

# Norfolk Vanguard Offshore Wind Farm

## Response to comments on the Report on the Implications of European Sites

Applicant: Norfolk Vanguard Limited  
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Deadline 9

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*Photo: Kentish Flats Offshore Wind Farm*

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## Glossary

AA	Appropriate Assessment
AEoI	Adverse Effect on Integrity
A-OE	Alde-Ore Estuary
BDMPS	Biologically Defined Minimum Population Scales
CoCP	Code of Construction Practice
CRM	Collision Risk Modelling
DCO	Development Consent Order
DML	Deemed Marine Licence
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
FFC	Flamborough and Filey Coast
GW	Greater Wash
HHW	Haisborough, Hammond and Winterton
HRA	Habitats Regulation Assessment
LBBG	Lesser Black Backed Gull
LSE	Likely Significant Effect
MMO	Marine Management Organisation
NE	Natural England
NNDC	North Norfolk District Council
OCoCP	Outline Code of Construction Practice
OLEMS	Outline Landscape and Ecological Management Strategy
OTE	Outer Thames Estuary
OWF	Offshore Wind Farm
pSPA	potential Special Protection Area
PVA	Population Viability Analysis
RIES	Report on the Implications for European Species
RSPB	Royal Society for the Protection of Birds
RTD	Red Throated Diver
SAC	Special Area of Conservation
SIP	Site Integrity Plan
SNCB	Statutory Nature Conservation Bodies
SNH	Scottish Natural Heritage
SNS	Southern North Sea
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
TWT	The Wildlife Trusts

## **1 INTRODUCTION**

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1. This document provides the Applicant's response to stakeholders' comments on the Report on the Implications for European Sites (RIES), submitted at Deadline 8.
2. Comments on the RIES were received from the following stakeholders:
  - Natural England
  - Royal Society for the Protection of Birds
  - The Marine Management Organisation
  - The Wildlife Trust
  - North Norfolk District Council
3. Detailed responses are provided in the sections below.

## 2 STAKEHOLDERS' COMMENTS ON THE RIES

### 2.1 Natural England

**Table 1 Applicant's response to Natural England's comments on the Report on the Implications for European Sites (RIES)**

Ref.	Section/Para	Natural England's Comment	Applicants Response
<b>3) Detailed Comments</b>			
3.1	2.1.10	Please note that the extended Outer Thames Estuary Special Protection Area (OTE SPA) is now a classified SPA, and therefore is no longer a potential SPA (pSPA).	The Applicant acknowledges and agrees with this point but also notes that this does not affect the assessment or conclusions.
3.2	2.2.3	For clarity, Natural England advised that new Collision Risk Modelling (CRM) for migrating Bewick's swan and avocet should be carried out in addition to updated CRM for a wider suite of species which were considered at East Anglia Three offshore windfarm (OWF)	The Applicant agrees with the clarification provided by Natural England.
3.3	2.3.2	<p>As noted in section 2.3.2 of the REIS 'In-combination effects were not assessed for the River Wensum SAC, Norfolk Valley Fens SAC and The Broads SAC on the basis that the project alone was not determined to have the potential for AEOL, therefore there is "no real prospect of an in-combination effect occurring with another plan or project" (section 9.3.1.4 [APP-045]). The applicant concluded that 'If a potential for AEOL was not determined with respect to a site due to Norfolk Vanguard, there is no real prospect of an in-combination effect occurring with another plan or project'. Natural England advises that the methodology for in combination impact assessment is not in line with the Waddenzee judgment. If a plan or project would not be likely to have a significant effect on the site alone, it should nevertheless be considered in combination with other plans and projects to establish whether there would be likely to be a significant effect arising from their combined impacts (English Nature 2006 Report Number 704). We welcome that in combination effects were considered for the water dependant site at Booton Common SSSI/Norfolk Valley Fens SAC within a Clarification Note submitted February 2019. However in-combination effects with other plans and projects should have been assessed for other sites within the EIA.</p>	<p>The Applicant's position is that in order for Norfolk Vanguard to be considered to have the potential to contribute to in-combination effects, there must be sufficient cause to consider that a relevant habitat or species is sensitive to effects due to the project itself (e.g. as a result of particular influence of sensitivity, or the presence of a species in notable numbers on at least one survey occasion, rather than simply being recorded within the site). Therefore, only where the project alone was determined to have the potential for adverse effect upon site integrity on European sites and features have these sites and features been included in the in-combination assessment. If a potential for adverse effect upon site integrity was not determined with respect to a site due to Norfolk Vanguard alone, there is no prospect of an in-combination effect occurring with another plan or project.</p> <p>Norfolk Vanguard is identified as giving rise to residual effects upon the integrity of European sites which are at most, of a negligible effect magnitude. With respect to the River Wensum, the introduction of</p>



Ref.	Section/Para	Natural England's Comment	Applicants Response
			<p>sediment management and pollution prevention measures detailed in the Outline Code of Construction Practice (OCoCP) provided at Deadline 7 ensures that the risk of sediment / pollutant release, during construction, into areas functionally connected to the River Wensum are minimised with the inclusion of measures such as: any topsoil strip of grassland within the functional floodplain will be undertaken with a turf cutter and during reinstatement the stored turf rolls will be replaced to speed up recovery; any topsoil will also be stored outside of the functional floodplain. With these measures in place impacts related to potential sediment release into the River Wensum will reduce to negligible. As a negligible effect is anticipated, no in-combination effect is anticipated with any other projects in relation to the River Wensum SAC.</p> <p>With respect to the Broads SAC, the assessment undertaken within the Information to Support Habitats Regulations Assessment Report (document 5.3), as clarified through the information contained within the clarification note provided to Natural England (Appendix 2 of the Onshore Ecology Clarification Notes Position Statement submitted at Deadline 6 (ExA; ISH4; 10.D6.9), concluded that there was no pathway to effect between Norfolk Vanguard and the component Sites of Special Scientific Interest (SSSIs) of the Broads SAC, when considering indirect effects upon qualifying features due to interactions with surface or groundwater. As no pathway to effect was identified, no potential adverse effect upon integrity is possible, alone or in-combination.</p> <p>Potential in-combination effects in relation to Paston Great Barn SAC and Norfolk Valley Fens SAC is discussed within the Information to Support Habitats Regulations Assessment Report. The same</p>



