



**Comments on the Applicant's response to the RSPB's Relevant  
Representation**

**for the  
Royal Society for the Protection of Birds**

**Submitted for Deadline 2**

**11 November 2021**

**Planning Act 2008 (as amended)**

**In the matter of:**

**Application by Alternative Use Boston Projects Limited for an  
Order Granting Development Consent for the  
Boston Alternative Energy Facility**

**Planning Inspectorate Ref: EN010095**

**Registration Identification Ref: 20028367**

- 1.1 The RSPB has reviewed the Applicant's responses to the comments we made in our Relevant Representation. We set out our comments on their responses in Table 1 below.
- 1.2 We continue to have concerns with the Applicant's assessments and conclusions.
- 1.3 Our comments below in response to the Applicant's comments are brief. We provide more detailed responses in our Written Representation (REP1-060) and in our response to the Ornithology Addendum.

Table 1: The RSPBs comments on the Applicant's response to the issues raised within our Relevant Representation

Number	Topic	Relevant Representation	AUBP Response	Comment on response
1	Consultation	Consideration of the full suite of conservation objectives.	Consider the conservation objective have been appropriately captured in the EIA and HRA.	We recognise reference has been made to the conservation objectives for the protected sites, but have concerns about how they have been considered in the HRA. More detailed comments are provided in our written representation and response to the ornithology addendum.
2	Consultation	Lack of evidence plan process	Note made of latest meetings and discussions of Relevant Representations	There is significant outstanding detail to be addressed by the Applicant. The examination is not the appropriate place to be addressing the detail of the application.
3	Consultation	Concern about substantial level of detail still to resolve	Consider the EIA and HRA to be suitably robust.	We provide more detail on why the EIA and HRA are not suitable robust in our Written Representation (REP1-060) and response to the Ornithology Addendum.
4	Consultation	The need for a robust stakeholder engagement plan	The Applicant considers all work needed to reach a conclusion by the end of the examination can be achieved.	<p>This does not address the fact that meetings are being proposed by the Applicant with no regard to how they fit with the examination timetable. This makes it difficult, if not, impossible for interested parties to engage effectively.</p> <p>With respect to completion of work to reach conclusions by the end of the examination, we have identified substantial areas of work that still need to be completed to conclude no adverse effect on integrity of The Wash SPA/Ramsar beyond reasonable scientific doubt. We consider there is insufficient time available to address all the data deficiencies. We disagree with the Applicant's position.</p>

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5	Consultation	The need for a revised stakeholder engagement plan	Work being done to address outstanding concerns.	<p>This does not address the fact that meetings are being proposed by the Applicant with no regard to how they fit with the examination timetable. This makes it difficult, if not, impossible for interested parties to engage effectively.</p> <p>With respect to completion of work to reach conclusions by the end of the examination, we have identified substantial areas of work that still need to be completed to conclude no adverse effect on integrity of The Wash SPA/Ramsar beyond reasonable scientific doubt. We consider there is insufficient time available to address all the data deficiencies. We disagree with the Applicant's position.</p>
6	Examination	Requests pause of the examination	"Without prejudice" derogation case to be submitted at Deadline 2	We set out substantial issues with respect to the HRA in our comments on the Ornithology Addendum. We welcome a derogation case being presented, but we and other interested parties will require sufficient time to review and consider the Applicant's submission. We consider insufficient time will be available through the examination process to resolve the significant outstanding gaps in data, as set out in our comments on the Ornithology addendum.
7	Examination	Objects to the Application	Refer to RR-024-6.	We set out substantial issues with respect to the HRA in our comments on the Ornithology Addendum. We welcome a derogation case being presented, but we and other interested parties will require sufficient time to review and consider the Applicant's submission. We consider insufficient time will be available

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				through the examination process to resolve the significant outstanding gaps in data, as set out in our comments on the Ornithology addendum.
8	Marine and Coastal Ecology/HRA	A full two years of data is required.	The Applicant considers two full years of data have been collected.	We set out in our comments to the Ornithology Addendum why we disagree that two full years of data have not been collected.
9	Marine and Coastal Ecology/HRA	No assessment along the entire length of The Haven to assess impacts on qualifying features of The Wash SPA/Ramsar/SSSI.	The Applicant discusses why disturbance could be an issue and mentions the historic management of the intervening length of the Haven. Additional surveys of roost sites along The Haven are taking place and additional data will be presented at Deadline 2.	<p>The response to this issue by the applicant is not clear. The key factor is that no data to date have been provided to understand the abundance and distribution of roosting and foraging waterbirds along the whole of The Haven. This should also cover the area of the navigation channel out to the Port of Boston anchorage area. We set out detailed comments on this in our comments on the Ornithology Addendum.</p> <p>We will review any new evidence collected by the Applicant and provide comments at future deadlines.</p>
10	Marine and Coastal Ecology/HRA	Lack of detailed ship movements	The Applicant considers suitable data have been gathered to assess the impacts of vessel movements on foraging and roosting birds.	We disagree with the Applicant's position. We set out detailed comments on this in our comments on the Ornithology Addendum.
11	Marine and Coastal Ecology/HRA	Lack of wider assessment of baseline disturbance.	The Applicant considers additional information has been provided on baseline disturbance.	The Applicant has not provided any new evidence on recreational pressures on The Haven. There are ongoing deficiencies in the Cumulative and In-combination assessment that we have detailed in our Written

