

Norfolk Boreas Offshore Wind Farm Extract of Schedule 19 to the Draft DCO: Compensation to protect the coherence of the Natura 2000 Network

Applicant: Norfolk Boreas Limited
Document Reference: ExA.AS-1.D21.V1
Deadline :20 August 2021

Date: August 2021
Revision: Version 1
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Photo: Ormonde Offshore Wind Farm

SCHEDULE 19

Compensation to protect the coherence of the Natura 2000 network

PART 1

Flamborough and Filey Coast Special Protection Area: Delivery of measures to compensate for loss of kittiwake

1. In this Part—

“kittiwake compensation plan” means the relevant principles for kittiwake compensation set out in the document certified as the In Principle Habitats Regulations Derogation, Provision of Evidence, Appendix 1 Flamborough and Filey Coast SPA In Principle Compensation for the purposes of this Order.

2. No later than 18 months prior to the operation of any wind turbine generator forming part of the authorised development, a strategy for the delivery of measures to compensate for the predicted loss of adult kittiwakes from the Flamborough and Filey Coast Special Protection Area as a result of the authorised development must be submitted to the Secretary of State, and no wind turbine generator forming part of the authorised development may be operated until the strategy has been approved by the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body.

3. The strategy must include measures to increase the number of adult kittiwakes available to recruit to the Flamborough and Filey Coast Special Protection Area in accordance with the principles contained in the kittiwake compensation plan and must contain the relevant matters identified in section 4.6.3 of the kittiwake compensation plan.

4. In the event that the strategy proposes the construction of artificial nest structures it must include:

- (a) details of the location where the compensation measures will be delivered and the suitability of the site to deliver the measures;
- (b) a statement confirming how the necessary land and/or rights will or have been secured to deliver the measures;
- (c) details of the design of the artificial nest structures, including the projected number of nests that will be accommodated on the structures, and how risks from avian or mammalian predation and unauthorised human access will be mitigated;
- (d) an implementation programme for the delivery of the measures;
- (e) a maintenance schedule for the artificial nest structures; and
- (f) proposals for monitoring and reporting on the effectiveness of the measures, including survey methods, success criteria, adaptive management measures, and timescales for the monitoring and monitoring reports to be delivered.

5. The strategy must be carried out as approved, unless otherwise agreed in writing by the Secretary of State in consultation with the MMO and the relevant statutory nature conservation body.

6. Results from the monitoring scheme, including any proposals to address the effectiveness of the measures, must be submitted to the Secretary of State, the MMO and the relevant statutory nature conservation body, and any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the MMO and the relevant statutory nature conservation body.

7. Unless otherwise agreed in writing by the Secretary of State or unless the measures have already been delivered, the undertaker must not commence construction of Work No. 1 until it has first—

- (a) provided a reasonable estimate of the cost of delivery of the compensation measures; and
- (b) put in place either—
 - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
 - (ii) an alternative form of security for that purpose, that has been approved by the Secretary of State.

8. Any artificial nest structure installed under this Part must not be decommissioned without the written approval of the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body.

9. The approved strategy includes any amendments that may subsequently be agreed in writing by the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body. Any amendments to or variations of the approved strategy must be in accordance with the principles set out in the kittiwake compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any new or materially different environmental effects from those considered in the kittiwake compensation plan.

PART 2

Alde-Ore Estuary Special Protection Area: Delivery of measures to compensate for loss of lesser black-backed gull

1. In this Part—

“lesser black-backed gull compensation plan” means the document certified as the In Principle Habitats Regulations Derogation, Provision of Evidence, Appendix 2 Alde-Ore Estuary SPA In Principle Compensation by the Secretary of State for the purposes of this Order.

2. No later than 18 months prior to the operation of any wind turbine generator forming part of the authorised development, a strategy for the delivery of measures to compensate for the predicted loss of adult lesser black-backed gull from the Alde-Ore Estuary Special Protection Area as a result of the authorised development must be submitted to the Secretary of State, and no wind turbine generator forming part of the authorised development may be operated until the strategy has been approved by the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body.

