject to scrutiny and the SoS has either agreed they are suitable compensation options (i.e. kittiwake for Hornsea Project Three) or if not required, Natural</p>



Point	RSPB Comment	Applicants' Response
		<p>England has indicated them to be appropriate (i.e. lesser black-backed gull anti-predator measures). For the remaining species considered in REP8-090, the compensation measures proposed are based on those presented in Furness et al. (2013), a Defra funded project into which a large range of stakeholders had input (e.g. at a workshop held on the 23rd May 2013, with representatives from RSPB, Natural England, MMO, JNCC and industry). It is clear therefore that each compensation measure presented is underpinned by the best available evidence which will give the SoS confidence in them.</p>
7	<p><i>Collaborative working with other developers on compensation measures</i></p> <p>2.8 In various places in REP6-045, the Applicant refers to the potential for collaborative and strategic working with other offshore wind farm developers in the provision of compensatory measures e.g. paragraph 86, Appendix 1 (kittiwake). The RSPB welcomes the suggestion in principle and agree with Natural England's comments (as set out above) that more detail on how this would work in practice should be provided given the practical challenges (e.g. see kittiwake compensation in paragraph 3.9 below). We consider this should include provision within the DCO to facilitate and, critically, regulate such collaborative working to ensure that each developer's contribution is properly managed, overseen and capable of enforcement if required. This includes the establishment and co-ordination of relevant expert and management steering groups. We are not aware of any proposed conditions in the draft DCO to such effect and therefore have reservations on how this would be made to work in practical and legal terms at this stage.</p>	<p>The Applicants have included detail on the potential measures that will be taken to secure collaboration with other projects / potential for strategic approaches to compensation where this is considered to be appropriate within the updated Offshore Ornithology Without Prejudice Compensation Measures document at Deadline 8 (REP8-090).</p> <p>The Applicants consider that the wording of Schedule 18 of the DCO is sufficiently flexible and allows for strategic or collaborative working, whilst ensuring that harm caused by the Projects is appropriately compensated for. The Applicants do not consider there to be any need to amend the wording.</p>



Point	RSPB Comment	Applicants' Response
3 Response to Appendices 1-6: species specific compensation measures (REP6-045) Introduction		
8	<p>3.1 This section sets out the RSPB's comments on Appendices 1-6 – the species-specific compensation measures put forward by the Applicant. We have set our comments out under the following headings:</p> <ul style="list-style-type: none"> • Compensation measures: overview of European Commission and Defra guidance • Compensation measures: Flamborough and Filey Coast SPA <ul style="list-style-type: none"> ○ Appendix 1: Kittiwake ○ Appendix 2: Gannet ○ Appendices 3 and 4: Guillemot and razorbill • Compensation measures: Alde-Ore Estuary SPA <ul style="list-style-type: none"> ○ Lesser black-backed gull • Compensation measures: Outer Thames Estuary SPA <ul style="list-style-type: none"> ○ Red-throated diver <p>3.2 Based on the RSPB's view on adverse effects set out in section 2, we consider the matter of compensatory measures remains relevant to all the above SPA features. As at Deadline 4 (paragraph 3.2), we remain of the view 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.</p>	<p>The Applicants updated the <i>Offshore Ornithology Without Prejudice Compensation Measures</i> document at Deadline 8 (REP8-090) to include more detail following meetings with Natural England and Defra.</p>

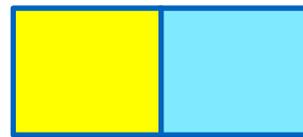


Point	RSPB Comment	Applicants' Response
9	<p>3.3 Based on our comments set out below, we conclude that for different reasons, none of the compensation measures proposed by the Applicant provide the necessary detail to provide the Secretary of State with the confidence that they are:</p> <ul style="list-style-type: none"> • Appropriate (ecologically); • If implemented, would have a reasonable guarantee of success; and • Have been secured (in ecological, financial and legal terms). 	<p>The Applicants updated the Offshore Ornithology Without Prejudice Compensation Measures document at Deadline 8 (REP8-090) to include more detail following meetings with Natural England and Defra.</p> <p>See Point 6 regarding legal security of compensation measures. Additionally, the Applicants submitted an Offshore Ornithology Compensation Measures Funding Statement (REP8-081) at Deadline 8 which provides financial security for the measures.</p> <p>Also see Table 1</p>
Compensation measures: overview of European Commission and Defra guidance		
10	<p>3.4 We have reviewed both the European Commission (EC) and Defra guidance on compensatory measures. Both are in broad alignment as to the principles to adopt when considering compensatory measures. As the EC Guidance is fuller and more up to date, we have used that as our primary reference, while drawing out any additional points made in the Defra guidance since it is UK focused.</p> <p>3.5 In Table 1 below , we summarise the EC's criteria for designing compensatory measures and annotate them with additional commentary based on the RSPB's experience of the principles that should be applied when assessing compensatory measures drawing on previous compensation proposals.</p>	<p>See the Applicants response at Table 1.</p>