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				Representation (Section 11, REP1-060) and comments on the Ornithology addendum. We disagree that suitable baseline evidence on disturbance along the whole of The Haven has been presented.
12	Marine and Coastal Ecology/HRA	More work needed on Wetland Bird Survey (WeBS) data	The Applicant has obtained WeBS data from the BTO and analysed it.	We welcome the WeBS data being presented by the Applicant. However, WeBS data is not a substitute for detailed, site-specific evidence gathering. We set out detailed comments on this in our comments on the Ornithology Addendum.
13	Marine and Coastal Ecology/HRA	The latest bird survey reports had not been submitted	The Applicant confirmed these were circulated in August 2021.	We welcome the Applicant's provision of these reports.
14	Marine and Coastal Ecology/HRA	More robust assessments needed to consider the scale of impact.	The Applicant discusses why disturbance could be an issue and mentions the historic management of the intervening length of the Haven. Additional surveys of roost sites along The Haven are taking place and additional data will be presented at Deadline 2.	The response to this issue is not clear. The key factor is that no data to date have been provided to understand the abundance and distribution of roosting and foraging waterbirds along the whole of The Haven. This should also cover the area of the navigation channel out to the Port of Boston anchorage area. We set out detailed comments on this in our comments on the Ornithology Addendum.  We will review any new evidence collected by the Applicant and provide comments at future deadlines.
15	Marine and Coastal Ecology/HRA	Incomplete cumulative and in-combination assessment.	The Applicant considers all relevant projects have been captured in the cumulative and in-combination assessment.	We disagree, as set out in Section 11 of our Written Representation (REP1-060). There is a need to consider wider activities such as recreation and the impact this has on The Haven. Further work is needed to enhance the cumulative and in-combination

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				assessment. We provide more detail in our comments on the Ornithology Addendum.
16	Marine and Coastal Ecology/HRA	Failure to set out a realistic worst-case scenario of the proposed development.	The Applicant considers they have established the worst-case scenarios.	We disagree with the Applicant's position and provide more detailed comments on this in our response to the Ornithology Addendum.
17	Marine and Coastal Ecology/HRA	The potential impacts of the application could compromise the ability to restore the breeding redshank population of The Wash SSSI and the maintenance of the non-breeding population of The Wash SPA/Ramsar.	The Applicant does not consider the conservation objectives for redshank will be compromised. Site-specific issues are not identified as key drivers for changes to the redshank population of The Wash based on WeBS Alerts.	We disagree with the Applicant's position. We highlight how the breeding redshank population of The Wash has declined and the uncertainty over the drivers of change in our Written Representation (Section 3(i), REP1-060) and provide more detailed comments on this in our response to the Ornithology Addendum.
18	Marine and Coastal Ecology/HRA	Over 1% of The Wash SPA/Ramsar population of redshank have been recorded roosting and feeding at the application site.	The Applicant considers that redshanks using The Haven could be linked to The Wash SPA. They also suggest that there may be evidence that redshanks on The Haven may not be part of The Wash SPA.	This position is uncertain and ambiguous. The Applicant has considered redshanks as part of The Wash SPA/Ramsar population which we support. We consider this issue further in our comments on the Ornithology Addendum.
19	Marine and Coastal Ecology/HRA	Comment on the loss of the redshank roost and the impact this could have on the conservation objectives of The Wash SPA population.	The Applicant considers the application will not alter The Haven such that roosting and foraging would not be possible for redshanks. They also highlight the additional roosting opportunity outlined in the OLEMS.	We disagree with the Applicant due to the limited evidence collected to fully understand the abundance and distribution of redshanks (and other waterbirds) along the whole of The Haven. The full importance is therefore unknown and the full impact during construction and operation of the facility requires further evidence. We consider this issue in more detail in our comments on the Ornithology Addendum.
20	Marine and Coastal Ecology/HRA	More information required to assess the scale of impact The Wash SPA/Ramsar features.	The Applicant refers to the revised OLEMS that will be provided at Deadline 2 that will	We look forward to reviewing this additional information, but still have significant concerns regarding the evidence base to inform HRA conclusions. We discuss this in

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			identify alternative roosting and foraging areas.	more detail in our response to the Ornithology Addendum.
21	Marine and Coastal Ecology/HRA	Concerns about the increased visual disturbance and boat wash from c.140% additional large vessels and additional pilot vessels.	The Applicant considers the impact of increased vessel movements has been fully addressed in the EIA and HRA.	We disagree with the Applicant's position. We discuss this in more detail in our response to the Ornithology Addendum.
22	Marine and Coastal Ecology/HRA	Insufficient evidence to assess the impact and consequences of the construction and operation of the facility on The Wash.	The Applicant has analysed the additional WeBS data to understand the importance of The Haven.	The RSPB disagrees that there is sufficient evidence from the updated WeBS analysis. We discuss this in more detail in our response to the Ornithology Addendum.
23	Marine and Coastal Ecology/HRA	More robust assessment is required to inform the scale and significance of predicted impacts in The Wash SPA/Ramsar/SSSI.	The Applicant refers to the Ornithology Addendum that considers this in more detail.	We still consider assessments are not sufficiently robust. We discuss this in more detail in our response to the Ornithology Addendum.
24	Marine and Coastal Ecology/HRA	Concerns that the Applicant has failed to assess impacts on The Wash SPA/Ramsar/SSSI and that a derogation case must be provided.	The Applicant considers their assessments are robust. A 'without prejudice' derogation case will be provided at Deadline 2.	We look forward to reviewing this additional information, but still have significant concerns regarding the evidence base to inform HRA conclusions. We discuss this in more detail in our response to the Ornithology Addendum.
25	Marine and Coastal Ecology/HRA	Uncertainty that the proposed measures for redshanks at the application suite would be effective and failure to provide any compensation options for waterbirds using other areas of The Haven.	The Applicant considers their 'without prejudice' derogation case will address these concerns. This will be provided at Deadline 2.	We look forward to reviewing this additional information, but still have significant concerns regarding the evidence base to inform HRA conclusions. We discuss this in more detail in our response to the Ornithology Addendum.
26	Marine and Coastal Ecology/HRA	Concern about significant detail being left to plans that will be developed post-consent.	The Applicant will provide an updated OLEMS and 'without prejudice' derogation case at Deadline 2.	We look forward to reviewing this additional information, but still have significant concerns regarding the evidence base to inform HRA conclusions. We discuss this in more detail in our response to the Ornithology Addendum.