3. The strategy must accord with the principles contained in the lesser black-backed gull compensation plan and must contain the relevant matters identified in section 4.6.2 of the lesser black-backed gull compensation plan.

4. In the event that the strategy proposes predator management measures it must include:

- (a) details of the location where the compensation measures will be delivered and the suitability of the site to deliver the measures;
- (b) a statement confirming how the necessary land and/or rights will or have been secured to deliver the measures;
- (c) details of designs of any predator control fencing including the type of fencing, and the area and location of enclosure;
- (d) an implementation programme for delivery of the measures;
- (e) a fencing maintenance schedule; and

- (f) proposals for monitoring and reporting on the effectiveness of the measures, including survey methods, success criteria, adaptive management measures, and timescales for the monitoring and monitoring reports to be delivered.

5. The strategy must be carried out as approved, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the relevant local planning authority.

6. Results from the monitoring scheme, including any proposals to address the effectiveness of the measures, must be submitted to the Secretary of State and the relevant statutory nature conservation body, and any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.

7. Unless otherwise agreed in writing by the Secretary of State or unless the measures have already been delivered, the undertaker must not commence construction of Work No. 1 until it has first—

- (a) provided a reasonable estimate of the cost of delivery of the compensation measures; and
- (b) put in place either—
 - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
 - (ii) an alternative form of security for that purpose, that has been approved by the Secretary of State.

8. Any predator proof fencing installed must not be decommissioned without written approval of the Secretary of State, in consultation with the relevant statutory nature conservation body.

9. The approved strategy includes any amendments that may subsequently be agreed in writing by the Secretary of State, in consultation with the relevant statutory nature conservation body and the relevant local planning authority. Any amendments to or variations of the approved strategy must be in accordance with the principles set out in the lesser black-backed gull compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any new or materially different environmental effects from those considered in the lesser black-backed gull compensation plan.

PART 3

Haisborough, Hammond and Winterton Special Area of Conservation: Delivery of measures to compensate for cable protection in the Haisborough, Hammond and Winterton Special Area of Conservation

1. In this Part—

“bundled export cable” means up to two subsea export cables and fibre optic cables comprised within Work No. 4A which are bundled together to form a single export cable;

“HHW SAC” means the Haisborough, Hammond and Winterton Special Area of Conservation;

“HHW SAC compensation plan” means the document certified as the In principle Habitats Regulations Derogation, Provision of Evidence, Appendix 3 Haisborough, Hammond and Winterton SAC In Principle Compensation by the Secretary of State for the purposes of this Order;

“relevant cable protection” means cable protection required due to ground conditions in the Haisborough, Hammond and Winterton Special Area of Conservation and, for the avoidance of doubt, does not include cable protection at cable crossings; and

“removal of anthropogenic material” means the removal of materials that are derived from human activity and for the purposes of delivering compensation under this Part includes:

- (a) the identification and removal of existing disused infrastructure

- (b) the identification and retrieval of marine debris; and
- (c) education, awareness and facilities to limit further marine debris

which are described as Strand 1, Strand 2 and Strand 3 respectively in section 4.3.4 of the HHW SAC compensation plan.

2. As soon as reasonably practicable and no later than 3 months following completion of the installation of that part of each bundled export cable which is situated within the HHW SAC, the undertaker must notify the Secretary of State whether any relevant cable protection has been installed in the HHW SAC in respect of that bundled export cable and, if so, the quantity of relevant cable protection so installed.

3. In the event that a notification is made that relevant cable protection has been installed and unless otherwise agreed in writing by the Secretary of State, prior to the transmission of electricity via the bundled export cable for which relevant cable protection has been installed a strategy to provide compensation for the relevant cable protection so installed must be submitted to and approved by the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body.

