



THE PLANNING ACT 2008
THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE)
RULES 2010

NORFOLK VANGUARD OFFSHORE WIND FARM

Planning Inspectorate Reference: EN010079

Secretary of State Additional Information Request

**Natural England's overview appraisal of in principle compensation
measures**

19th November 2021

Annex 5: Natural England's overview appraisal of in principle compensation measures

Natural England has developed a checklist of those aspects of compensatory measures that need to be described in detail when developers are submitting or updating applications where impacts on MPAs are anticipated. Whilst not exhaustive, it lists key areas where sufficient detail is needed to provide the Secretary of State with appropriate confidence that compensatory measures can be secured. The checklist was also developed to provide detailed advice to decision-makers regarding Natural England's position on the measures, which follows overleaf.

	Compensation requirements	HHW SAC	FFC SPA kittiwake	FFC SPA guillemot and razorbill	AOE SPA
a)	What, where, when: clear and detailed statements regarding the location and design of the proposal.	Natural England believes this has been provided in sufficient detail for extending the SAC, but not for Strands 1-3.	The broad location of Port of Lowestoft has been given, but not specific land parcels. Some information on design parameters for two sorts of structure have been provided, but many unknowns remain.	A specific island for the rat eradication has not been identified.	The preferred location for the New Zealand-style predator exclusion fencing is at Orfordness. Negotiations are underway to secure a particular land parcel, with in-principle agreement with the landowner in place.
b)	Why and how: ecological evidence to demonstrate compensation for the impacted site feature is deliverable in the proposed locations	NE believes that this has been provided for Extending the SAC. However, whilst the Applicant has demonstrated in theory strands 1-3 could be delivered. the ecological evidence for strands 2 and 3 is not sufficient for NE to advise that compensation will be delivered.	<p>The location appears to be a suitable one to host artificial nesting structures which will produce additional birds into the wider biogeographic population of kittiwakes from which FFC SPA draws its recruits. However, it is not possible to quantify the extent to which this measure will directly benefit the FFC SPA.</p> <p>The scale of the proposals appears broadly appropriate in that context, however we have some concerns about the calculations used to identify the number of nests required to offset the impacts, and how quickly</p>	<p>As no specific island has been identified, it is not clear whether a location where rats are exerting a meaningful pressure on guillemot and razorbill is available for the measure to be delivered.</p> <p>As no specific population has been identified, it is not possible to assess the scale of the proposals, however, in broad terms, this measure has some potential to result in additional guillemot and razorbill being produced. However, the candidate colonies are remote from FFC SPA and therefore what benefits might accrue from rat eradication are likely to be at the biogeographic</p>	The wider Orfordness area is a relevant location for the installation of New Zealand style predator exclusion fencing. Already challenges have been identified in relation locations within the SPA including: the number of similar proposals currently on the table, overlapping SAC habitats, and potential AONB impacts. Some of which may have been resolved had there been sufficient time to further develop a DEFRA led strategic project. A location adjacent to the SPA would also be acceptable should one with appropriate characteristics for nesting LBBG be identified.

			any 'mortality debt' will be repaid.	scale, rather than offsetting the site-specific impacts.	<p>The scale of the proposals appears broadly appropriate. However, we have some concerns about the calculations used to identify the number of nests required to offset the impacts, and how quickly any 'mortality debt' will be repaid.</p> <p>The success of the measures will require suitable habitat management in the area subject to exclusion, to ensure that the habitat is suitable for LBBG, whilst avoiding damage to other receptors. This is recognised in the submission. The need to put suitable habitat management in place raises concerns that the timetable proposed is not deliverable.</p>
c)	Demonstrate that on ground construction deliverability is secured and not just the requirement to deliver in the DCO i.e. landowner agreement is in place	This is not secured for the compensation measures for extending the SAC and/or Strand 1. And is not applicable for Strand 2 and 3	A further letter of comfort from the Port of Lowestoft has been provided in the 21 st October 2021 Norfolk Boreas submission, with reference to several suitable sites being identified within the Port, and negotiations ongoing regarding Heads of Terms and the lease of one site. There is no formal	As no specific island has been identified, it follows that no landowner agreement is in place.	A letter of comfort from the landowner has been provided, and negotiations regarding Heads of Terms are underway, though no formal agreement is in place. We consider that wider stakeholder buy in as well as landowner agreement is critical to the success of any compensation.