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27	Marine and Coastal Ecology/HRA	Failure to assess the impact of ships stacking up along The Haven	Vessel movements will carefully timed so this will not be an issue.	More detail needs to be provided for interested parties to scrutinise during the examination. A draft Navigation Management Plan must be provided for interested parties to consider.
28	Marine and Coastal Ecology/HRA	No evidence to understand if changes in fishing fleet activity could impact on foraging and roosting birds.	The Applicant is working on a Navigation Risk Assessment which will be submitted at Deadline 2.	We look forward to reviewing this additional information.
29	Marine and Coastal Ecology/HRA	Failure to provide details of the potential need for the fishing fleet to relocate.	The Applicant considers that the Navigational Management Plan will avoid the need for the fishing fleet to relocate.	This issue needs to be resolved, as it could have significant implications for qualifying features of The Wash SPA/Ramsar and the Applicant's HRA.
30	Water quality	Lack of detail on water discharge from the application site.	The Applicant states there will be no operational discharge to The Haven, only to the surface water drainage network. This will be discussed in the Outline Surface Water Drainage Strategy.	It appears there will be no direct discharge to The Haven, but water from the drainage network is pumped directly into The Haven at Wyberton Marsh. We consider this in more detail in our comments on the Outline Surface Water Drainage Strategy.
31	Water quality	Lack of detail on run-off from the application site.	Refer to RR-024-30.	It appears there will be no direct discharge to The Haven, but water from the drainage network is pumped directly into The Haven at Wyberton Marsh. We consider this in more detail in our comments on the Outline Surface Water Drainage Strategy.
32	Water quality	A failure to assess the oil, fuel oil, and rubbish pollution from additional vessels using The Haven.	The Applicant considers this has been covered in the Environmental Statement.	We still have concerns about how these issues have been considered and whether proposed measures will be able to be effectively enforced, especially if some detail is left to the Navigation Management Plan which has not yet been drafted. We discuss this in more detail in our Written Representation (REP1-060).

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33	Marine and Coastal Ecology	Lack of certain over the frequency of capital/maintenance dredging and its impact on features of The Wash SPA/Ramsar/SSSI/	The RSPB considers this has been adequately assessed in the Environmental Statement and that impacts will not be significant.	We disagree with the Applicant's position and consider this in more detail in our Written Representation (REP1-060).
34	Recreation	Concern about having an adequate baseline	Refer to RR-024-3 and RR-024-8	We provide more detail on why the EIA and HRA are not suitable robust in our Written Representation (REP1-060) and response to the Ornithology Addendum.
35	Marine and Coastal Ecology	Concern about the change in footpath use due to the England Coast Path.	England Coast Path consider as part of the baseline.	This fails to address the need to understand the number people using the existing paths and how the numbers of walker, dog-walkers, cyclists etc could change. This is important as they can have a disturbance effect on waterbirds using The Haven and this impact must be considered in the cumulative and in-combination assessment. These data would also inform the appropriateness of any proposed compensation sites. It is essential that data on current visitor pressures is provided to inform the HRA conclusions.
36	Marine and Coastal Ecology	The OLEMS fails to set out how recreational pressure will be managed.	Recreational pressure is not considered an issue due to the dropdown to the saltmarsh. Impacts from recreational pressure onshore and on-water will be considered in the updated OLEMS to be submitted at Deadline 2.	We do not agree that recreational pressures can be dismissed. The Applicant's own surveys have recorded waterbirds being disturbed by a dog on the saltmarsh. Effective management measures will be required for any compensation site options.
37	Noise	Concerns regarding significance of noise	Noise assessment completed.	We disagree that the maximum noise levels have been assessed and provide detailed comments in our Written Representation (Section7(c) , REP1-060). More information is

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				needed to assess ecological consequences of noise.
38	Noise	Lack of detailed assessment of night-time noise.	Noise assessments completed	We disagree that the maximum noise levels have been assessed and provide detailed comments in our Written Representation (Section7(c) , REP1-060). More information is needed to assess ecological consequences of noise.
39	Lighting	Limited detail on lighting and its impacts on birds.	Lighting effects covered in the EIA and HRA	We consider more information is needed to assess ecological consequences of lighting as set out in our Written Representation (Section7(f) , REP1-060).
40	Marine and Coastal Ecology/HRA	The Applicant needs to submit and “in principle” derogation case.	The Applicant confirms this will be submitted at Deadline 2	We welcome this information being provided.
41	Marine and Coastal Ecology/HRA	The need for compensation measures to be identified.	The Applicant referenced the measures set out in the OLEMS.	We look forward to seeing more detail submitted at Deadline 2.
42	Marine and Coastal Ecology/HRA	The Applicant needs to submit and “in principle” derogation case.	The Applicant confirms this will be submitted at Deadline 2	We welcome this information being provided.
43	Marine and Coastal Ecology/HRA	The Applicant needs to submit and “in principle” derogation case. This is based on the latest BEIS advice.	The Applicant confirms this will be submitted at Deadline 2	We welcome this information being provided.
44	Marine and Coastal Ecology/HRA	The direction by Secretary of State to consult with SNCBs and other stakeholders on derogation cases.	The Applicant notes the opinion and identifies that opportunities for discussion of a derogation will happen.	We look forward to seeing more detail submitted at Deadline 2.
45	Marine and Coastal Ecology/HRA	The need to consider the principles for developing appropriate compensation packages set out by BEIS.	The Applicant does not consider compensation will be needed but will provide a ‘without prejudice’ derogation case at Deadline 2.	We look forward to seeing more detail submitted at Deadline 2.