Ref.	Section/Para	Natural England's Comment	Applicants Response
			conclusion, that no potential adverse effect upon integrity is possible, alone or in-combination with other projects is reached for these sites also.
3.4	2.3.3	Natural England notes the recommendation that the impacts on Norfolk Valley Fens SAC are considered in combination with Hornsea Project Three. The Applicant has provided a Clarification Note regarding water dependant designated sites and on the basis of that document Natural England is satisfied that in combination the projects will not have an AEoI on Norfolk Valley Fens SAC.	The Applicant is in agreement with this comment.
3.5	2.3.7 - 2.3.9 – features omitted	<p>Following Natural England advice, alone and in-combination displacement assessments were also carried out for the following features of the Flamborough and Filey Coast SPA:</p> <ul style="list-style-type: none"> <li>• Guillemot</li> <li>• Razorbill</li> <li>• Seabird assemblage (puffin component of the assemblage).</li> </ul> <p>Natural England notes that updated versions of these assessments are due to be submitted at Deadline 8.</p>	The Applicant agrees with the clarification provided by Natural England and confirms that an updated assessment following Natural England's advice was submitted at Deadline 8 (ExA;AS;10.D8.10). This assessment reached conclusions of no Adverse Effects on Integrity (AEoI) for all three auk species in relation to displacement from the project alone and in-combination. This was the same conclusion reached in the previous submission (ExA;AS;10.D6.17) of which ExA;AS;10.D8.10 is an update.
3.6	2.3.9 – Greater Wash red-throated diver	At the time of the RIES being published, Natural England has outstanding concerns regarding the scope and content of the in-combination assessment for red-throated diver (RTD) from the Greater Wash SPA. Please see Section 2.9 and 2.10 of our Deadline 7 response [REP7-075].	<p>The Applicant has committed to undertake cable installation between January and March with only one main cable laying vessel in order to mitigate any in-combination impact(condition 18, Part 4 of Schedule 11-12 (Transmission DMLs) .On the basis of this commitment, and as stated in the SoCG submitted at D9, NE has agreed that a no AEoI could be concluded for RTD due to project in combination with other plans of projects.</p> <p>Furthermore, the short duration of cable installation within the SPA (a maximum of six weeks would be required within the SPA), the limited area over which a cable laying vessel could exert an effect (even when a precautionary 2km radius is applied) and the fact this would be a one-off event leads the Applicant to</p>

Ref.	Section/Para	Natural England's Comment	Applicants Response
			conclude that combining this potential very minor impact/effect with that which may derive from the operational impact from existing wind farms within the SPA is inappropriate and is considered an overly precautionary approach to the assessment.
3.7	2.5.1	The apportioning of impacts to FFC SPA features and Alde-Ore Estuary (A-OE) SPA lesser black-backed gull (LBBG), including the appropriate definitions of breeding seasons, have also been a key subject of discussions.	The Applicant agrees with the clarification provided by Natural England.
3.8	2.5.1 3rd bullet	Text should read <b>Outer</b> Thames Estuary SPA rather than Thames Estuary SPA	The Applicant agrees with this comment.
3.9	2.5.20	Specifically, Natural England advised that there would be an adverse effect on integrity (AEOI) for FFC kittiwake in-combination with other plans and projects, and that it was not possible to ascertain no AEOI for FFC gannet and Alde-Ore Estuary SPA LBBG.	The Applicant considers that with the application of an appropriate level of precaution (see ExA;AS;10.D8.8 and ExA;AS;10.D9.6) a conclusion of no AEOI can be reached for kittiwake due to collision risk for the project in-combination with other plans and projects.
3.9	2.5.28	Please see Natural England's advice regarding Hornsea Project Three OWF; See Relevant Representation and Annex C of our Written Representation, RR-097 and REP1-211 of the Hornsea Project Three OWF Examination Library respectively.	The Applicant has followed Natural England's advice with respect to the approach for including other wind farms in the cumulative and in-combination assessment.
3.10	2.5.32 – 2.5.33	Natural England wishes to note that we have for some time been advising that the Hornsea 2 PVAs have not been sufficiently robust, including during the Hornsea 3 evidence plan process and in our Hornsea 3 Written Representations (Natural England 2018 – Hornsea 3 REP1-211 <sup>1</sup> )	In the updated assessments submitted at Deadline 6 (ExA;AS;10.D6.17) the Applicant made reference to the later PVA outputs produced for Hornsea Project Three as advised by Natural England.
3.11	2.5.34	It is unclear whether this part of the RIES is referring to the first updated PVA models produced for Hornsea 3 at Deadline 1 of that Examination, or the second update at Deadline 4 of that Examination. We note that whilst the 'Deadline 1' PVAs showed no difference between the matched and unmatched runs, when these PVAs were	The Applicant notes that in the submission at Deadline 6 (ExA;AS;10.D6.17) and those made at subsequent deadlines, the PVA for the Hornsea Project Three wind farm have been used in the assessments.

<sup>1</sup> Natural England (2018) Hornsea Project Three Offshore Wind Farm: Annex C Natural England detailed advice on ornithology. Available from: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-001237-EN10080%20261379%20Annex%20C%20Hornsea%20Three%20-%20NE%20Detailed%20ornithology%20comments.pdf>

Ref.	Section/Para	Natural England's Comment	Applicants Response
		updated at Deadline 4 following Natural England's advice the confidence intervals were indeed different to those at Deadline 1. Natural England's continued position is that a 'matched runs' approach is still required to ensure PVAs are robust.	
3.1 2	2.5.45	Natural England is content with the current version of the Scour Protection and Cable protection Plan [REP7-024] please see our response in this regard also provided at Deadline 8. We also acknowledge that cable protection within Haisborough, Hammond and Winterton SAC will be taken forwards in the Site Integrity Plan. Natural England's detailed comments on the Site Integrity Plan that was submitted by the Applicant at Deadline 7 [REP7-026] have also been provided at Deadline 8.	The Applicant's response to Natural England's Comments on the Haisborough Hammond and Winterton (HHW) Special Area of Conservation (SAC) Site Integrity Plan (SIP) is provided in document reference ExA; Comments; 10.D9.1.
3.1 3	2.5.48	As stated at Issue Specific Hearing 4 and presented in REP6-032, whilst Natural England continues to advise that the use of cable protection within Haisborough, Hammond and Winterton SAC should not be permitted; we advise that the SIP should allow for flexibility at time of decommissioning to allow for removal of cable protection if technology / methodology had developed sufficiently to provide confidence that decommissioning would be achieved without causing more harm to the SAC to return the site to its pre impact condition.	The Applicant is in agreement with this comment and notes that the Outline HHW SAC SIP (document 8.20) states that cable protection decommissioning will be " <i>reviewed and considered as a potential mitigation measure if this becomes practicable at the stage of producing the final SIP prior to construction, or at the time of decommissioning Norfolk Vanguard, for the type of cable protection installed.</i> "
3.1 4	2.6.2, 2.6.3, 2.6.6, Table 4.1, section 3 of Annex I	Please see our comment on 2.1.10 above.	The Applicant acknowledges and agrees with this point but also notes that this does not affect the assessment or conclusions.
3.1 5	3.2.3	<ul style="list-style-type: none"> <li>We note that the Applicant has not always explicitly treated puffin as a component of the FFC SPA seabird assemblage feature, as opposed to a feature in its own right. Impacts on FFC puffin should be assessed in the context of the seabird assemblage. We also note that all qualifying features of the FFC SPA also form part of the seabird assemblage feature. Draft Natural England conservation advice on the</li> </ul>	<ul style="list-style-type: none"> <li>The Applicant is not aware that Natural England has provided any specific advice on how the seabird assemblage should be assessed, and in all correspondence regarding auk displacement from this SPA Natural England has referred to all three species without noting these should be treated differently. The Applicant also notes that the information referred to by Natural England has only been available since March 2019 and that beyond a target of 'maintaining the seabird</li> </ul>