			agreement in place relating to a particular land parcel.		
d)	Policy/legislative mechanism for delivering the compensation (where needed)	<p>This is not agreed for all compensation measures as the Applicant wishes to retrospectively implement compensation once the impact has happened.</p> <p>In addition, there are policy, legislation and liability complexities associated with removal of surface laid redundant infrastructure that requires several regulators to work together to identify and enable mechanisms to remove constraints</p>	<p>A planning application is scheduled for October 2021, though we are not aware of any consultation regarding this. However, NE flags that given the port is currently planning to be under development for next 18 months, on the basis of the information currently available, Natural England are not persuaded that an artificial structure would be likely to function as compensatory habitat until after the redevelopment has completed.</p>	<p>Post-consent liaison with the relevant landowners and appropriate authorities to determine the permitting requirements is envisaged.</p>	<p>Planning and/or other consents will be sought post-consent. However, we note that any compulsory land acquisition (if needed) and/or subsequent planning application will need to have public scrutiny which is likely to impact on delivery time scales.</p>
e)	Agreed DCO/DML conditions	Not agreed. Please see Annex 4 where we highlight our concerns with the proposed conditions.			
f)	Clear aims and objectives of the compensation	<p>The broad aim of the compensation is to ensure no overall loss of the impacted habitats to the national marine protected area network.</p>	<p>The aim of the compensation is to offset collision mortalities of FFC SPA kittiwakes by producing additional birds that will enter the wider biogeographic population from which the impacted site draws its recruits. However, it will not be possible to quantify the benefits to FFC SPA, so the measure is perhaps better considered as</p>	<p>The aim of the compensation is to offset displacement mortality of FFC SPA guillemot/razorbill by increasing productivity of those species on an island currently impacted by the presence of rats. As the candidate islands are all remote from FFC SPA, the benefits of this measure would be to the wider UK populations of these</p>	<p>The aim of the compensation is to offset collision mortalities of AOE SPA LBBG by producing additional birds, a significant proportion of which are likely return to breed at the colony, given the homing behaviour of some gulls.</p>

			benefitting the species at a biogeographic scale.	species rather than to FFC SPA.	
g)	Mechanism for further commitments if the original compensation objectives are not met – i.e. adaptive management	A commitment to address the management of the SAC extension area is conditioned to the extent that it would be appropriate for the extension to the SAC. However, there is no commitment to adaptive management for strands 1-3.	Adaptive management has been integrated into the design principles of the structures, so that they can be extended, moved or re-oriented. Natural England considers that improving prey availability may be a relevant adaptive management measure in the future and we would like to see a commitment to this.	The commitment to undertake adaptive management is conditioned. However, there are currently no details of what this would look like. There are proposals for follow-up monitoring to see whether rats have been eradicated, but it is unclear whether further eradication efforts would be carried out should rats still be present.	The commitment to undertake adaptive management is conditioned. However, there are limited details regarding this, other than references to the use of decoys/lures and nesting platforms.
h)	Clear governance proposals for the post-consent phase – we do not consider simply proposing a steering group is sufficient	NE remains concerned that a similar approach to that of Hornsea Project 3 (HP3) to leaving determining the governance to post consent is still being followed.			
i)	Ensure development of compensatory measures is open and transparent as a matter of public interest, including how information on the compensation would be publicly available	NE remains concerned about the open and transparent nature of the proposed approach.			
j)	Timescales for implementation esp. where compensation is part of a strategic project, including how timescales relate to the ecological impacts from the development	Natural England is concerned that the proposals by the Applicant are not Habitat Regulations compliant in relation to benthic compensation.	The implementation timetable appears broadly appropriate. However, we note this is not reflected in the DCO and therefore is in no way secured.		

k)	Commitments to monitoring specified success criteria	Again, Natural England is concerned that whilst there is a commitment to monitoring there are no specific requirements included as part of any compensation package as the details of the compensation are not fully known.	The nature of the proposed monitoring is appropriate, but success criteria are not specified.	In addition to the monitoring proposed, Natural England consider that colour-ringing is also required to test survivorship and natal dispersal/philopatry, in order to test and quantify the benefits to the SPA.
l)	Proposals for ongoing 'sign off' procedure for implementing compensation measures throughout the lifetime of the project. Including implementing feedback loops from monitoring	Natural England is concerned that there seems to be a default back to the LPA and/or MMO through DOC/dML requirements/conditions. There is a risk of this becoming a very isolated process with too few interested parties involved. We are concerned that this approach is not fit for purpose for compensatory measures which should be open to public scrutiny.		
m)	Continued annual management of the compensation area and ensure other factors are not hindering the success of the compensation e.g. changes in habitat, increased disturbance as a result of subsequent plans/projects	We are pleased this is something that both the Applicants and regulators need to take responsibility for, but as yet that wider planning mechanism to ensure the continued success of the compensation is not in place.		

