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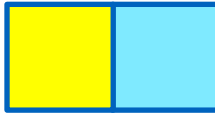
East Anglia ONE North and East Anglia TWO Offshore Windfarms

Applicants' Comments on Royal Society for the Protection of Birds' Deadline 12 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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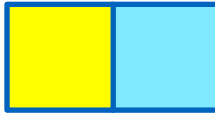
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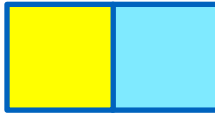
Glossary of Acronyms

AEol	Adverse Effect on Integrity
AS	Additional Submission
BOU	British Ornithologists' Union
DCO	Development Consent Order
DML	Deemed Marine Licence
EC	European Commission
FFC	Flamborough & Filey Coast
HDD	Horizontal Directional Drilling
HRA	Habitats Regulations Assessment
LBBG	Lesser Black-Backed Gull
NE	Natural England
PD	Procedural Decision
RSPB	Royal Society for the Protection of Birds
SoCG	Statement of Common Ground
SPA	Special Protected Area
UK	United Kingdom

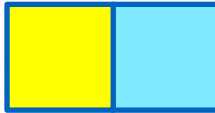


Glossary of Terminology

Applicant	East Anglia TWO Limited / East Anglia ONE North Limited
Construction operation and maintenance platform	A fixed offshore structure required for construction, operation, and maintenance personnel and activities.
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 ONE North windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
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 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.
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.
Jointing bay	Underground structures constructed at intervals along the onshore cable route to join sections of cable and facilitate installation of the cables into the buried ducts.
Landfall	The area (from Mean Low Water Springs) where the offshore export cables would make contact with land, and connect to the onshore cables.
Link boxes	Underground chambers within the onshore cable route housing electrical earthing links.
Meteorological mast	An offshore structure which contains metrological instruments used for wind data acquisition.
Mitigation areas	Areas captured within the onshore development area specifically for mitigating expected or anticipated impacts.
Marking buoys	Buoys to delineate spatial features / restrictions within the offshore development area.

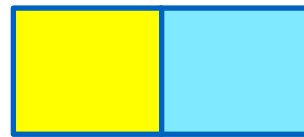


Monitoring buoys	Buoys to monitor <i>in situ</i> condition within the windfarm, for example wave and metocean conditions.
Natura 2000 site	A site forming part of the network of sites made up of Special Areas of Conservation and Special Protection Areas designated respectively under the Habitats Directive and Birds Directive.
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 TWO / East Anglia ONE North 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.
Transition bay	Underground structures at the landfall that house the joints between the offshore export cables and the onshore cables.
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 presents the Applicants' comments on Royal Society for the Protection of Birds' (RSPB's) Deadline 12 submissions as follows:
 - RSPB's Deadline 12 Submission – The RSPB's responses to the Examining Authority's (ExA's) R17QF Written Questions (REP12-096);
 - RSPB's Deadline 12 Submission – Written Representations for the RSPB (REP12-095).
2. This document is applicable to both the East Anglia TWO and East Anglia ONE North DCO applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's procedural decisions on document management of 23rd December 2019 (PD-004). Whilst this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it for the other project submission.



2 Comments on RSPB's Deadline 12 Submissions

2.1 Applicants' Comments on RSPB's Deadline 12 Submission – The RSPB's responses to the Examining Authority's (ExA's) R17QF Written Questions (REP12-096)

Question	Question	Question	RSPB Answer	Applicants' Comments
R17QF.4	The RSPB	<p>Offshore Ornithology Without Prejudice Compensation Measures [REP11-070]</p> <p>In page 57 of [REP11-070], the Applicants have referenced perceived benefits due to reducing conflict between recovering gull breeding numbers and protecting avocets and other ground nesting birds from gull predation.</p> <p>To the Applicants:</p> <p>a) Please expand on how any particular benefits for avocets and other ground nesting birds at Havergate Island would occur should fencing be erected at Orford Ness.</p> <p>b) Is there a danger that an increased gull population at Orford Ness could actually have the effect of increasing gull predation of ground nesting birds at Havergate Island?</p> <p>c) As a more general matter with regard to all of the compensation measures</p>	<p>The RSPB has sought to respond to the Examining Authority's questions as far as we can. Our answers are based on our experience of discussing and negotiating compensation proposals with developers over the last 20 years or so and the lessons learned from that experience.</p> <p><u>Question (a)</u></p> <p>The RSPB refers the Examining Authority to its previous response on the same issue. At paragraphs 3.26-3.28 of our Deadline 8 submission (REP8-171) we stated:</p> <p>"3.26 At paragraph 209 (Appendix 5, lesser black-backed gull), the Applicant states that:</p> <p><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>a) and b) See the Applicants response to this question in REP12-056. This provides further discussion on potential benefits for avocets from the compensation measure proposed for LBBG.</p> <p>The Applicants note RSPB's clarification regarding their own management practices for the Havergate Reserve. The Applicants highlight that the discussion regarding avocet is a side issue and whether there is any benefit to avocet (RSPB conclude that based on their own management of the site the effect of the proposed compensation measure would be neutral, NE also state that negative effects are unlikely (REP12-089)) this does not affect the efficacy of the measure for lesser black-backed gull.</p> <p>The Applicants do not consider it necessary to amend the Offshore</p>