Ref.	Section/Para	Natural England's Comment	Applicants Response
		<p>assemblage and all other FFC features<sup>2</sup> was published in March 2019.</p> <ul style="list-style-type: none"> <li>• Natural England is still in discussion with the Applicant regarding Broadland SPA and Ramsar (including Criterion 6).</li> <li>• Natural England are still in discussion with the Applicant considering collision risk modelling for a number of sites.</li> </ul>	<p>assemblage' it is unclear how this could be assessed in a more robust manner than that adopted by the Applicant. Indeed, the Applicant considers that treating puffin as a named component of the SPA species rather than a member of the assemblage has ensured a robust assessment has been undertaken.</p> <ul style="list-style-type: none"> <li>• The Applicant and Natural England have been in ongoing discussions regarding the potential for effects upon qualifying swan and geese species of the Broadland SPA and Ramsar site which use ex-situ habitats located outside the site boundary. Following a call on 3rd June 2019, Natural England and the Applicant have agreed an updated approach to further assessment and mitigation for qualifying swan and geese species of the Broadland SPA and Ramsar site. This updated approach involves undertaking an assessment of historic cropping patterns post-consent to support the conclusion reached using the wintering birds surveys undertaken to date that qualifying swan and geese species of the Broadland SPA and Ramsar site are not present in the onshore project area's zone of influence. As an alternative to this assessment, or in the event that it cannot be concluded that qualifying swan and geese species of the Broadland SPA and Ramsar site are not present, then mitigation will be undertaken if intrusive works take place in the zone of influence over the winter period (Oct – March, inclusive). This mitigation would involve ensuring that land within the zone of influence has suitable feed for wintering birds and is</li> </ul>

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<https://designatedsites.naturalengland.org.uk/Marine/MarineSiteDetail.aspx?SiteCode=UK9006101&SiteName=flamb&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=>

Ref.	Section/Para	Natural England's Comment	Applicants Response
			<p>maintained throughout winter, either through setting aside suitable land or through creating feeding areas by laying sugar beet crops within the Order limits or subject to landowner agreements. This updated approach is detailed in full in an updated version of the Outline Landscape and Ecological Management Strategy (OLEMS) which has been submitted to Natural England in advance of Deadline 9 and is submitted to the Examination at Deadline 9. The Applicant considers that this updated approach will result in no adverse effect on integrity upon the Broadland SPA and Ramsar site. Natural England has confirmed that they also agree with the Applicant's conclusion no adverse effect on integrity upon the Broadland SPA and Ramsar site. This is captured in the Statement of Common Ground submitted at Deadline 9 (Rep2 -SOCG -13.1).</p> <ul style="list-style-type: none"> <li>• With respect to Natural England's comment that they are still in discussion with the Applicant considering collision risk modelling it is unclear to what this refers. The Applicant assumes this refers to the revised collision modelling estimates submitted in ExA;AS;10.D7.21.</li> </ul>
3.1 6	3.2.5	<p>Natural England received a Clarification Note (dated 25th February 2019) from the Applicant which now provides sufficient detail regarding potential groundwater/ hydrology changes and water quality impacts on water dependant designated sites. Natural England agrees with the Applicant's conclusions of no AEoI on Norfolk Valley Fens SAC and Booton Common SSSI from open cut trenching and dewatering or directional drilling based on the conceptual model and the mitigation measures proposed within site specific scheme for watercourse crossings. Natural England is satisfied that this will not have an AEoI either alone or in combination with Hornsea Project Three.</p>	<p>The Applicant is in agreement with this comment.</p>

Ref.	Section/Para	Natural England's Comment	Applicants Response
3.1 7	3.3.5	Natural England notes that the Examining Authority has progressed impacts regarding trenchless crossing at the River Wensum SAC and construction hours at Paston Great Barn SAC to the integrity stage in line with recent case law. Something that Natural England welcomes.	The Applicant considers working hours to be a component of the project design, however the Applicant notes the ExA's position that if the Project's working hours are considered to be mitigation, then potential effects from noise disturbance needs to be screened in and potential AEOL considered. The Applicant considers the Project's working hours are sufficient to ensure that there is no potential AEOL arising from construction noise upon qualifying features of the Paston Great Barn SAC.
3.1 8	4.1.2	Please note Natural England provided the Southern North Sea SAC Register entry UK0030395 under Regulation 19 of The Conservation of Offshore Marine Habitats and Species Regulations 2017 and draft Conservation Objectives and Advice on Activities at Deadline 6 [REP6-032].	Noted. In addition, the Applicant provided the Conservation Objectives published in March 2019 at Deadline 7 (document reference ExA; ISH6; 10.D7.12)
3.1 9	5.0.2	Natural England continues to advise that AEOL cannot be ruled out for several sites (see our detailed advice also provided at Deadline 8 with regards to Haisborough, Hammond and Winterton SAC and SPAs) and therefore recommends that the Applicant takes into consideration alternatives, compensation and IROPI now rather than delaying this to post examination.	As stated in the Applicant's response to Q1.13 of the Examining Authority's Rule 17 Requests for Further Information submitted at Deadline 8 (document reference ExA; WQ; 10.D8.16) and in the Applicant's summary of oral case at Issue Specific Hearing 6 (document reference ExA; ISH6; 10.D7.1), the Applicant is not putting forward alternatives, a case for IROPI or compensatory measures as a "fall-back position" at this stage because the "fall-back" only arises (i.e. the engagement of Article 6(4)) if the Secretary of State concludes that the Project will adversely affect the integrity of one or more relevant site(s), and to what extent. Should such a conclusion be reached, the Applicant would then expect the Secretary of State, as competent authority, to revert back to the Applicant to ask the Applicant to consider the issue at that stage. At that point, the Statutory Nature Conservation Bodies (including Natural England) would then need to be asked to advise on the nature of appropriate compensation measures, to the extent that an