Table 1 [*Criteria for designing compensatory measures*] in RSPB Deadline 8 Submission with the Applicants' Response

EC criteria	EC guidance summary (emphasis added)	RSPB additional commentary	Applicants' Response
Targeted	<p>Measures should be the most appropriate to the impact predicted and focused on objectives and targets addressing the Natura 2000 elements affected.</p> <p>Must refer to structural and functional aspects of site integrity and habitats/species affected.</p> <p>Must consist of ecological measures: payments to individuals/funds are not appropriate.</p>	<p>Must address the ecological functions and processes required by impacted species/habitat. Requires shared understanding and agreement on what the impacts are i.e. need to agree nature, magnitude including that they will be continue for the length of project of impacts in order to define objectives for compensation measures.</p> <p>Clear objectives must be established for the compensation measures.</p>	<p>The compensation measures proposed are all ecological in nature (e.g. reduced predation, improved productivity, reduced displacement) and have been selected on the basis of their ability to compensate for the predicted impacts and will last for the duration of the Projects (and in some cases beyond, e.g. rat eradication from islands).</p>
Effective	<p>Based on best scientific knowledge available alongside specific investigations for the location where the measures will be implemented. Must be feasible and operational in reinstating the conditions needed to ensure the overall coherence of the Natura 2000 network.</p> <p>Measures where no reasonable guarantee of success should not be considered. The likely success of the compensation scheme should influence final</p>	<p>Scientific evaluation of proposed measures must be carried out before consent is granted to avoid agreeing to measures that is/are not effective or technically feasible. This should include appropriate baseline survey and assessment.</p> <p>Compensation must address the impacted Natura 2000 feature to ensure overall coherence of the network for that feature is maintained.</p> <p>Substitution is not acceptable.</p>	<p>Coherence of the Natura 2000 suite was a key consideration in the proposed compensation options. Measures have been selected on the basis of precedent wherever possible (albeit noting that in some cases the current situation is unprecedented and therefore evidence from related species has been used). Thus, the best available scientific evidence has been used to identify proposed measures and to refine the identification of the most suitable measures (in terms of efficacy, feasibility and probability of success). Furthermore, central to all the proposals is monitoring and</p>



EC criteria	EC guidance summary (emphasis added)	RSPB additional commentary	Applicants' Response
	<p>approval of the plan or project in line with the prevention principle.</p> <p>The most effective option, with the greatest chance of success, must be chosen.</p> <p>Detailed monitoring required to ensure long-term effectiveness with remediation provisions if shown to be less effective.</p>	<p>Must be clearly defined timescales for delivery and measuring success.</p> <p>Monitoring must directly relate to the target species or habitat and the relevant ecological functions and processes.</p> <p>The compensation measures should be provided in perpetuity in line with obligations to ensure the overall coherence of the Natura 2000 network is maintained.</p> <p>Where it is not possible to devise compensatory measures to offset the adverse effects on site integrity, the project should not proceed.</p>	<p>adaptive management. These will be used to determine if the predictions for the compensation have been achieved and how any shortfalls will be addressed.</p> <p>Regarding timescales, the Applicants note that the EC guidance does not state that compensation measures are required to be implemented in perpetuity.</p> <p>The following timing commitments have been made with regard to the compensation measures proposed in Offshore Ornithology Without Prejudice Compensation Measures at Deadline 8 (REP8-090):</p> <ul style="list-style-type: none"> • Kittiwake and gannet (Artificial nesting Structures): The structures would remain in place, and be maintained as fit for purpose until the windfarm has been decommissioned or a determination is made by the SoS on duration, following consultation with the relevant statutory nature conservation body, that compensation is no longer required • Guillemot and razorbill (Rat Eradication), red-throated diver (RTD) (Vessel Routeing) and LBBG (Fencing): Management would continue, until the windfarm has been decommissioned or a determination is made by the SoS on duration, following consultation with the relevant statutory nature conservation