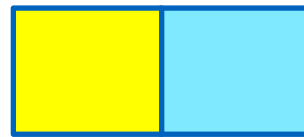


Question	Question to:	Question	RSPB Answer	Applicants' Comments
		<p>proposed within [REP11-070], please set out how any wider knock-on effects, either beneficial or negative, on other species that might arise from the implementation of the proposed without prejudice compensation measures (for example, rat eradication, predator proof fencing, by-catch measures and artificial nesting sites) have been or would be assessed. This should cover both SPA-qualifying and other species.</p> <p>d) What would be the decision-making mechanism regarding the overall acceptability (or not) of any such knock-on effects that have been identified, and how would these effects be monitored and, if required, mitigated?</p> <p>e) For example, would it be appropriate to amend article 3 of parts 1-6 of Schedule 18 of the dDCO to include a requirement to include within the relevant Implementation and Monitoring Plan an assessment of any potential wider ecological effects (positive and negative) of the proposed compensation measures? If not, why not?</p> <p>To Natural England and RSPB:</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)¹:</p> <p><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 management needs at Havergate Island, distinct from the management challenges faced at Orfordness. Relying on Havergate Island alone will not enable the [Alde-Ore</i></p>	<p>Ornithology Without Prejudice Compensation Measures (REP12-060) document but will work with relevant stakeholders as the proposals develop, including consideration of potential wider effects (provision for which has been added to REP12-061 see below response to (c), (d) and (e)).</p> <p>c), d) and e) The Applicants refer to their response to the question (REP12-056) and reiterate that the Offshore Ornithology Without Prejudice Compensation Measures document submitted at Deadline 12 (REP12-061) was updated to make provision for consideration during the detailed design of the compensation measures of any potential wider effects, either beneficial or negative, on other habitats and species that might arise from the implementation of the proposed compensation measure.</p> <p>With regard to the RSPB's wider points about the level of detail included within the measures, the Applicants maintain their position that the level of information is sufficient and proportionate.</p>

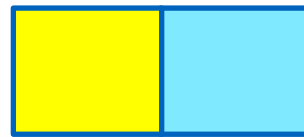


Applicants' Comments on RSPB's Deadline 12 Submissions
5th July 2021

Question	Question to:	Question	RSPB Answer	Applicants' Comments
		<p>f) Do Natural England or RSPB have any observations to make on these points, or practical experience of relevance?</p>	<p><i>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> <p>In its Deadline 9 response (REP9-020) to the RSPB's Deadline 8 submission repeated above, the Applicants' comment (at Point 17 on page 23) was "Noted". Therefore, we are surprised that the Applicants' have not amended the relevant text in their Deadline 11 submission and which led to the Examining Authority's question.</p> <p><u>Question (b)</u></p>	<p>In addition, with regard to whether compensation measures have been legally secured through relevant consents and agreements, the Applicants' position is that there is no AEoI on any of the sites under consideration and therefore none of the compensation measures are required. Whilst "without prejudice compensation measures" have been progressed (as requested), the Applicants do not consider it to be reasonable for consents to be obtained or for legal agreements to have been entered into before a decision is taken on whether such measures are deemed necessary. Furthermore, the Applicants highlight that there are appropriate controls in place through Schedule 18 of the draft DCO (document reference 3.1).</p> <p>Detailed comments remain as stated in <i>Applicants' Comments on the Royal Society for the Protection of Birds' Deadline 8 Submissions</i> (REP9-020), <i>Applicants' Comments on the Royal Society for the Protection of Birds' Deadline 9 Submissions</i> (REP10-018) and <i>Applicants' Comments on the Royal Society for the Protection of</i></p>