Ref.	Section/Para	Natural England's Comment	Applicants Response
			<p>Adverse Effect on Integrity (AEoI) is concluded, and to what extent, and on which sites.</p> <p>That Applicant maintains that Norfolk Vanguard will have no AEoI, either alone or in-combination, on any European sites.</p> <p>The Applicant's response to Natural England's Comments on the HHW SAC SIP is provided in document reference ExA; Comments; 10.D9.1A.</p>
<b>Detailed Comments on Table 3.2 - European sites, features and potential impacts discussed during examination with regard to LSEs</b>			
4.1	Table 3.2 – FFC SPA	<p>'Auk' is not a feature of FFC SPA. The relevant features that NE advised an LSE for are:</p> <ul style="list-style-type: none"> <li>• Guillemot</li> <li>• Razorbill</li> <li>• Seabird assemblage (puffin component of the assemblage)</li> </ul>	The Applicant agrees with this statement.
4.2	Table 3.2 – RTD	Please note that the LSE considers the project in question 'alone or in-combination' (our emphasis). Therefore, as an LSE has been agreed for the project alone for RTD at Greater Wash (GW) SPA and OTE SPA, it is not necessary to then consider whether there would be an LSE in-combination. Where an LSE is identified for the project alone, in-combination effects are then considered as part of the Appropriate Assessment.	The Applicant agrees with this approach for Habitats Regulations Assessment.
<b>Detailed Comments on Table 4.1 - European sites, features and potential impacts subject to discussion during the examination with regard to effects on integrity</b>			
5.1	Gannet – FFC SPA	Please note that Natural England does not disagree with the avoidance rates used by the Applicant for gannet.	The Applicant notes this agreement.
5.2	RTD – Greater Wash (GW)SPA	As noted in our Relevant Representations (RR-106), consideration should also be given to the in-combination disturbance/displacement effect on RTD of cable laying with the currently constructed or consented wind farms within the GW SPA. Therefore effects considered together with those from Hornsea Three's cable installation are not the only in-combination issues that require consideration.	The Applicant has responded to this above (ref 3.6) and in the Deadline 8 submission ExA; Rule17; 10.D8.16.
5.3	Common scoter – GW SPA	Mortality rates are not in dispute as regards to common scoter. Natural England's principal disagreement regarding common scoter related to the Applicant's conclusion of 'no LSE' for this feature.	The Applicant agrees with this statement, and notes that the submission at Deadline 2 (ExA;WQRAp23.1;10.D2.3) provides



Ref.	Section/Para	Natural England's Comment	Applicants Response
			the basis on which an LSE was ruled out for this species.
5.4	Paston Great Barn SAC	<p>As stated in our Deadline 7 response [REP7-075], following the provision of additional clarification notes by the Applicant Natural England has withdrawn our concerns in this regard and therefore agree with the Applicant's assessment of no AEoI. Within this response we also advised that, as a requirement of the development, that prior to removal of hedgerows, an OLEM/EMP is developed in consultation with Natural England. The plan should include for the improvement of the hedgerows either side of the section to be removed including any gapping up, tree management and the development of scrub/rough grassland margins. The mitigation plan should be in place for 7 years or until the original hedgerow has recovered fully. Consideration could be given within the OLEM/EMP to the planting of more mature hedge plants, that could reduce the time required for these hedgerows to return to their original state/or better.</p> <p>Please note that whilst Natural England acknowledges that some mitigation has been included in the OLEMS; we are disappointed that a full Hedgerow Mitigation Plan was not submitted as part of the OLEMS, and so cannot provide further comment.</p> <p>Natural England also recommended that the developer incorporate Net Gain for bats within the final design and suggests consultation with the Norfolk Barbastelle Study Group/ Norwich Bat Group, as they will be the best placed to recommend local enhancement for the species.</p>	<p>Standard mitigation measures which will be adhered to during removal and reinstatement of hedgerows located within the Paston Great Barn study area are provided within the updated OLEMS which was submitted at Deadline 7. The updated OLEMS also contains the commitment for the Applicant to produce a Hedgerow Mitigation Plan post-consent, as part of the final Ecological Management Plan, on which Natural England will be consulted prior to discharge. The Hedgerow Mitigation Plan will contain details of the specific mitigation at each hedgerow location within the Paston Great Barn Study area. This specific mitigation will be determined once full updated hedgerow survey information has been collected post-consent.</p> <p>Consultation with Norfolk Barbastelle Study Group/ Norwich Bat Group will be undertaken during development of the Hedgerow Mitigation Plan.</p>
5.5	River Wensum SAC	<p>Key matters: Sediment management and restoration/reinstatement and Pollution Control</p> <p>Natural England looks forward to receiving the detailed scheme and programme of watercourse crossings which will be produced by the Applicant post-consent, which is secured through DCO requirement 25. Natural England welcomes the provision of further clarification regarding reinstatement of work areas methodology and commitment to include in the updated Code of Construction Practice. Natural</p>	<p>The Applicant notes Natural England's comment. As noted, the number of trenchless crossings proposed for use under the River Wensum will be detailed in the Watercourse Crossing Method Statement secured through Requirement 25 of the DCO.</p>

Ref.	Section/Para	Natural England's Comment	Applicants Response
		England looks forward to receiving information on the exact number of HDDs under the River Wensum SAC, we understand that this will be post-consent and secured through DCO Requirement.	
5.6	The Broads SAC	Natural England looks forward to receiving the detailed scheme and programme of watercourse crossings which will be produced by the Applicant post-consent, which is secured through DCO requirement 25	The Applicant notes Natural England's comment.
5.7	General – Onshore Ecology	<p>The Applicant produced a Clarification Note (Appendix 1 of [REP6-013]) to clarify its approach to sediment management at the River Wensum crossing.</p> <p>It should be acknowledged that the Applicant has committed to developing a scheme and programme for each watercourse crossing, diversion and reinstatement, which will include site specific details regarding sediment management and pollution prevention measures. This scheme will be submitted to and approved by the relevant planning authority in consultation with Natural England. This commitment is secured through Requirement 25 (Watercourse Crossings) of the draft DCO.</p> <p>Therefore Natural England provides no further comment at this time.</p> <p><b>Please note that this commitment is not captured within the CoCP and should be included.</b></p>	<p>The Applicant has provided a detailed description of the measures which will be employed with respect to sediment management within the OCoCP provided at Deadline 7 (Version 2).</p> <p>In line with Natural England's comment, Table 2.1 of the OCoCP has been updated to provide a reference to where the requirement for a scheme and programme for watercourses crossing, to be developed post-consent, is secured within the DCO. The updated OCoCP is provided at Deadline 9.</p>
<b>Detailed Comments on Annex 2: Screening Matrices (Stage 1)</b>			
6.1	FFC SPA kittiwake	Regarding (b), whilst Natural England is content that displacement/disturbance/barrier effects can be screened out for LSE, we do not support the statement that ' <i>it is exceptional for breeding kittiwakes to travel more than 200km from the colony when foraging</i> ' [our emphasis]. The Applicant's analysis of the 2017 kittiwake tracking data indicates that 5 of 17 tracked kittiwakes had maximum foraging ranges of 205km or more, and this was the case for 6 of 11 kittiwakes in July. This dataset suggests that foraging beyond 200km is better described as infrequent rather than exceptional.	The Applicant agrees that the RSPB data, collected from 17 individuals in a single season, reported forging trips of more than 200km, however trips of this length have rarely been found in previous studies and all the available evidence supports the original statement that travelling such distances is the exception, not the norm.
6.2	FFC SPA gannet	Regarding (h), as noted above, where an LSE is identified for the project alone, in-combination effects are then considered as part of the Appropriate Assessment. In such	The Applicant agrees with this approach for Habitats Regulations Assessment.