EC criteria	EC guidance summary (emphasis added)	RSPB additional commentary	Applicants' Response
			body, that compensation is no longer required.
Technical feasibility	Design must follow scientific criteria and evaluation in line with best scientific knowledge and take into account the specific requirements of the ecological features to be reinstated.	See Effective above.	See previous response
Extent	<p>Extent required directly related to:</p> <ul style="list-style-type: none"> the quantitative and qualitative aspects inherent to the elements of integrity likely to be impaired estimated effectiveness of the measure(s) <p>Therefore, ratios best set on a case-by- case basis. Ratios should generally be well above 1:1. Ratios of 1:1 or below only considered when shown measures will be fully effective in reinstating structure and functionality in a short period of time.</p>	<p>Based on an assessment of the necessary ecological requirements to restore species' populations and the related habitat structure and functions identified in the compensation objectives.</p> <p>Determining the minimum appropriate quantity will require an understanding of the quality of the compensation measures and how effective they will be in reinstating the required structures and functions.</p> <p>Any identified uncertainty in success should be factored in to increased ratios. However, if there is no reasonable guarantee of success that measure should not be considered (see Effective under EC criteria).</p>	<p>The magnitude of compensation required to offset the predicted impacts, including allowance for over-compensation due to uncertainties where appropriate, has been a key factor in identifying the proposed compensation measures.</p> <p>For clarity, all the proposed compensation measures are considered to have a high probability of success.</p>



EC criteria	EC guidance summary (emphasis added)	RSPB additional commentary	Applicants' Response
<p>Location</p>	<p>Located in areas where they will be most effective in maintaining overall coherence of the Natura 2000 network.</p> <p>Pre-conditions to be met include:</p> <ul style="list-style-type: none"> must be within same range/ migration route/wintering areas for bird species and provide functions comparable those justifying selection of original site esp. geographical distribution. must have/be able to develop the ecological structure and functions required by the relevant species (or habitat) must not jeopardise integrity of any other Natura 2000 site. <p>Spatial search hierarchy starting as close as possible to the impacted Natura 2000 site and working out from there.</p>	<p>While the preference is for compensation measures as geographically close to the location of the damage, it is important to consider whether or not the compensation measures will be subject to pressures impacting their efficacy in that location e.g. prey availability, disturbance, and/or other impacts from the same or similar developments.</p> <p>Therefore, compensation measures should be located so as to maximise proximity while minimising external pressures that may reduce likelihood of success.</p>	<p>The criteria listed here by the EC guidance and the RSPB's comments have all been taken into account in the compensation proposals. For example, it is proposed that artificial kittiwake nesting structures would be provided in locations that are known to have existing breeding kittiwake (i.e. to supplement the existing artificial habitat for the species) and the presence, and noted high breeding success, of these extant colonies is a very clear indicator of favourable conditions.</p>



EC criteria	EC guidance summary (emphasis added)	RSPB additional commentary	Applicants' Response
<p>Timing</p>	<p>Case by case approach but must provide continuity in the ecological processes essential to maintain the structure and functions that contribute to the Natura 2000 network coherence.</p> <p>Requires tight co-ordination between implementation of the plan or project and the compensation measures.</p> <p>Factors to consider include:</p> <ul style="list-style-type: none"> • no irreversible damage to the site before compensation in place • compensation operational at the time damage occurs. If not possible, over-compensation required • time lags only admissible if will not compromise objective of “no net loss” to coherence of Natura 2000 network; • May be possible to scale down in time depending on whether the negative effects are expected to arise in short, medium or long term. <p>All technical, legal or financial provisions must be completed</p>	<p>Compensation measures should be fully functional before any damage occurs to ensure the overall coherence of Natura 2000 is protected. This requires careful alignment of the timelines for implementing the plan or project and the compensation measures.</p> <p>Suggested time lags in delivering fully functional compensation will need to be carefully considered and can only be accepted where this will not compromise the continuity of essential ecological processes.</p> <p>Any effect of delay should be factored into the design and additional compensation measures provided (see also Extent above).</p>	<p>The Applicants have taken account of the need for compensation to be fully functional in advance of predicted impacts occurring. It is important to stress that the suggestions of ‘time lags’ referred to by the RSPB would only be of a short duration (e.g. 1-2 years) and have only been included as an acknowledgement of the potential for unforeseen circumstances to introduce delays. The Applicants would endeavour to avoid such situations but have taken a pragmatic view on this matter.</p> <p>Also see Point 6.</p>