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46	Marine and Coastal Ecology/HRA	The Applicant needs to submit and “in principle” derogation case.	The Applicant confirms this will be submitted at Deadline 2	We look forward to seeing more detail submitted at Deadline 2.
47	Marine and Coastal Ecology/HRA	Inability for the RSPB to accommodate any compensation measures on our reserves.	The Applicant confirmed that they had been made aware and further options will be presented at Deadline 2	We look forward to seeing more detail submitted at Deadline 2.
48	Marine and Coastal Ecology/HRA	Concern that not enough detail presented to understand the scale and type of compensation that is required.	The Applicant considers they have submitted a robust assessment.	We disagree that a robust assessment has been provided. We set this out in our Written Representation (REP1-060) and our comments on the Ornithology Addendum.
49	Marine and Coastal Ecology/HRA	Commitment to work positively with the Applicant.	The Applicant thanks the RSPB	
50	Marine and Coastal Ecology/HRA	The RSPB commits to working with the Lincolnshire Wildlife Trust to avoid repetition.	The Applicant notes this.	
51	General	The RSPB reserves the right to add to/or amend our position.	The Applicant notes this.	
52	HRA	Insufficient evidence presented, with particular reference to WeBS data.	The Applicant has provided WeBS data and an analysis of the data	We welcome the WeBS data being presented by the Applicant. However, WeBS data is not a substitute for detailed, site-specific evidence gathering. We set out detailed comments on this in our comments on the Ornithology Addendum.
53	HRA	Lack of mitigation measures to address impacts.	The Applicant refers to the OLEMS and the derogation that will be put forward.	We welcome the additional derogation case information that will be provided at Deadline 2. However, we do not consider that mitigation measures are available to avoid adverse impacts on qualifying features of The Wash SPA/Ramsar. We request a more detailed breakdown of the measures proposed as mitigation, compensation and

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				net gain by the Applicant. We set this out in more detail in our Ornithology Addendum.
54	HRA	Impacts noted on harbour seals	Comments by Natural England and Lincolnshire Wildlife Trust have been fully considered by The Applicant.	Noted.
55	HRA	Failure to demonstrate sufficient evidence has been presented to enable a conclusion of no adverse effect on integrity of The Wash SPA/Ramsar to be concluded and the lack of a derogation case.	A 'without prejudice' derogation case will be presented at Deadline 2.	We look forward to seeing more detail submitted at Deadline 2.
56	HRA	Failure to assess oil, fuel oil and rubbish pollution from the additional vessels using The Haven.	Refer to RR-024-32.	We still have concerns about how these issues have been considered and whether proposed measures will be able to be effectively enforced, especially if some detail is left to the Navigation Management Plan which has not yet been drafted. We discuss this in more detail in our Written Representation (REP1-060).
57	HRA	Lack of detail on water discharge from the Application site.	Refer to RR-024-34.	It appears there will be no direct discharge to The Haven, but water from the drainage network is pumped directly into The Haven at Wyberton Marsh. We consider this in more detail in our comments on the Outline Surface Water Drainage Strategy.
58	HRA	No assessment of disturbance along the entire length of The Haven.	The Applicant discusses why disturbance could be an issue and mentions the historic management of the intervening length of the Haven. Additional surveys of roost sites along The Haven are taking place and additional data will be presented at Deadline 2.	The response to this issue is not clear. The key factor is that no data to date have been provided to understand the abundance and distribution of roosting and foraging waterbirds along the whole of The Haven. This should also cover the area of the navigation channel out to the Port of Boston anchorage area. We set out detailed

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				<p>comments on this in our comments on the Ornithology Addendum.</p> <p>We will review any new evidence collected by the Applicant and provide comments at future deadlines.</p>
59	HRA	Failure to assess disturbance from ships stacking up along The Haven.	See RR-024-27.	More detail needs to be provided for interested parties to scrutinise during the examination. A draft Navigation Management Plan must be provided for interested parties to consider.
60	HRA	No evidence to understand if changes in fishing fleet activity could impact on foraging and roosting birds.	Refer to RR-024-28.	We look forward to seeing this additional information.
61	HRA	Lack of assessment of ship movements.	The Applicant considers suitable data have been gathered to assess the impacts of vessel movements on foraging and roosting birds.	We disagree with the Applicant's position. We set out detailed comments on this in our comments on the Ornithology Addendum.
62	HRA	Project approach to only consider sites and features where there is a "project alone" impact.	The Applicant confirms that all projects where even small impacts could occur are being considered.	We welcome the Applicant confirming that even small-scale impacts are being considered. However, further work is needed to enhance the cumulative and in-combination assessment, as set out in Section 11 of our Written Representation (REP1-060). We provide more detail in our comments on the Ornithology Addendum.
63	HRA	An incomplete cumulative and in-combination assessment has been provided.	The Applicant considers all relevant projects have been included in the assessment.	We disagree with the Applicant's position. Further work is needed to enhance the cumulative and in-combination assessment, as set out in Section 11 of our Written Representation (REP1-060). We provide more detail in our comments on the Ornithology Addendum.