Question	Question to:	Question	RSPB Answer	Applicants' Comments
			<p>On the basis of the answer to Question (a) above, the RSPB's conclusion is no: this is because the priority for management at the RSPB Havergate reserve is lesser black-backed gulls.</p> <p>The RSPB also manages land outside the Alde-Ore Estuary SPA on the adjacent Suffolk coast. The management priority of this land is targeted at those SPA species displaced from Havergate by the increase in the lesser black-backed gull population e.g. avocet, terns. The management for this land already takes account of its proximity to the Alde-Ore Estuary SPA and its lesser black-backed gull population.</p> <p><u>Question (c), (d) and (e)</u></p> <p>The Examining Authority's questions touch on the important issue of the sequencing of informed decision-making in respect of compensation proposals and the tension that currently exists in dealing with proposals that are very much outline proposals with little, if any, practical detail. It also relates to the answers provided to the Examining Authority's Question 3.2.8 (level of detail in relation to [compensation] implementation) at Deadline 11 and the</p>	<p><i>Birds' Deadline 10 Submissions</i> (REP11-055)</p>



Question	Question to:	Question	RSPB Answer	Applicants' Comments
			<p>reason why it is important to ensure the availability of sufficient information at the point of DCO consent on the implications of each proposed compensation measure e.g.:</p> <ul style="list-style-type: none"> • The nature and location of the proposed measure(s) and an assessment of whether it is likely to have a reasonable guarantee of success; • Whether it has been legally secured through relevant consents and agreements. <p>As the RSPB's answer to Question 3.2.8 highlighted (REP11- 127)2, there are some highly significant and detailed considerations for the various compensation measures that it is both essential and appropriate to consider before DCO consent is granted, rather than assume a highly outline compensation measure can be translated in to a detailed and workable measure "on the ground" at a later date and all the necessary consents and agreements successfully secured.</p> <p>Satisfying these issues prior to DCO consent being granted should, in general terms, ensure it is possible to:</p>	



Question	Question to:	Question	RSPB Answer	Applicants' Comments
			<ul style="list-style-type: none"> • Identify the location and mechanism(s) of the proposed compensation measure in detail; • Identify the relevant consenting and/or licensing mechanisms required. Depending on location and mechanism, we consider these are likely to go beyond the outline changes to article 3 of parts 1-6 of Schedule 18 of the dDCO suggested in part (e) of the Examining Authority's question; • Identify any potential impacts of the proposed measure on the receptor site and surrounding environment and carry out appropriate screening; • Based on this, identify any particular impact assessment requirements necessary which might arise from likely direct and indirect effects of the compensation measure on other receptors (e.g. Environmental Impact Assessment, Habitats Regulations Assessment, SSSI consents etc); • Once these have been completed and relevant processes completed, be satisfied that the relevant legal consents are secured, assuming consent for the compensation 	



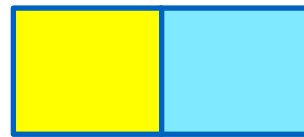
Question	Question to:	Question	RSPB Answer	Applicants' Comments
			<p>measure is granted by the relevant decision-making authority. If consent has not been granted, the Examining Authority and Secretary of State would know in advance.</p> <p>This would in turn enable the Examining Authority and Secretary of State to be able to make a fully informed decision on whether proposed compensatory measures have been secured, have a reasonable guarantee of success and therefore will protect the overall coherence of the National Sites Network.</p>	

2.2 Applicants' Comments on RSPB's Deadline 12 Submission – Written Representations for the RSPB (REP12-095)

ID	RSPB's Comment	Applicants' Comments
1 Introduction		
1	<p>1.1 This representation applies jointly to the development consent order (the DCO) applications by Scottish Power Renewables (the Applicants) 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 Applicants' Deadline 11 submissions for each scheme entitled</p>	Noted



ID	RSPB's Comment	Applicants' Comments
	<p>"Applicants' Comments on the Royal Society for the Protection of Birds' Deadline 10 Submissions" (both numbered REP11-055).</p>	
<p>Scope of Written Submission</p>		
2	<p>1.3 This Written Submission covers points relating to kittiwake artificial nesting structures in Table 1 in REP 11-055 with the references:</p> <ul style="list-style-type: none"> • Points 12 (&13a) • Timing. <p>1.4 It should be read in conjunction with the RSPB's previous submissions to the Examination, in particular our submissions at Deadline 4 (REP4-097), Deadline 8 (REP8-171), Deadline 9 submission (REP9-071), Deadline 10 (10-054) and Deadline 11 (REP11-127). 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.</p>	Noted
<p>2 Response to Applicants' REP11-055</p>		
3	<p>2.1 As noted above, we have limited our response to the Applicants' comments under "Points 12 (&13a)" and "Timing" in relation to artificial nesting structures and kittiwakes. We address both together.</p> <p>2.3 It is known that a number of artificial sites have been established but have never been colonised, some colonised but have not reached full capacity, and that productivity varies between</p>	<p>The Applicants maintain the position set out in REP11-055 that the scientific evidence does provide a reasonable guarantee of success of artificial structures as an approach to achieve increased productivity of kittiwakes. The Applicants are aware that not all artificial structures colonised by kittiwakes result in equally high breeding success, and so it was acknowledged that there is a need for careful design to optimise the nest site suitability for breeding kittiwakes and to monitor efficacy of the new structures.</p>