EC criteria	EC guidance summary (emphasis added)	RSPB additional commentary	Applicants' Response
	before plan or project implementation starts to prevent unforeseen delays that compromise effective compensation measures.		
Long-term implementation	Legal and financial security required for long-term implementation and for protection, monitoring and maintenance of sites to be secured before impacts occur.	<p>Legal rights to secure and implement the compensation measures must be in place prior to consent being granted.</p> <p>And robust financial guarantees are required to fund implementation, monitoring and any necessary remediation measures.</p> <p>In line with Government policy, the Government should commit to including compensation measures, once delivered, within the Natura 2000 network.</p>	See Point 6 and 9 above.

Point	RSPB Comment	Applicants' Response
10a	<p>3.6 The Defra guidance reinforces some of the points above, in particular by requiring:</p> <ul style="list-style-type: none"> Consideration of whether the measure is technically proven or considered reasonable. Measures for which there is no reasonable expectation of success should not be considered (paragraph 31) 	<p>The following list corresponds to the bullet list in the RSPB's response:</p> <p>Bullet 1. The Applicants updated the <i>Offshore Ornithology Without Prejudice Compensation Measures</i> document at Deadline 8 (REP8-090) to</p>



Point	RSPB Comment	Applicants' Response
	<ul style="list-style-type: none"> • Compensation should be proportionate and no more than is needed to protect the coherence of the Natura 2000 network, having factored in the need to increase the compensation to deal with any uncertainty, time lag etc (paragraphs 32 and 33) • The need to condition the consent to include [remedial] actions should the compensation prove to be less successful than anticipated (paragraph 33) • Compensation must be sustainable – therefore it is necessary to secure medium to long term management (paragraph 34); and • Compensation must be secured before consents are given for the proposal to commence i.e. must be satisfied all the necessary legal, technical, financial and monitoring arrangements are in place to ensure the compensation measures proceed. If it is not possible to secure adequate compensatory measures, a derogation allowing the proposal to commence must not be granted (paragraph 35). 	<p>address this point e.g. removal of plastic at gannet colonies were discounted.</p> <p>Bullet 2. Due to the very small numbers of individuals that are required to be compensated for by the Projects, it is very likely that there will be overcompensation. However, the Applicants are open to collaboration efforts with other developers which would likely ensure the contributions to the relevant compensation measures are proportionate to the potential effects of the Projects.</p> <p>Bullet 3. Within the updated the Offshore Ornithology Without Prejudice Compensation Measures document submitted at Deadline 8 (REP8-090), provision for adaptive management / remedial actions is provided. Furthermore, this is also secured in schedule 18 of the updated draft DCO submitted at Deadline 8.</p> <p>Bullet 4. See the Applicants' response at 'Effective' above regarding the length of time over which measures should be secured.</p> <p>Bullet 5. This is secured within schedule 18 of the updated draft DCO submitted at Deadline 8 i.e. construction of each Project cannot commence until the SoS has provided approval of the implementation plan(s) (in the event that compensation is required).</p>
11	Compensation measures: Flamborough and Filey Coast SPA	Noted. The Applicants wish to highlight that they do not consider there to be an AEol on the kittiwake,



Point	RSPB Comment	Applicants' Response
	3.7 Below we set out our comments on the compensation measures proposed for adverse effects on the kittiwakes, gannets, guillemots and razorbills of the Flamborough and Filey Coast SPA set out in REP6-045.	gannet, guillemot or razorbill features of the Flamborough and Filey Coast (FFC) SPA from either of the Projects either alone or in-combination. The Applicants have updated the Offshore Ornithology Without Prejudice Compensation Measures document at Deadline 8 (REP8-090) to include more detail following meetings with Natural England and Defra.
12	Appendix 1: Kittiwake compensatory measures (artificial nesting sites) 3.8 In our deadline 4 submission we argued that clear evidence of the efficacy of this measure was required (paragraphs 3.10-3.12, REP4-097). Having reviewed the further information in REP6-045 on the proposed measure (artificial nesting sites), we remain of this view. The "Barriers to be overcome" we outlined at Deadline 4 remain and it is the RSPB's considered view that the ability to create successful artificial nesting structures for kittiwakes with a reasonable guarantee of success is unproven and would be experimental. This is notwithstanding the Secretary of State's decision to grant consent for the Hornsea Three offshore wind farm.	The Applicants strongly disagree that ' <i>the ability to create successful artificial nesting structures for kittiwakes with a reasonable guarantee of success is unproven and would be experimental</i> '. It is well documented that kittiwakes nest on artificial structures, both purpose built and otherwise (e.g. bridges etc.). It is the case that productivity varies, but this fact means there is an ample evidence base on which to draw to ensure that new structures are designed that will have a high probability of being successful (i.e. lessons can be learned from comparison of existing colonies).
13	3.9 Having reviewed Natural England's submission (REP7-071), we agree with its comments on the following issues: <ul style="list-style-type: none"> • Conservation objectives (para 18): the RSPB concurs with Natural England's position regarding the 1987 count data and the evidence base that supports that position • Quantification of effect (para 21) 	See the Applicants' responses to REP7-071 in REP8-049.