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64	HRA	Failure to provide details of the potential need for the fishing fleet to relocate.	Refer to RR-024-29.	This issue needs to be resolved, as it could have significant implications for qualifying features of The Wash SPA/Ramsar and the Applicant's HRA.
65	HRA	Limited mitigation measures for harbour seal.	The Applicant considers this has been addressed.	We will leave Natural England and Lincolnshire Wildlife Trust to provide detailed comments on this issue.
66	HRA	Failure to define worst-case scenarios	The Applicant considers the worst-case scenarios have been used.	We disagree with the Applicant's position and provide more detailed comments on this in our response to the Ornithology Addendum.
67	HRA	Original concerns about the Application remain due to insufficient evidence being present to demonstrate that an adverse effect on integrity of The Wash SPA/Ramsar would be avoided.	The Applicant considers sufficient evidence has been presented.	We disagree with the Applicant's position and provide more detailed comments on this in our response to the Ornithology Addendum.
68	HRA	The data to assess impacts from the Application is limited.	The Applicant highlights that additional WeBS data have been acquired from the BTO and analysed.	We disagree with the Applicant's position and provide more detailed comments on this in our response to the Ornithology Addendum.
69	HRA	Highlights the importance of The Haven for waterbirds based on the Applicant's survey data.	The Applicant outlines the further analysis they have completed on the WeBS data.	We provide more detailed comments on the evidence base in our response to the Ornithology Addendum.
70	HRA	Importance of establishing a suitable baseline dataset at the mouth of The Haven and the need for any buffers to be out to 800m based on the Applicant's surveys.	The Applicant outlines the further analysis they have completed on the WeBS data.	We provide more detailed comments on the evidence base in our response to the Ornithology Addendum.
71	HRA	Highlighted that there were limitations to the WeBS data to understand the full abundance and distribution of qualifying features of The Wash SPA/Ramsar/SSSI along the whole of The Haven and that a wider assessment was required.	The Applicant considers that their survey data is adequate to assess impacts.	We disagree with the Applicant's position and provide more detailed comments on this in our response to the Ornithology Addendum.
72	HRA	Highlights that the additional vessel movements will be significant and has the potential to cause	The Applicant considers that there any impacts are small and will not result in an adverse effect	We welcome the additional derogation case information that will be provided at Deadline 2. However, we do not consider that no

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		and adverse effect on integrity of The Wash SPA/Ramsar.	on integrity of The Wash SPA/Ramsar. They further highlight that they are looking to provide additional habitat for waterbirds with options to be outlined in the revised OLEMS submitted at Deadline 2.	adverse impacts on qualifying features of The Wash SPA/Ramsar can be concluded on the available evidence. We set this out in more detail in our Ornithology Addendum.
73	HRA	There are gaps in the evidence base that means limited or no data are available for significant times of the year or for severe weather events.	The Applicant states data was collected for two Spring passage periods (2020/2021) and one autumn passage period in 2021.	The Applicant's surveys started in November 2019 and stopped in March 2020. They did not resume until January 2021. Autumn passage can be defined as August to October and Spring passage March to May. Consequently, only a single Spring passage survey took place in 2020 and a full Spring passage survey in 2021. We look forward to additional information being made available if an autumn passage survey has been conducted for 2021, but no autumn passage surveys have to date been reported to interested parties. It is also worth noting that this will not allow for inter-annual variation of birds use to be determined.
74	HRA	Additional surveys should be carried out to ensure two full years of survey data are available.	The Applicant considers two full years of data are available to inform the assessments.	The Applicant's surveys started in November 2019 and stopped in March 2020. They did not resume until January 2021. Autumn passage can be defined as August to October and Spring passage March to May. Consequently, only a single Spring passage survey took place in 2020 and a full Spring passage survey in 2021. We look forward to additional information being made available if an autumn passage survey has been conducted for 2021, but no autumn passage surveys have to date been reported to



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				<p>interested parties. At this time two full years of survey data are not available.</p> <p>We set out in our comments to the Ornithology Addendum on why we disagree that two full years of data have not been collected.</p>
75	HRA	Failure to account for autumn passage period (August to October)	The Applicant considers it is “unlikely” that this will be a key period for features of The Wash SPA/Ramsar.	<p>We disagree with the Applicant’s position. Features of The Wash SPA/Ramsar are protected whenever they are present, not just during the winter. the UK SPA Review 2001 site account<sup>1</sup> states that:</p> <p><i>“Note that sites selected for waterbird species on the basis of their occurrence in the breeding, passage or winter periods also provide legal protection for these species when they occur at other times of the year.”</i></p> <p>We also note that over between 30-40% of The Wash SPA/Ramsar population of common tern nest at RSPB Freiston Shore and RSPB Frampton Marsh. The Ornithology Addendum highlights that peak numbers (based on WeBS counts) occur in July and August. The Applicant has presented no data to demonstrate the importance of The Haven and its approaches importance for this species. Other waterbird species do also occur insignificant numbers on passage, yet no detailed surveys have been conducted to understand the abundance of birds during</p>

<sup>1</sup> See assemblage text at p216 in the Sites volume: <https://data.jncc.gov.uk/data/3634580a-cabc-4218-872f-8660a1760ad8/uk-spa-vol3-web.pdf>