4. Each strategy submitted must accord with the relevant principles contained in the HHW SAC compensation plan, and must contain the relevant matters identified in paragraph 141 of the HHW SAC compensation plan.

5. In the event that the strategy proposes removal of anthropogenic material, it must include:

- (a) details of any further survey work required to confirm the presence and condition of anthropogenic material;
- (b) details of the location, nature and size of material to be removed;
- (c) a method statement for its removal, to include the vessel type, tools used and mitigation for how impacts on the surrounding habitat will be minimised;
- (d) a programme of works for removal including when the compensation is expected to be delivered;
- (e) proposals for monitoring in accordance with the principles set out in the HHW SAC compensation plan as well as proposals for reporting of monitoring; and
- (f) a programme of delivery for education, awareness and provision of facilities to reduce further marine debris from affecting the HHW SAC.

6. In the event that the strategy proposes an extension of the HHW SAC, it must include:

- (a) details of the method and level of support provided to Defra, and relevant statutory nature conservation bodies;
- (b) timescales for completing the designation; and
- (c) details of contributions to ongoing site condition management, monitoring and reporting of monitoring.

7. The strategy must be carried out as approved, unless otherwise agreed in writing by the Secretary of State in consultation with the MMO and the relevant statutory nature conservation body.

8. Unless otherwise agreed in writing with the Secretary of State, prior to the operation of any wind turbine generator forming part of the authorised development the undertaker must—

- (a) provide a reasonable estimate of the cost of delivery of the compensation measures; and
- (b) put in place either—
 - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
 - (ii) an alternative form of security for that purpose, that has been approved by the Secretary of State.

9. A report which demonstrates completion of the activities required by the approved strategy must be submitted to the Secretary of State within 12 months of completion of such activities and following approval of the report by the Secretary of State, in consultation with the MMO and the statutory nature conservation body, the undertaker will be discharged from any further obligations under this Part.

10. The approved strategy includes any amendments that may subsequently be agreed in writing by the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body. Any amendments to or variations of the approved strategy must be in accordance with the principles set out in the HHW SAC compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any new or materially different environmental effects from those considered in the HHW SAC compensation plan.

PART 4

Flamborough and Filey Coast Special Protection Area: Delivery of measures to compensate for loss of guillemot

1. In this Part—

“guillemot compensation plan” means the relevant principles for guillemot compensation in the document certified as the In Principle Habitats Regulations Derogation, Provision of Evidence, Appendix 1 Flamborough and Filey Coast SPA In Principle Compensation by the Secretary of State for the purposes of this Order.

2. No later than 18 months, prior to the operation of any wind turbine generator forming part of the authorised development, a strategy for the delivery of measures to compensate for the predicted loss of adult guillemot from the Flamborough and Filey Coast Special Protection Area as a result of the authorised development must be submitted to the Secretary of State, and no wind turbine generator forming part of the authorised development may be operated until the strategy has been approved by the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body.

3. The strategy must be in accordance with the principles of the guillemot compensation plan, and must contain the relevant matters identified in section 5.8 of the guillemot compensation plan.

4. In the event that the strategy proposes an eradication programme it must include:

- (a) details of the location where the compensation measures will be delivered and the suitability of the site to deliver the measures;
- (b) a statement confirming how the necessary land and/or rights will or have been secured to deliver the measures;
- (c) details for the methodology of any mammalian predator eradication programme;
- (d) an implementation programme for the delivery of the measures including timescales for the first eradication programme to be delivered; and
- (e) proposals for monitoring and reporting on the effectiveness of the measures, including survey methods, success criteria, adaptive management measures, and timescales for the monitoring and monitoring reports to be delivered.

5. The strategy must be carried out as approved, unless otherwise agreed in writing by the Secretary of State in consultation with the MMO and the relevant statutory nature conservation body.