Point	RSPB Comment	Applicants' Response
	<ul style="list-style-type: none"> Broad location (para 22): the RSPB shares the concerns that the lack of certainty in the Applicant's proposals regarding specific structures and specific locations, combined with the lack of detail regarding any mechanism for cross-project collaboration (see paragraph 2.8 above) means it is unclear whether all projects will be able to deliver their compensation requirements. Projects such as EA1N/2 could be left with sub-optimal locations, especially if rival projects have acquired the more suitable locations. To some extent, this logic applies to other species/compensation proposals too. Ecological rationale (para 23) Collaborative working with other developers (para 24). 	
13a	<p><u>Conclusion</u></p> <p>3.10 Therefore we conclude that there can be no confidence, based on the information provided to the Examination, that the compensation measure currently proposed for kittiwakes would have a reasonable guarantee of success as required by both Defra⁴ and European Commission⁵ guidance on compensation measures.</p>	<p>The Applicants strongly disagree that '<i>there can be no confidence</i>' in the proposed kittiwake compensation. There is in fact a considerable weight of evidence to support a conclusion that this measure has a high probability of success and that contrary to the RSPB's assertions, it has been used previously as a kittiwake conservation measure, albeit not in the framework of a derogation case.</p>
14	<p>Appendix 2: Gannet compensatory measures – encourage establishment of new colony/artificial nest sites</p> <p>3.11 In our deadline 4 submission we argued that clear evidence of the efficacy of this measure was required (paragraphs 3.7-3.9, REP4-097). Having reviewed the further information in REP6-045 on the proposed measure, we do not consider it is viable as a compensation measure and it remains highly speculative. No evidence has been brought forward to demonstrate it has been proven to work for this species and therefore there cannot be a reasonable guarantee of success.</p>	<p>The Applicants note that gannet numbers are growing across the UK and that at FFC SPA they are far above the population size at designation.</p> <p>Nonetheless, the Applicants have provided additional detail as far as this is possible to address these comments in the update submitted at Deadline 8 (see section 6.4.2.1.4 of document reference REP8-090).</p>



Point	RSPB Comment	Applicants' Response
	<p>3.12 It is apparent that the Applicant recognises the lack of robust scientific evidence. First, in citing Furness et al (2013) at paragraph 107 (Appendix 2, REP6-045), it is readily apparent that Furness was uncertain if gannets could be encouraged to colonise new sites. The Applicant fails to provide any new evidence since 2013 that would remove or reduce those uncertainties. In fact, they go on to imply that aspects of the evidence base for this proposed measure for gannets is poor e.g. see paragraphs 112 and 117 of Appendix 2 (REP6-045): “...it must be acknowledged that there is a degree of uncertainty about the effectiveness of such measures [models/playback] for northern gannet.” (paragraph 112, Appendix 2)</p> <p>“...as this would be a comparatively novel undertaking for this species there are questions about the time frame for achieving success...” (paragraph 117, Appendix 2)</p> <p>3.13 Having reviewed Natural England’s submission (REP7-071), we agree with its comments on the following issues:</p> <ul style="list-style-type: none"> • Supplementary advice target to avoid deterioration (paragraph 26) • Artificial nests (paragraph 27) • Potential location (paragraph 28). <p><u>Conclusion</u></p> <p>3.14_Therefore, we conclude that no compensation measure for gannet has been put forward that would have a reasonable guarantee of success as required by both Defra² and European Commission³ guidance on compensation measures e.g. see paragraph 31 of the Defra guidance which requires:</p>	<p>In addition, the Applicants have included a secondary compensation measure within Appendix 7 of REP8-090 to manage ornithological by-catch from fisheries from which gannet are known to be susceptible.</p>

² Defra (2012) *Habitats and Wild Birds Directives: guidance on the application of article 6(4). Alternative solutions, imperative reasons of overriding public interest (IROPI) and compensatory measures.* Paras 28-36.