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				<p>this period. WeBS data is useful at looking at long-term trends but is not a substitute for detailed, site-specific evidence to inform the HRA.</p> <p>We discuss this in detail in our response to the Ornithology Addendum.</p>
76	HRA	The RSPB supports the use of buffers to understand potential area over which vessel disturbance could occur, but considers this should be 800m.	The Applicant has used an 800m buffer and recognises the importance if the mouth of The Haven.	We welcome the Applicant's response.
77	HRA	No assessment along the entire length of The Haven to assess impacts on qualifying features of The Wash SPA/Ramsar/SSSI.	The Applicant discusses why disturbance could be an issue and mentions the historic management of the intervening length of the Haven. Additional surveys of roost sites along The Haven are taking place and additional data will be presented at Deadline 2.	<p>The response to this issue by the Applicant is not clear. The key factor is that no data to date have been provided to understand the abundance and distribution of roosting and foraging waterbirds along the whole of The Haven. This should also cover the area of the navigation channel out to the Port of Boston anchorage area. We set out detailed comments on this in our comments on the Ornithology Addendum.</p> <p>We will review any new evidence collected by the Applicant and provide comments at future deadlines.</p>
78	HRA	Need for assessment along the whole of The Haven.	The Applicant discusses why disturbance could be an issue and mentions the historic management of the intervening length of the Haven. Additional surveys of roost sites along The Haven are taking place and additional data will be presented at Deadline 2.	The response to this issue by the Applicant is not clear. The key factor is that no data to date have been provided to understand the abundance and distribution of roosting and foraging waterbirds along the whole of The Haven. This should also cover the area of the navigation channel out to the Port of Boston anchorage area. We set out detailed

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				<p>comments on this in our comments on the Ornithology Addendum.</p> <p>We will review any new evidence collected by the Applicant and provide comments at future deadlines.</p>
79	HRA	Welcomed additional vessel information. Robust assessment of vessel movements is required.	The Applicant addresses this in the Ornithology Addendum.	We continue to have serious concerns by the applicant's approach to assessing vessel impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.
80	HRA	Notes variation in vessel numbers.	Noted by the Applicant.	
81	HRA	More detail needed on vessel movements within The Haven and their impact on waterbirds.	More information being provided in the Ornithology Addendum.	We continue to have serious concerns by the applicant's approach to assessing vessel impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.
82	HRA	Noted that up to three vessel could use the wharf.	Noted by the Applicant.	
83	HRA	More information on smaller vessels around the wharf area.	Pilots will use taxis to get to get from the facility to the Port of Boston.	No definitive statement that small vessels will not be needed at the wharf area. This needs to be clarified.
84	HRA	Concern that vessels could stack up along The Haven whilst waiting for vessels to turn.	Vessels to be controlled by the Port of Boston to ensuring vessels don't need to wait.	Unsure what contingencies will be in place should an incident occur along The Haven that could stop vessels moving. This should be set out in the Navigation Management Plan, of which a draft should be made available to interested parties to consider during the examination.
85	HRA	Full survey data have not been made available.	The Applicant's position is that two full years of surveys have been carried out.	The Applicant's surveys started in November 2019 and stopped in March 2020. They did not resume until January 2021. Autumn passage can be defined as August to October and Spring passage March to May.

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				<p>Consequently, only a single Spring passage survey took place in 2020 and a full Spring passage survey in 2021. We look forward to additional information being made available if an autumn passage survey has been conducted for 2021, but no autumn passage surveys have to date been reported to interested parties. At this time two full years of survey data are not available.</p> <p>We set out in our comments to the Ornithology Addendum on why we disagree that two full years of data have not been collected.</p>
86	HRA	Table 2 provides our analysis of disturbance events to 1% or more of The Wash SPA features or waterbird assemblage.	The Applicant highlights the analyses they have conducted.	We continue to have serious concerns by the applicant's approach to assessing impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.
87	HRA	Table 2 highlights significant proportions of The Wash SPA/Ramsar bird populations using the mouth of The Haven.	Refer to RR-024-86	We continue to have serious concerns by the applicant's approach to assessing impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.
88	HRA	More evidence needed to support the Applicant's conclusions that the bird surveys results did not cause concerns.	The Applicant considers that weather does not correlate with bird numbers.	If looking at assessing links between weather and bird abundance over time, the WeBS data would provide the best available data set. We recommend these data be compared to draw conclusions about impacts of weather on bird numbers on The Wash.
89	HRA	Highlights the importance of the Application site for redshanks.	The Applicant accepts the peak counts of waterbirds in Survey Areas A and B. They highlight that higher numbers of birds used	The RSPB considers the Application site is important for redshanks and therefore robust assessments of noise, lighting, vessel

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			Area B away from the proposed wharf site. They also mention “offsets” that will benefit waterbirds.	movements, and how they combine with existing levels of disturbance is required.  We do not agree with the use of the term “offsets” in relation to the needed compensation. We discuss this in detail in our response to the Ornithology Addendum.
90	HRA	Highlights the conservation advice with respect to the redshank feature of The Wash SPA.	The Applicant does not consider the conservation objectives for redshank will be compromised. Site-specific issues are not identified as key drivers for changes to the redshank population of The Wash based on WeBS Alerts.	We disagree with the Applicant’s position. We highlight how the breeding redshank population of The Wash has declined and the uncertainty over the drivers of change in our Written Representation (Section 3(i), REP1-060) and provide more detailed comments on this in our response to the Ornithology Addendum.
91	HRA	Need to provide compensation for impacts to redshanks.	The application considers measures for redshanks would be mitigation and not enhancements, with more detailed to be submitted at Deadline 2.	We have not seen any justification presented why the Applicant considers measures for redshanks would be mitigation. The Applicant needs to clearly set out measures that are mitigation and why. This must address their reasoning for the measures not being considered compensation in accordance with the Habitats Regulations test. We discuss this in more detail in our response to the Ornithology Addendum.
92	HRA	Principles for establishing effective alternative roost sites.	The Applicant considers appropriate noise mitigation will be in place.	We disagree with the Applicant’s position given the currently available evidence. Maximum noise levels have not been assessed and no information has been provided to show what areas of The Haven will be affected by increased noise levels. We discuss this in section 7(c) of our Written Representation (REP1-060) and our response to the Ornithology Addendum.