6. Results from the monitoring scheme, including any proposals to address the effectiveness of the measures, must be submitted to the Secretary of State, the MMO and the relevant statutory nature conservation body, and any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the MMO and the relevant statutory nature conservation body.

7. Unless otherwise agreed in writing with the Secretary of State or unless the measures have already been delivered, the undertaker must not commence construction of Work No. 1 until it has first—

- (a) provided a reasonable estimate of the cost of delivery of the compensation measures; and
- (b) put in place either—
 - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
 - (ii) an alternative form of security for that purpose, that has been approved by the Secretary of State.

8. A report which demonstrates completion of the activities required by the approved strategy must be submitted to the Secretary of State within 12 months of completion of such activities and following approval of the report by the Secretary of State, in consultation with the MMO and the statutory nature conservation body, the undertaker will be discharged from any further obligations under this Part.

9. The approved strategy includes any amendments that may subsequently be agreed in writing by the Secretary of State, in consultation with the MMO and the statutory nature conservation body. Any amendments to or variations of the approved strategy must be in accordance with the principles in the guillemot compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any new or materially different environmental effects from those considered in the guillemot compensation plan.

PART 5

Flamborough and Filey Coast Special Protection Area: Delivery of measures to compensate for loss of razorbill

1. In this Part—

“razorbill compensation plan” means the relevant principles for razorbill compensation in the document certified as the In Principle Habitats Regulations Derogation, Provision of Evidence, Appendix 1 Flamborough and Filey Coast SPA In Principle Compensation by the Secretary of State for the purposes of this Order.

2. No later than 18 months prior to the operation of any wind turbine generator forming part of the authorised development, a strategy for the delivery of measures to compensate for the predicted loss of adult razorbill from the Flamborough and Filey Coast Special Protection Area as a result of the authorised development must be submitted to the Secretary of State, and no wind turbine generator forming part of the authorised development may be operated until the strategy has been approved by the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body.

3. The strategy must be in accordance with the principles contained in the razorbill compensation plan, and must contain the relevant matters identified in section 6.8 of the razorbill compensation plan.

4. In the event that the strategy proposes an eradication programme it must include:

- (a) details of the location where the compensation measures will be delivered and the suitability of the site to deliver the measures;
- (b) a statement confirming how the necessary land and/or rights will or have been secured to deliver the measures;
- (c) details for the methodology of any mammalian predator eradication programme;
- (d) an implementation programme for the delivery of the measures including timescales for the first eradication programme to be delivered; and

- (e) proposals for monitoring and reporting on the effectiveness of the measures, including survey methods, success criteria, adaptive management measures, and timescales for the monitoring and monitoring reports to be delivered.

5. The strategy must be carried out as approved, unless otherwise agreed in writing by the Secretary of State in consultation with the MMO and the relevant statutory nature conservation body.

6. Results from the monitoring scheme, including any proposals to address the effectiveness of the measures, must be submitted to the Secretary of State, the MMO and the relevant statutory nature conservation body, and any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the MMO and the relevant statutory nature conservation body.

7. Unless otherwise agreed in writing with the Secretary of State or unless the measures have already been delivered, the undertaker must not commence construction of Work No. 1 until it has first—

- (a) provided a reasonable estimate of the cost of delivery of the compensation measures; and
- (b) put in place either—
 - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
 - (ii) an alternative form of security for that purpose, that has been approved by the Secretary of State.

8. A report which demonstrates completion of the activities required by the approved strategy must be submitted to the Secretary of State within 12 months of completion of such activities and following approval of the report by the Secretary of State, in consultation with the MMO and the statutory nature conservation body, the undertaker will be discharged from any further obligations under this Part.

9. The approved strategy includes any amendments that may subsequently be agreed in writing by the Secretary of State, in consultation with the MMO and the statutory nature conservation body. Any amendments to or variations of the approved strategy must be in accordance with the principles of the razorbill compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any new or materially different environmental effects from those considered in the razorbill compensation plan.