Ref.	Section/Para	Natural England's Comment	Applicants Response
		instances, it is not necessary to consider whether there is an LSE in-combination.	
6.3	FFC SPA guillemot, razorbill and puffin	Regarding (k), and as noted in our general comments above, Natural England advises that where an impact pathway between a designated site feature and the proposed activity is identified, the feature should be screened in to the AA unless the impact can be considered to be trivial or inconsequential. Given the potential for displacement effects on FFC SPA auks in the non-breeding season, Natural England's advice is that there is an LSE alone.	The Applicant notes that as per Natural England's advice these species have been assessed (ExA;AS;10.D8.10).
6.4	FFC SPA seabird assemblage	Please see our comments on 3.2.3 above.	The Applicant has responded to this above (ref 3.15).
6.5	GW SPA All features	Regarding (j), we are unclear as to the point being made in the RIES here, unless it specifically refers to those effects not considered to be LSE alone? LSEs have been identified for red-throated diver (construction and operational disturbance) and little gull (collision risk). The consideration of these in the Appropriate Assessment inevitably includes an assessment of in-combination impacts. Please also see our general comments on the LSE test above.	In-combination assessment for construction (to which footnote (j) refers) has been provided where this is appropriate, which in this case includes the potential disturbance to red-throated diver from export cable installation which was assessed in ExA;AS;10.D6.17.
6.6	OTE SPA in-combination effects	Regarding (e), we are unclear as to the point being made in the RIES here, unless it specifically refers to those effects not considered to be LSE alone? An LSE has been identified for red-throated diver (operational disturbance). The consideration of this in the Appropriate Assessment inevitably includes an assessment of in-combination impacts. Please also see our general comments on the LSE test above.	The Applicant understands that footnote (e) refers to in-combination construction and decommissioning impacts for red-throated diver. These were screened out for this SPA feature due to an absence of a pathway for such an effect for the Project alone.
<b>Detailed Comments on Annex 3: Adverse Effects on Integrity Matrices (Stage 2)</b>			
<b>1) Alde Ore Estuary SPA</b>			
7.1	LBBG	Regarding (b), as set out in our Deadline 2 response, REP2-038, to the Applicant's Section 51 advice response AS-006, Natural England advises that reductions in predicted impacts resulting from 'as-built wind farm designs' should not be given weight in an Appropriate Assessment, unless the reduction of the Rochdale Envelope has been legally secured and that updated CRM is carried out using the final turbine parameters and overall project design. To date, there is only one English OWF where	The Applicant acknowledges Natural England's position on the use of as-built rather than consented wind farm designs in collision assessment. However, the Applicant still considers that it is important to appreciate the degree of precaution that this approach adds to in-combination assessments (see ExA;AS;10.D8.8 for detailed discussion on this topic).

Ref.	Section/Para	Natural England's Comment	Applicants Response
		these two criteria have been met: East Anglia One. Natural England considers that an AA that rests its in-combination conclusions on 'as-built' impact reductions for which are not legally secured could leave any associated consent decisions open to challenge.	
7.2	LBBG	Regarding (c), as noted in our response to the first set of Examiners questions [REP1-088], predation levels at the Alde-Ore Estuary SPA LBBG colony form part of the environmental baseline (and associated condition status) and therefore the Appropriate Assessment will need to consider the impacts of Norfolk Vanguard as potentially exerting a potential additional pressure on a struggling colony, rather than comparing the relative importance of different negative impacts. We also note that predator control has not been able to be implemented at the Orfordness part of the SPA despite funds being available for such measures. We recommend that considerations of predator management form no part of the Secretary of State's AA.	The Applicant considers that an awareness of the context for a population's status is valuable to inform an appreciation of the scale of additional impacts being assessed. The current status of UK seabird populations is unrelated to the presence of offshore wind farms and largely due to over-fishing, climate change and predation. The Applicant considers that maintaining an awareness of this is important in discussions about declining populations and potential wind farm impacts.
<b>2) Flamborough and Filey Coast SPA</b>			
7.3	kittiwake	Regarding (a), Natural England does not consider a single CRM when making integrity judgements, taking a range-based approach wherever possible. For example, Natural England's Deadline 6 calculations [REP6-032] for FFC SPA kittiwake for the project alone produced a range of 4 – 195, with a central value of 68.	The Applicant has provided detailed assessment of this aspect, most recently in the Deadline 7 submission (ExA;AS;10.D7.21), the position statement at Deadline 9 (ExA;AS;10.D9.6) and has also provided detailed consideration of precaution in ExA;AS;10.D8.8).
7.4	kittiwake	Regarding (b), following its initial use during some windfarm examinations, Potential Biological Removal (PBR) outputs have now been widely discredited as an appropriate means to assess collision risk to seabird receptors. Natural England advises that they form no part of the Secretary of State's AA. Also regarding (b), we note that Natural England's advice that an adverse effect on the integrity of the FFC SPA kittiwake population in-combination could not be ruled out predates the East Anglia Three examination e.g. Hornsea Two examination.	The Applicant notes that it has made full reference to the most recent PVA for this population (that undertaken for Hornsea Project Three) and has concluded there will not be an AEOI due to collision risk for the project alone or in-combination with other plans and projects (ExA;AS;10.D9.6)..
7.5	gannet	Regarding (c), as noted above Natural England generally considers a range of CRM values rather than a single figure. Therefore for the project alone Natural England would consider the overall range of 1-94 annual	The Applicant notes that it has made full reference to the most recent PVA for this population (that undertaken for Hornsea Project Three) and has concluded there will

Ref.	Section/Para	Natural England's Comment	Applicants Response
		adult collisions, as well as the central value of 33.	not be an AEOL due to collision risk for the project alone or in-combination with other plans and projects (ExA;AS;10.D9.6).
<b>3) Greater Wash SPA</b>			
7.6	RTD	In the section of a) regarding 'Displacement and mortality rates', there is some confusion with respect to Natural England's advice regarding RTD displacement. The worst-case scenario set out in the SNCB advice note (100% displacement and 10% mortality across the array and a 4km buffer) relates solely to turbine arrays and not the installation of the export cable. For export cables Natural England advises a worst case scenario of up to 100% displacement and up to 10% mortality out to 2km from the cable route.	The Applicant notes that it conducted an evidence review which concluded that appropriate (and precautionary) displacement and mortality rates for this species are 90% and 1% respectively (ExA;WQApp 3.1;10.D1.3) and that a detailed discussion of this and other sources of precaution in the assessment was provided in ExA;AS;10.D8.8.
7.7	RTD	Regarding (b), for avoidance of doubt, Natural England advised that a seasonal cable restriction would enable an AEOL in-combination to be <i>ruled out</i> (not <i>concluded</i> as stated in the RIES).	The Applicant has proposed further mitigation for this potential impact (ExA;Rule17;10.D8.16) which provides further support for the Applicant's conclusion that an AEOL can be ruled out for this aspect. It should be noted that Natural England has agreed to this mitigation on the SoCG being submitted at D9.
7.8	RTD	Regarding (e), a number of aspects of this section relate to EIA-level impacts, namely the discussion of the south-west North Sea BDMPS and the SeaMast sensitivity tool. The key HRA issue here relates to Natural England's outstanding concerns regarding the scope and content of the in-combination assessment on the Greater Wash SPA. Please see Section 2.9 and 2.10 of our Deadline 7 response [REP7-075]. Please also note that our concerns regarding impacts on OTE SPA from the Norfolk Vanguard project relate solely to disturbance/displacement from operational phase traffic and not from the array itself.	The Applicant has responded to this above (ref 3.6).
7.9	common scoter	Natural England can confirm that the provision of the map showing common scoter densities and the offshore cable route has allowed us to reach a conclusion of no AEOL alone for the common scoter feature of the SPA.	The Applicant welcomes the confirmation from Natural England that an AEOL can be ruled out for common scoter (see REP8-104).
<b>5) Haisborough Hammond and Winterton</b>			
7.10	a) Temporary physical disturbance (construction)	Paragraph 4 states <i>At Deadline 5, the Applicant and NE [REP5-007] had agreed that the physical processes of Annex 1 Sandbanks in the HHW SAC has the</i>	As stated in the Applicant's response to Q1.7 of the Examining Authority's Rule 17 Requests for Further Information (provided in document