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93	HRA	The need to agree details of any mitigation and compensation measures pre-consent	The Applicant will set out more detail in their derogation case at Deadline 2.	We look forward to seeing this additional information. We also provided comments in our response on the Ornithology Addendum regarding clarification of the Applicant's approach to the Habitats Regulations process and the terminology used.
94	HRA	Our analysis of vessel impacts using the Applicant's data provided in the survey reports.	The applicant provides an updated analysis in the Ornithology Addendum.	We continue to have serious concerns by the applicant's approach to assessing impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.
95	HRA	Clarification sought on maximum distances used in assessments and whether birds moved greater distances than could be recorded.	The Applicant confirms that 800m has been used throughout the assessments and that some birds were lost to view	We welcome confirmation of the 800m being used in assessments and that birds did fly from view. It would be helpful to know on how many occasions birds flew from view and which species.
96	HRA	We noted the importance of the mouth of The Haven for birds and that they exhibited a range of behaviours: roosting, loafing, feeding.	The Applicant sets out how it has applied the bird data it has collected and that this is set out in the Ornithology addendum.	We continue to have serious concerns by the applicant's approach to assessing impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.
97	HRA	Concern about the comparison being made with historic vessel movements and the lack of evidence used to assess trends in waterbird numbers over time.	The applicant notes that an updated assessment of the trend in The Wash SPA features is included in the Ornithology Addendum	We continue to have serious concerns by the applicant's approach to assessing impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.
98	HRA	No information available on prey availability.	The Applicant considers The Haven to be too dynamic to meaningfully map prey availability. Information on invertebrate-feeding and fish-eating numbers are considered a suitable baseline.	We agree that there needs to be a suitable baseline and that birds will congregate in areas where there is a good food supply. However, for large parts of The Haven or navigation channel out to the anchorage area which may provide good feeding opportunities there is no bird data available. We do not agree that this is evidence of a

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				suitable baseline understanding of the abundance and distribution of The Wash SPA features. We discuss this in detail in our response to the Ornithology Addendum.
99	HRA	The need to consider the full suite of conservation objectives and advice to assess impacts on The Wash SPA features.	The Applicant confirms this information has been included in the Ornithology Addendum.	We continue to have serious concerns by the applicant's approach to assessing impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.
100	HRA	Lack of understanding of the abundance and distribution of qualifying features of The Wash SPA/Ramsar along the whole of The Haven.	The Applicant's position is that birds move to alternative roosts as part of the baseline vessel disturbance.	<p>We disagree with the Applicant's approach. There has been no attempted to determine if the current level of disturbance is adversely affecting features of The Wash SPA and influencing their abundance and distribution. If so, any additional disturbance, especially to species such as golden plover and lapwing that were repeatedly flushed could be significant.</p> <p>We continue to have serious concerns by the applicant's approach to assessing impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.</p>
101	HRA	Appreciate additional vessel movement information bur uncertainty about how this is presented in the HRA.	The Applicant confirms that more detail is set out in the Ornithology Addendum.	We have reviewed the vessel information on the Ornithology Addendum nd continue to have concerns. We discuss this in detail in our response to the Ornithology Addendum.
102	HRA	Limited information about pilot vessels	The Applicant confirms that pilot vessels are considered in the Ornithology Addendum.	We note the Applicant's response.
103	HRA	The HRA states that increases in vessel movements will be small.	The Applicant highlights that the ES states that increases in vessels will be significant.	The fact that both statements have been included in the Application provides conclusion on the Applicant's position with

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				respect to the increase in vessel numbers. We recommend the Application be reviewed to ensure there is consistency between all documents.
104	HRA	We highlight the need to agree the area over which vessel movements should be considered and agreed with interested parties.	The Applicant confirms that vessel numbers have been confirmed with the Port of Boston	We reiterate there is a need to agree the area over which vessel movements need to be considered. Given that vessel movements will have an impact from the anchorage area through to the Application we consider this should be the area to which the HRA should be drawing conclusions on impacts to The Wash SPA. We discuss this in detail in our response to the Ornithology Addendum.
105	HRA	Need to have a greater breakdown of how many of the quoted 11,000 craft are larger vessels etc.	The Applicant has confirmed that this information has been provided in the Ornithology Addendum.	We note the Applicant's response.
106	HRA	Concern that vessel numbers is based on anecdotal evidence.	The Applicant confirms that actual vessel data has been included in the Ornithology Addendum.	We welcome the additional information. We discuss this in detail in our response to the Ornithology Addendum.
107	HRA	The need to model how vessel numbers will change.	The Applicant highlights actual vessel numbers have been obtained and will be assessed in more detail in the Navigational Risk Assessment.	We look forward to reviewing the additional information. It will be helpful to confirm when the NRA will be available for interested parties to review.
108	HRA	Analysis of vessel movements.	The Applicant has provided more information in the Ornithology Addendum.	We continue to have serious concerns by the applicant's approach to assessing impacts on qualifying features of The Wash SPA/Ramsar. We discuss this in detail in our response to the Ornithology Addendum.
109	HRA	The limited available data makes it almost impossible to have confidence in any conclusions	The Applicant highlights further surveys have been conducted.	The additional surveys do not include autumn passage which remains a serious concern. We