³ EC (2018) *Managing Natura 2000 sites – The provisions of Article 6 of the ‘Habitats’ Directive 92/43/EEC (21/11/18) C(2018) 7621 final.*



Point	RSPB Comment	Applicants' Response
	<ul style="list-style-type: none"> Consideration of whether the measure is technically proven or considered reasonable. <u>Measures for which there is no reasonable expectation of success should not be considered.</u> (emphasis added) 	
15	<p>Appendices 3 and 4: Guillemot and razorbill compensatory measures (rat eradication)</p> <p>3.15 In our deadline 4 submission we expressed our concern that the Applicant had omitted any reference to guillemot and razorbill from the Flamborough and Filey Coast SPA and set out our comments on the screening consultation (see paragraph 3.13, REP4--097). Our comments highlighted:</p> <ul style="list-style-type: none"> the limited evidence of benefits to cliff nesting auks in the UK – a combination of small sample size and short-term data; that 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; and the need for a full-scale feasibility study of any potential location chosen before DCO consent is granted to be sure of a “reasonable guarantee of success”. <p>3.16 We therefore welcome the Applicant’s presentation of information on possible compensatory measures for both guillemot and razorbill in REP6-045. However, both appendices lack critical detail including (fundamentally) the selected locations for rat eradication and any associated feasibility study to demonstrate the benefit that would be guaranteed to accrue to guillemot and razorbill.</p> <p>3.17 Having reviewed Natural England’s submission (REP7-071), we agree with its comments on the following issues:</p> <ul style="list-style-type: none"> Insufficient detail (paragraph 29) Population drivers (paragraph 30). 	<p>The Applicants have updated the Offshore Ornithology Without Prejudice Compensation Measures document at Deadline 8 (REP8-090) to include more detail following meetings with Natural England and Defra and have included additional detail as far as this is possible on the rat eradication measure including a shortlist of potential sites.</p> <p>Also see Point 6.</p>



Point	RSPB Comment	Applicants' Response
	<p>3.18 In respect of population drivers, it would be necessary for the Applicant to show that other important population drivers (such as food supply):</p> <ul style="list-style-type: none"> • Did not provide a better explanation of any population increases recorded post-eradication in historic cases; • Would not act as a constraint on any proposed location for rat eradication. <p>3.19 No such evidence is provided.</p> <p><u>Conclusion</u></p> <p>3.20 Therefore we conclude that there can be no confidence, based on the information provided to the Examination, that the compensation measures currently proposed for guillemot and razorbill would have a reasonable guarantee of success as required by both Defra⁴ and European Commission⁵ guidance on compensation measures.</p>	
16	<p>Comments on compensation measures: Alde-Ore Estuary SPA – breeding lesser black-backed gulls (predator proof fencing)</p> <p>3.21 The Applicant continues to propose the use of predator control as a potential compensatory measure for breeding lesser black-backed gulls. As set out in our Deadline 4 submission (paras 3.14- 3.16, REP4--097), the RSPB view is that this is possibly viable but must not be considered in isolation of other key factors (habitat quality, food availability, disturbance and flooding) and for the reasons given it should not be taken forward in the form proposed. This remains our considered view.</p> <p>3.22 Notwithstanding the above, and in line with our overarching comments in section 2, the Applicant has failed to demonstrate that it has legally and financially secured a specific location in which to implement its proposed compensation measure.</p>	<p>The Applicants do not consider there to be an AEoI on the LBBG feature of the Alde-Ore Estuary SPA from either of the Projects either alone or in-combination.</p> <p>The Applicants updated the <i>Offshore Ornithology Without Prejudice Compensation Measures</i> document at Deadline 8 (REP8-090) to include more detail following meetings with Natural England and Defra and have included additional detail as far as this is possible on the predator proof fencing measure.</p>

⁴ 8 Defra (2012) Habitats and Wild Birds Directives: guidance on the application of article 6(4). Alternative solutions, imperative reasons of overriding public interest (IROPI) and compensatory measures. Paras 28-36.