Ref.	Section/Para	Natural England's Comment	Applicants Response
		<p><i>potential to recover from construction activities, within the range of natural variation; however, it is unclear whether there is agreement that an AEol to sandbanks from temporary disturbance during construction can be excluded.</i></p> <p>Natural England advises that whilst Annex I Sandbanks have the potential to recover from certain construction activities, AEol cannot be ruled out for this feature as the Applicant proposes sandwave levelling and cable protection is still within HHW SAC and Natural England continue to advise that cable protection should not be permitted within designated sites.</p>	<p>reference ExA; WQ; 10.D8.16), the Applicant has made a firm commitment through Condition 9(1)(m) of the Transmission DMLs to agree the HHW SAC SIP with the MMO, in consultation with Natural England pre-construction. This must be in accordance with the Outline HHW SAC SIP (document 8.20) which demonstrates that detailed consideration will be given to the potential scale of loss of Annex 1 Reef or Sandbank. Section 5.5 of the Outline HHW SAC SIP shows that prior to installation, the location, extent, type and quantity of cable protection must be agreed with the MMO in consultation with Natural England. In accordance with Condition 9(1)(m) of the Transmission DMLs, construction cannot commence until the MMO is satisfied that there would be no AEol of the HHW SAC.</p> <p>The Applicant considers that this is in accordance with the Natural England Advice note regarding consideration of small scale habitat loss within Special Areas of Conservation (SACs) in relation to cable protection provided at Deadline 4. This states:</p> <p><i>"Whilst there are no hard and fast rules or thresholds, in order for Natural England to advise that there is no likelihood of an adverse effect the project would need to demonstrate the following:</i></p> <ol style="list-style-type: none"> <li><i>1) That the loss is not on the priority habitat/feature/ sub feature/ supporting habitat and/or</i></li> <li><i>2) That the loss is temporarily and reversible (within guidelines above) and/or</i></li> <li><i>3) That the scale of loss is so small as to be de minimus alone and/or</i></li> <li><i>4) That the scale of loss is inconsequential including other impacts on the site/ feature/ sub feature"</i></li> </ol>



Ref.	Section/Para	Natural England's Comment	Applicants Response
7.1 1	a) Temporary physical disturbance (construction) : dredging	<p>As stated previously in our Deadline 3 [REP3-051], Deadline 5 [REP5-017] and Deadline 7 [REP7-075] responses Natural England advises that greater clarity is still required as to where this sediment is to be disposed of. This is particularly important when looking at locations within an SAC boundary. Natural England suggests that this detail could be provided in the SIP, With this in mind Natural England suggests that the SIP should contain criteria that the disposal locations within the SAC should meet to ensure that any sediment will remain within the system, that the dredge material will be &gt;95% similar in particle size to disposal locations whilst ensuring that there is no interaction with Annex I reef. Natural England would suggest that the disposal volumes should be split according to type of material, for example drill arisings, boulders, sand and mud. This is important because different materials have different impacts and those impacts have been assessed based on maximum volumes as provided in the ES.</p> <p>The maximum volumes taken within the Haisborough, Hammond and Winterton SAC should also be detailed separately to ensure the impacts to the designated site remain within the impacts assessed.</p> <p>Finally the wording in the DCO should limit the area of impact from removal of substances for disposal to the area assessed.</p> <p>Until this is done, we are unable to update our previous advice.</p>	<p>Natural England advised during the Evidence Plan Process that sediment should not be disposed of within 50m of <i>S. spinulosa</i> reef. The final location for sediment disposal is therefore dependent on the findings of the pre-construction surveys. The HHW SAC SIP provides the framework for agreeing the location and method for sediment disposal.</p>
7.1 2	(b) – Temporary physical disturbance (operation)	<p>Natural England is of the view that in the parameters set out in the RIES an AEOL could be ruled out. However, this position is dependent on no cable protection being used at the ends of the cable repair sections which may be sub-optimally buried.</p>	<p>In accordance with the updated Offshore Operations and Maintenance Plan (document 8.11) submitted at Deadline 7, should new areas of cable protection be required during maintenance, this would be subject to additional licensing.</p>
7.1 3	(c) - Introduction of new substrate (operation)	<p>The RIES states that the Applicant's conclusions have not been disputed by any Interested Parties, however, this assertion is based on information that was presented at Deadline 7. As responses to Deadline 7 documents will not be provided until Deadline 8 (which is post publication of the RIES) Natural England disputes this statement.</p>	<p>The Applicant has assessed habitat loss in the Information to Support HRA report, providing a conservative assessment. The Applicant maintains the position that the extremely small areas which may be affected by cable protection would not result in an AEOL.</p> <p>Due to the patterns of erosion, accretion and movement of sand</p>



Ref.	Section/Para	Natural England's Comment	Applicants Response
		<p>Point 5 c states: <i>The Applicant's revised integrity matrix [REP7-035] concluded that the extremely small areas associated with the new substrate (0.002% of the total area of SAC and 0.004% of the area of sandbanks within the SAC) would have no significant effect on the governing processes or sandbank communities of the SAC. Therefore, there would be no AEOI.</i></p> <p>Natural England advises that currently 5% cable protection is proposed as a contingency should cables be sub optimally buried within the SAC which if permitted as set out would result in persistent habitat loss of Annex I sandbank feature. Habitat change is a pressure different to habitat loss, but it is still a change to the feature that the site was designated for. Sandbanks features have high sensitivity to both habitat loss and habitat change.</p>	<p>waves naturally occurring within the offshore cable corridor (discussed in Appendix 7.1 of the Information to Support HRA report) it is expected that the cable protection may undergo some periodic burial and uncovering and therefore there would be no adverse effect on the form and function of the Sandbanks.</p> <p>As stated in the Applicant's comments on NE's Annex C Deadline 1 submission (submitted at Deadline 2, document reference ExA; WQRAp1; 10.D2.3), the species / communities listed by NE in the conservation objectives for the HHW SAC are relatively species poor on the crests of sandbanks as a result of the highly dynamic sediment environment and the associated impacts of disturbance, smothering and scour; and areas of the site where sediment movements are reduced (flanks and troughs) support an abundance of attached bryozoans, hydroids and sea anemones. <i>Sabellaria spinulosa</i> and other tube building worms (e.g. keel worms and sand mason worms), along with bivalves and crustaceans.</p> <p>Infaunal species would be likely to remain in the sediment under or surrounding cable protection and therefore would not be lost. In addition, the majority of those species that are associated with areas of the flanks and troughs of the Sandbanks are common and/or regularly associated with sublittoral rocky or boulder communities and can therefore be expected to colonise cable protection.</p>
7.1 4	Annex 3:5 (d) – In- combination effect	<p>Natural England remains concerned about permanent change to the sandbank features both alone and in-combination from the placement of cable protection. And whilst we recognise that the impacts from Norfolk Vanguard and Norfolk Boreas will be temporary and spatially separate, bar some site preparation works. There are still impacts occurring to the same sandbank and the combination to the two projects may hinder the recoverability of the feature</p>	<p>The Outline Norfolk Vanguard HHW SAC SIP (document 8.20) notes that consideration will be given to Norfolk Boreas to ensure mitigation solutions are compatible for both projects.</p>