ID	RSPB's Comment	Applicants' Comments
	<p>colonies (natural and artificial). The Hornsea Project Three Response to the Secretary of State's Minded to Approve Letter Annex 2 to Appendix 2: Kittiwake Artificial Nest Provisioning: Ecological Evidence is helpful in this respect:¹</p> <ul style="list-style-type: none"> • Table 3.2 shows purpose made artificial nesting sites for kittiwake that have been successful. However it is important to note that the same table points out that several of these colonies have undergone declines and none has ever reached its design capacity; • Table 3.3 shows purpose made artificial nesting sites for kittiwake where birds have (as yet) failed to colonise; and • Table 4.3 highlights the variability in productivity trends between natural, artificial and mixed sites, with a natural site (Coquet Island Special Protection Area) higher than listed artificial sites, and all but one of the sites listed showing a downward trend. <p>2.4 Furthermore, natural colonisation of artificial nesting structures is fundamentally different from colonisation of structures deliberately provided at locations chosen by humans. We welcome the Applicants' acknowledgement of our key point that such measures are not proven from the perspective of the deliberate provision of compensation measures.</p> <p>2.5 Critical unknown elements for the successful provision of such compensation measures include:</p>	<p>All of these considerations are covered by the measure set out in Appendix 1: Kittiwake of the Offshore Ornithology Without Prejudice Compensation Measures (REP12-060) and summarised in section 5.4.3 of Appendix 1. The kittiwake compensation steering group (KCSG) would be appointed to oversee the development, implementation, monitoring and reporting of the compensation measures. The kittiwake implementation and monitoring plan (KIMP) would also contain provision to monitor the success of the compensation measures. Results would be discussed with the KCSG. If a need to modify the approach (including in an extreme case relocation of the artificial habitat) is identified this will also be discussed and steps taken accordingly as adaptive management.</p> <p>Given a) the scientific evidence providing a reasonable guarantee of success, b) the management structure in place to provide adaptive management if required and c) the scale of the compensation required for the Projects (which in itself limits the scale of failure); the Applicants consider that the compensation measures proposed provide a "<i>reasonable guarantee of success</i>".</p>

¹ [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003241-HOW03_30Sep_Appendix_2_Annex_2%20Ecological%20Evidence%20\(06543000_A\)%20combined%20\(06543760_A\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-003241-HOW03_30Sep_Appendix_2_Annex_2%20Ecological%20Evidence%20(06543000_A)%20combined%20(06543760_A).pdf)



ID	RSPB's Comment	Applicants' Comments
	<ul style="list-style-type: none"> • Whether or not there is an existing shortage of nesting locations; • Whether any colonising birds represent simply a shift in local distribution of existing breeders or are genuinely additional birds being recruited in to the breeding population; • Whether or not there is an adequate and sustainable food supply available to birds choosing to nest in that location; • Whether birds choosing to nest at the location will compete with existing colonies for food, including SPA colonies in decline. <p>2.6 Overall, in simple terms, it is one thing for kittiwakes to colonise an artificial structure naturally (treating it like any other natural location) and either be successful or not, it is quite another to guarantee that kittiwakes will colonise a specific structure deliberately provided for them at a particular location and further guarantee they will breed successfully. This goes to the heart of the question of whether a compensation measure can be secured with a “reasonable guarantee of success”.</p>	
4	<p>2.7 In the section on “Timing” the Applicants’ reiterate their view that:</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 remains extremely small and would readily be recouped within a year or two of measures becoming effective.”</p> <p>2.8 The RSPB makes the following comments:</p>	<p>With regard to (i) and (ii) see response to ID3.</p> <p>The Applicants welcome RSPB’s acknowledgement that the predicted mortalities are small, and the Applicants likewise acknowledge that there is uncertainty over the accuracy of the predicted numbers. However, the Applicants highlight that there are many layers of precaution within the estimates and therefore the uncertainty lies in the degree to which the numbers are overestimates rather than underestimates (as described in full in the Offshore Ornithology Precaution Note (AS-041)).</p>



ID	RSPB's Comment	Applicants' Comments
	<ul style="list-style-type: none">• The fundamental points are (i) whether the birds colonise and (ii) how successful they are. If they colonise but are unsuccessful, then the colony is acting as a population sink, so could act to exacerbate population loss.• The predicted mortalities from the applications may be small, but there is uncertainty around the accuracy of these. Therefore, greater certainty is required in the confidence in the compensation measure.	