⁵ EC (2018) Managing Natura 2000 sites – The provisions of Article 6 of the ‘Habitats’ Directive 92/43/EEC (21/11/18) C(2018) 7621 final.



Point	RSPB Comment	Applicants' Response
	<p>3.23 We note that Natural England has agreed with the Applicant (REP7-071):</p> <ul style="list-style-type: none"> • That measures to reduce egg and chick predation by mammals is likely to be the most ecologically beneficial measure to take forward; and • In principle, installing New Zealand style predator proof fencing (as opposed to more traditional electric post-and-wire fencing used to manage impacts on seabird colonies) would be beneficial. <p>3.24 The RSPB respectfully disagrees on the basis that it is not additional to necessary site management measures. Our reasons are as follows:</p> <ul style="list-style-type: none"> • The Alde-Ore Estuary SPA's Site Conservation Objectives and Natural England's Supplementary Advice are to restore the lesser black-backed gull colony to favourable status. This includes restoring the breeding population to a target level which is above 14,074 pairs; • In its Supplementary Advice Natural England identifies a number of factors that need to be addressed in order to achieve this: safe passage to nesting and feeding areas, reducing disturbance (including to nesting birds), maintaining habitat quality and food supply; • Natural England's Site Improvement Plan for the Alde-Ore Estuary Natura 2000 sites identified four priority issues and measures with regard breeding lesser black-backed gulls, including ensuring adequate protection of nesting birds from predators; • Our understanding of Natural England's agreement to the use of New Zealand style fencing is that it is superior to traditional fencing and thus is essential to reduce/avoid mammal predation (and disturbance) within the Alde-Ore Estuary SPA and secure an increase breeding productivity and ensure successful breeding. In other words, Natural England consider reliance on traditional fencing is not adequate in preventing mammalian predation of this species in this location (Orfordness); • Therefore, logically, this superior standard of fencing is clearly <u>necessary</u> for SPA site management in order to contribute towards the restoration of the breeding 	<p>The Applicants do not consider that it is practical to consider candidate locations within the remaining timescales of the examination. If it is deemed by the SoS that compensation is required for LBBG then a detailed scoping exercise for candidate locations will be undertaken in consultation with NE and the RSPB.</p> <p>It is the Applicants' understanding that NE have proposed a measure similar to that proposed by the Applicant for the Norfolk Boreas project and the intention is to have discussions with the Applicant, Vattenfall (for Norfolk Boreas), NE and Defra to consider the potential for a collaborative solution.</p>



Point	RSPB Comment	Applicants' Response
	<p>colony to its target of above 14,074 pairs, and so cannot be considered a compensation measure. It is not “additional”, but “essential” to site management.</p> <p>3.25 Having reviewed Natural England’s submission (REP7-071), we agree with its comments at paragraphs 32-33 on the quantification of effect i.e. an adverse effect on integrity of the Alde-Ore Estuary SPA cannot be ruled out due to the contribution of EA1N and EA2 to the in-combination total of LBBG mortalities per annum from the Alde-Ore Estuary SPA.</p>	
17	<p>Havergate Island reserve management</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 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)⁶:</p> <ul style="list-style-type: none"> • <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</i> 	Noted

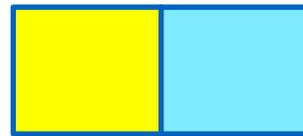
⁶ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010087/EN010087-002559-DL18%20-%20RSPB%20-%20Deadline%20Submission.pdf>



Point	RSPB Comment	Applicants' Response
	<p><i>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>	
18	<p><i>Conclusion</i></p> <p>3.29 Therefore we conclude that the compensation measures as proposed should properly be treated as site management measures as they would not be “additional” to those required to restore the Alde-Ore Estuary SPA breeding population of lesser black-backed gulls to favourable status in line with the SPA’s conservation objectives. In this respect we disagree with Natural England.</p> <p>3.30 The RSPB’s view is as set out at paragraph 3.16 of REP4—097:</p> <p>“Possible viable measures</p> <p><i>Consideration of the feasibility of:</i></p> <ul style="list-style-type: none"> • <i>Creating new habitat to support breeding lesser black-backed gulls outside the existing protected area network for this species;</i> • <i>Measures to increase the population of a large colony not protected by the existing lesser black-backed gull protected area network.</i> <p>Barriers to be overcome</p>	<p>The Applicants highlight that NE are in favour of the type of compensation measure proposed and are in discussion with Defra regarding this as a potential for collaborative solution for the Applicant and Vattenfall (for Norfolk Boreas).</p> <p>Also see Point 6 and 16.</p>