Ref.	Section/Para	Natural England's Comment	Applicants Response
		over a longer period. All of this will need to be thoroughly considered going forwards in SIP.	
7.1 5	(f) – Habitat loss (operation) – sandbanks and Reefs and SIP	Within this section the note on SIP is presented after the text describing Natural England's position on sandbanks and reefs. This could be interpreted as meaning that Natural England now agrees with the Applicant's conclusions in this regard. Therefore, for clarity Natural England continue to advise that cable protection will result in permanent habitat loss and this position has not changed following our review of the SIP provided by the Applicant at Deadline 7 [REP7-026]. This problem occurs throughout this section of the RIES.	See response to 7.10 and 7.13.
7.1 6	Annex 3: 5 (h) – Site Integrity Plan	Please see Natural England deadline 8 comments on the SIP	The Applicant's response to Natural England's Comments on the HHW SAC SIP, is provided in document reference ExA; Comments; 10.D9.1.
7.1 7	(j) – Temporary physical disturbance (operation)	<p>The RIES states: <i>However, NE [REP6-032] advised that operation and maintenance activities should either be excluded from within the site (with the option to apply for separate marine licence at later date) or sufficiently restricted as repeated operations and maintenance activities could result in continued disturbance and prevent recovery of Annex I reef. As noted in section 2.5 of this RIES, the Applicant subsequently agreed cable protection cannot be deployed during operation and maintenance, save in relation to cable protection already deployed which may be moved or extended to the extent assessed in the ES [REP7-040].</i></p> <p><i>NE did not have the opportunity to respond to the Applicant's comment before publication of this RIES and it is unclear whether there is agreement between the two parties whether an AEOL to reef from temporary physical disturbance during operation can be excluded.</i></p> <p>Whilst Natural England are pleased to hear that the Applicant has committed to not deploying cable protection in any new areas during operation and Maintenance activities, Natural England still do not agree that AEOL to reef from temporary physical disturbance during operation can be excluded as Natural England does not agree with the placement of cable protection within a designated site in the first place.</p>	See response to 7.10 and 7.13.

Ref.	Section/Para	Natural England's Comment	Applicants Response
		Therefore moving or extending cable protection already deployed would result in AEol of the site. In addition to the above repeated O&M activities including (but not exclusively) cable remediation works in areas of Annex I reef may hinder the recovery of the interest feature over a prolonged period of time and affect the favourable condition of the site.	
7.1 8	(l) – Increased suspended sediment and smothering (construction)	Natural England advised within Statement of Common Ground with Applicant [REP1-049] that combined suspended sediment increases associated with aggregates and Norfolk Vanguard cable installation should be considered for Haisborough Hammond and Winterton SAC. Natural England is not aware that this has been completed.	Chapter 8 Marine Geology, Oceanography and Physical Processes of the ES states that theoretical bed level changes of up to 2mm are estimated as a result of cumulative impacts of Norfolk Vanguard cable installation and dredging at nearby aggregate sites. This level of effect has no potential to affect the form and function of the Haisborough Hammond and Winterton SAC, as stated in the Information to Support HRA report (document 5.3).
7.1 9	m) and n) – In-combination effects (construction phase) and (operation)	Natural England note that DML condition 9(m) restricts the commencement of construction until such time that mitigation measures can be adopted to rule out AEol. We also acknowledge that the SIP commits the Applicant to providing a robust evidence base and mitigation measures for which they can be held to account. But due to ongoing concerns with cable protection within the site, even with the 5% reduction in cable protection, the regulators should be aware that these commitments may still be considered insufficient. Therefore, based on the best available evidence at this time and a valid worst case scenario as set out in the SIP Natural England remains of the view that there is a high probability of an AEol on integrity of Haisborough, Hammond and Winterton SAC Annex I sandbanks and reef features both alone and in-combination. Therefore we are unable to agree with the conclusions within the Habitats Regulation Assessment.	As stated in 'Natural England's Comments on the Outline Norfolk Vanguard Haisborough Hammond and Winterton Special Area of Conservation Site Integrity Plan and Consideration of the Purpose of the Haisborough Hammond and Winterton Special Area of Conservation Site Integrity Plan' submitted at Deadline 8, "[the HHW SAC SIP] combined with the Grampian condition at DML 9(1)(m) restricts the commencement of construction until such time that mitigation measures can be adopted to rule out AEol".  The Applicant maintains the position that this allows an AEol to be ruled out at this stage.
<b>6) Southern North Sea</b>			
7.2 0	l) In-combination effects (construction)	Natural England welcomes the timeline laid out by MMO with regard to the development of a mechanism to manage multiple SIPs, however our position remains that we are unable to advise that an AEol in-	As stated in the MMO's Deadline 6 submission (REP6-030), "The current requirement for a Site integrity Plan (SIP) is likely to be sufficient to allow any mechanism to be fully

Ref.	Section/Para	Natural England's Comment	Applicants Response
		combination on the SNS SAC can be ruled out until this mechanism is in place.	<i>incorporated without need for variation."</i>  The wording of Generation DML Condition 14(1)(m) and Transmission DML Condition 9(1)(l) allows the conclusion of no AEol to be made at this stage, as the installation of piled foundations cannot commence until the MMO is satisfied that there would be no AEol.
<b>7) Paston Great Barn SAC</b>			
7.2 1	General	<p>As stated in our Deadline 7 response [REP7-075], following the provision of additional clarification notes by the Applicant Natural England has withdrawn our concerns in this regard and therefore agrees with the Applicant's assessment of no AEol. Within this response we also advised that, as a requirement of the development, that prior to removal of hedgerows, a OLEM/EMP is developed in consultation with Natural England. The plan should include for the improvement of the hedgerows either side of the section to be removed including any gapping up, tree management and the development of scrub/rough grassland margins. The mitigation plan should be in place for 7 years or until the original hedgerow has recovered fully. Consideration could be given within the OLEM/EMP to the planting of more mature hedge plants, that could reduce the time required for these hedgerows to return to their original state/or better. <b>Please note that whilst Natural England note that some mitigation has been included in the OLEMS, we are disappointed that a full Hedgerow Mitigation Plan was not submitted as part of the OLEMS, and so cannot provide further comment.</b></p> <p>Natural England also recommended that the developer incorporate Net Gain for bats within the final design and suggests consultation with the Norfolk Barbastelle Study Group/ Norwich Bat Group, as they will be the best placed to recommend local enhancement for the species.</p>	See response to Ref. 5.4.