Point	RSPB Comment	Applicants' Response
	<p><i>In addition to agreement on detailed designs to meet agreed compensation objectives, among other things:</i></p> <ul style="list-style-type: none"> <i>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;</i> <i>Avoiding locations that expose birds breeding at compensation site to unnecessary risk e.g. collision risk with offshore wind farms."</i> <p>3.31 Unfortunately, the Applicant has not explored these proposals during the Examination.</p>	
19	<p><u>Comments on compensation measures: Outer Thames Estuary SPA – non-breeding red-throated diver (navigation management)</u></p> <p>3.32 As set out in paragraph 2.2 above, the RSPB's position on adverse effect on integrity in respect of the permanent displacement of red-throated diver in the Outer Thames Estuary SPA is as follows:</p> <ul style="list-style-type: none"> Adverse effect on integrity cannot be ruled out due to displacement from EA1N alone; and Adverse effect on integrity cannot be ruled out due to displacement from EA1N and EA2 in- combination with existing plans and projects. <p>3.33 The RSPB has considered the Applicant's proposal for navigation management as a compensation measure set out in Appendix 6 of REP6-045. We have also considered Natural England comments in its REP7—071.</p> <p>3.34 Having reviewed Natural England's submission (REP7-071), we agree with the following statements:</p> <ul style="list-style-type: none"> Quantification of effect (paragraphs 38-39), including the inclusion of EA2 in the in-combination assessment 	<p>The Applicants do not consider there to be an AEoI on the RTD feature of the Outer Thames Estuary (OTE) SPA from either of the Projects either alone or in-combination</p> <p>Note that the <i>Offshore Ornithology Without Prejudice Compensation Measures</i> document submitted at Deadline 8 (REP8-090) includes more detail on the efficacy of this measure.</p> <p>See the Applicants' responses to REP7-071 in REP8-049.</p> <p>The Applicants highlight that it is difficult to compensate for displacement of non-breeding RTD associated with the OTE SPA, as opposed to a population effect (which Natural England have agreed is unlikely to occur), and this has been recognised by Natural England.</p> <p>Therefore, the Applicants have put forward a practical measure which goes above and beyond the</p>



Point	RSPB Comment	Applicants' Response
	<ul style="list-style-type: none"> Navigation management (paragraphs 40-42). <p><i>Conclusion</i></p> <p>3.35 The RSPB's conclusion is that based on the information provided, there is no compensation measure proposed that addresses the adverse effect arising from the permanent displacement of non- breeding red-throated diver from within the Outer Thames Estuary SPA. Therefore, no compensation measure has been put forward that would have a reasonable guarantee of success as required by both Defra⁷ and European Commission⁸ guidance on compensation measures.</p>	<p>measures proposed in Best-Practice Protocols for Minimising Disturbance to RTD as applied to vessel traffic for other windfarm projects including East Anglia ONE and East Anglia THREE (noting that this proposed compensation measure has incorporated project vessel traffic management for East Anglia THREE).</p> <p>The measures provided are firm commitments rather than being broad objectives and commit East Anglia THREE to avoiding vessel transits through the OTE SPA, where possible, during the winter period during construction of the project and during the entire operational period (unless in the interests of health and safety this cannot be avoided). This measure did not form part of the original best-practice protocol for East Anglia THREE and is clearly therefore an additional measure.</p> <p>Based upon analysis from Anatec there are approximately 75,000 vessel transits recorded by Automatic Identification System (AIS) within the SPA annually. Removing the potential additional approximately 4,000 annual operation and maintenance transits represents a significant reduction (in the case of O&M phase an</p>

⁷ Defra (2012) *Habitats and Wild Birds Directives: guidance on the application of article 6(4). Alternative solutions, imperative reasons of overriding public interest (IROPI) and compensatory measures*. Paras 28-36.

⁸ EC (2018) *Managing Natura 2000 sites – The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (21/11/18) C(2018) 7621 final*.

Applicants' Comments on RSPB Deadline 8 Submissions
15th April 2021



Point	RSPB Comment	Applicants' Response
		approximately 5% reduction (4,000 out of 79,000) in total transits.