## 2.2 Royal Society for the Protection of Birds (RSPB)

**Table 2 Applicant's response to RSPB's comments on the Report on the Implications for European Sites (RIES)**

Section/Para	RSPB's Comment	Applicants Response
Annex 3 (AEOI matrices)	<p><u>1) Alde-Ore Estuary SPA</u> <u>Lesser black-backed gull (breeding) – project alone and in-combination collision mortality</u></p> <ul style="list-style-type: none"> <li>• We consider that AEOI will not result from the project alone (following the proposal to raise draught height)</li> <li>• We consider that AEOI exists arising from collision mortality from this project in-combination with other projects.</li> </ul> <p>As the assessment notes, our disagreement with apportioning for Norfolk Vanguard in the breeding season remains. The project's own contribution is still assessed on the basis of a breeding season apportionment of 3-17%. We recommend that a doubling of this to 34% would be appropriate. We also agree with Natural England's point that apportioning for other projects in the in-combination assessment should use the apportionment rates for those individual windfarms, rather than a generic 30%.</p>	<p>The Applicant acknowledges the RSPB's position on these matters. With respect to the apportioning figure used, this has been discussed in response to a previous RSPB comment above (e.g. ExA; Comments; 10.D8.4). Furthermore, the Applicant considers that the assessment which has been provided is both robust and appropriately precautionary.</p>
Annex 3 (AEOI matrices)	<p><u>2) Flamborough and Filey Coast SPA</u> <u>Black-legged kittiwake (breeding) – in-combination collision mortality</u></p> <ul style="list-style-type: none"> <li>• We consider that AEOI exists arising from collision mortality from this project in-combination with other projects.</li> </ul> <p>The RSPB maintains its position that the breeding season apportionment is too low and recommends that at a minimum a doubling of the Applicant's 26.1% apportionment would be appropriate, but also supports Natural England's use of 86% based on the SNH apportionment tool to provide an indication of the potential range of uncertainty.</p> <p>We also maintain our disagreement with the exclusion of Norfolk Vanguard East during the breeding season as tracking data indicates that it is within the foraging range of breeding birds from FFC SPA.</p>	<p>The Applicant acknowledges the RSPB's position on these matters. With respect to the apportioning figure used, this has been discussed in response to a previous RSPB comment above (ExA; Comments; 10.D8.4). Furthermore, the Applicant considers that the assessment which has been provided is both robust and appropriately precautionary.</p>

Section/Para	RSPB's Comment	Applicants Response
Annex 3 (AEOI matrices)	<p><u>Gannet (breeding) – in-combination collision mortality</u></p> <ul style="list-style-type: none"> <li>We consider that AEOI exists arising from collision mortality from this project in-combination with other projects.</li> </ul> <p>We maintain our preference for a 98% avoidance rate to be used for gannet during the breeding season</p>	The Applicant acknowledges the RSPB's position on these matters. With respect to the avoidance rate figure used, this has been discussed in response to a previous RSPB comment above (e.g. ExA; Comments; 10.D7.20). Furthermore, the Applicant considers that the assessment which has been provided is both robust and appropriately precautionary.

## 2.3 The Marine Management Organisation

**Table 3 Applicant's response to the MMO's comments on the Report on the Implications for European Sites (RIES)**

Section/Para	MMO's Comment	Applicants Response
1.1.1	The MMO defers comments to Natural England on the REIS.	The Applicant's response to comments from Natural England is provided in Section 2.

## 2.4 The Wildlife Trust (TWT)

**Table 4 Applicant's response to TWT's comments on the Report on the Implications for European Sites (RIES)**

Section/Para	TWT's Comment	Applicants Response
1	TWT confirm that we cannot conclude no adverse effect on the Southern North Sea SAC for the following reasons:	N/A
1a	a) We do not agree with the SNCB advice on underwater noise disturbance management within the SAC. It is underpinned by weak evidence and provides weaker management than other North Sea countries.	The Applicant notes that at Deadline 4, Natural England provided comments on The Wildlife Trust's Submission at Deadline 3. Natural England stated <i>"This management approach has been agreed by the SNCBs and been used by the Regulator in Habitats Regulations Assessments and within the current Review of Consents. Natural England has no further comment at this time, other than we are happy with its use in this assessment."</i>
1b	b) The approach will be practically very difficult to implement.	
1c	c) We agree with the principle of a Site Integrity Plan (SIP) but there are no mechanisms in place to ensure regulation and compliance.	As stated in the MMO's Deadline 6 submission (REP6-030), a Regulator Group has been established and stakeholder consultation on the proposed mechanism to manage in-combination noise effects is expected in Q3 of 2019. The MMO stated that <i>"The current requirement for a Site integrity Plan (SIP) is likely to be sufficient to</i>

Section/Para	TWT's Comment	Applicants Response
		<i>allow any mechanism to be fully incorporated without need for variation."</i>
1d	d)The monitoring of underwater noise and the impacts on harbour porpoise outlined in the Development Consent Order and In-principle Monitoring Plan are not adequate to understand the effectiveness of mitigation to be delivered through the SIP.	In accordance with requests from TWT through the SOCG submitted at Deadline 8 (document reference Rep2-SOCG-20.1), the Applicant has updated the In-principle Monitoring Plan (IPMP) (document 8.12), submitted at Deadline 9 to reflect that marine mammal monitoring should relate to the Southern North Sea SAC SIP.

## 2.5 North Norfolk District Council

**Table 5 Applicant's response to North Norfolk District Council's comments on the Report on the Implications for European Sites (RIES)**

Section/Para	North Norfolk District Council's Comment	Applicants Response
2.1	NNDC have reviewed the Report on the Implications for European Sites Published by the Examining Authority on 9 May 2019. The main European Site feature in North Norfolk concerns Barbastelle bats at Paston Great Barn, designated as a Special Area of Conservation (SAC).	No comments.
2.2	NNDC note the findings of Natural England that it has withdrawn its concerns in relation to bats at Paston Great Barn. NNDC concur with the conclusions of Natural England that the OLEMS/EMP should include improvement of hedgerows and a mitigation plan until the affected hedgerow has fully recovered.	Noted. The OLEMS (document 8.7) include mitigation in relation to hedgerows that are important for foraging and commuting bats associated with the Paston Great Barn SAC.



### 3 SUMMARY

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4. Based on the Information to Support HRA report (document 5.3) and various additional submissions to the Examination, the Applicant maintains the position that Norfolk Vanguard will have no AEoI, either alone or in-combination, on any European sites screened into the HRA, taking into account mitigation measures which are secured through the DCO and associated certified documents.