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		about vessel movements. Lack of autumn passage survey data.		discuss this in our response to the Ornithology Addendum.
110	HRA	Concerns about the increased energy budget of birds disturbed by vessels.	The Applicant highlights more detail on energy budgets has been provided in the Ornithology Addendum.	We have reviewed the Ornithology Addendum and cannot agree with any of the species' accounts. We discuss this in detail in our response to the Ornithology Addendum.
111	HRA	Concern about repeated disturbance events	The Applicant states that only a small number of species were affected by repeat disturbance events and more detail is provided in the Ornithology Addendum.	We have reviewed the Ornithology Addendum and cannot agree with any of the species' accounts. Where birds were disturbed this included significant proportions of The Wash SPA population of e.g. golden plover, lapwing and turnstones. We discuss this in detail in our response to the Ornithology Addendum.
112	HRA	Comments on how information has been presented.	The Applicant has confirmed that data have been fully tabulated and included in the Ornithology Addendum. Surveys from the hide are considered "sound."	We welcome the collation of the survey data in to one place.  We have serious concerns about the ability to view the whole of the lower reaches of The Haven and this has implications for the quality of data available to inform the HRA conclusions. We discuss this in detail in our response to the Ornithology Addendum.
113	HRA	Energy budgets should be calculated for more than just golden plover and lapwing.	The Applicant confirms that further information has been provided in the Ornithology Addendum.	We have reviewed the Ornithology Addendum and cannot agree with any of the species' accounts. We discuss this in detail in our response to the Ornithology Addendum.
114	HRA	Concern about particulates landing on nearby protected sites and priority habitats.	The Applicant confirms that more information is available in the Ornithology Addendum.	We continue to review the Ornithology Addendum and may have further comments on this at later submissions. We will leave the Environment Agency and Natural England to comment in detail on air quality issues.

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115	HRA	A failure to assess the oil, fuel oil, and rubbish pollution from additional vessels using The Haven.	Refer to RR-024-30 and RR-024-32.	We still have concerns about how these issues have been considered and whether proposed measures will be able to be effectively enforced, especially if some detail is left to the Navigation Management Plan which has not yet been drafted. We discuss this in more detail in our Written Representation (REP1-060).
116	HRA	Mention of marine spillages but not measures outlined about how they will be prevented, or incidents managed.	Refer to RR-02-32.	We still have concerns about how these issues have been considered and whether proposed measures will be able to be effectively enforced, especially if some detail is left to the Navigation Management Plan which has not yet been drafted. We discuss this in more detail in our Written Representation (REP1-060).
117	HRA	Concern about material from the fuel bales entering The Haven.	Refer to RR-013-12.	We continue to have concerns about the management of litter and whether the proposed measures to address this will be effective.
118	HRA	Concern about aggregate entering The Haven.	The Applicant has provided more detail on how the aggregate facility will operate.	We welcome the additional detail about the aggregate operation. If this has not been detailed in the Environmental Statement, we recommend this be added.
119	HRA	Project approach to only consider sites and features where there is a “project alone” impact.	The Applicant confirms that all projects where even small impacts could occur are being considered.	We welcome the Applicant confirming that even small-scale impacts are being considered. However, further work is needed to enhance the cumulative and in-combination assessment, as set out in Section 11 of our Written Representation (REP1-060). We provide more detail in our comments on the Ornithology Addendum.

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120	HRA	Need to ensure that all the conservation objectives and attributes linked to water will not be compromised by the Application.	The Applicant states that the Ornithology Addendum will address all the conservation objectives.	We have reviewed the Ornithology Addendum and do not consider that all the conservation objectives and attributes of the supplementary advice have been addressed. A table that sets out each attribute and where the Applicant has provided this information would be helpful. Consequently, we continue to have concerns about the assessment process and cannot agree with any of the HRA conclusions.
121	HRA	No information on water quality	Refer to RR-024-30 and RR-024-32.	It appears there will be no direct discharge to The Haven, but water from the drainage network is pumped directly into The Haven at Wyberton Marsh. We consider this in more detail in our comments on the Outline Surface Water Drainage Strategy. Given this link it is essential the HRA addresses the impact of water quality on features of The Wash SPA/Ramsar.
122	HRA	Need to ensure that all the conservation objectives and attributes linked to water will not be compromised by the Application.	The Applicant states that the Ornithology Addendum will address all the conservation objectives.	We have reviewed the Ornithology Addendum and do not consider that all the conservation objectives and attributes of the supplementary advice have been addressed. A table that sets out each attribute and where the Applicant has provided this information would be helpful. Consequently, we continue to have concerns about the assessment process and cannot agree with any of the HRA conclusions.
123	HRA	Impact of additional lighting	The applicant considers lighting will have limited effects.	We consider more information is needed to assess ecological consequences of lighting as set out in our Written Representation (Section7(f) , REP1-060).

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124	HRA	Failure to provide details of the potential need for the fishing fleet to relocate.	The Applicant considers that the Navigational Management Plan will avoid the need for the fishing fleet to relocate.	This issue needs to be resolved, as it could have significant implications for qualifying features of The Wash SPA/Ramsar and the Applicant's HRA.
125	HRA	Incomplete cumulative and in-combination assessment.	The Applicant considers all relevant projects have been captured in the cumulative and in-combination assessment.	We disagree, as set out in Section 11 of our Written Representation (REP1-060). There is a need to consider wider activities such as recreation and the impact this has on The Haven. Further work is needed to enhance the cumulative and in-combination assessment. We provide more detail in our comments on the Ornithology Addendum.
126	HRA	Consider there to be deficiencies in the Environmental Statement, HRA and supplementary information.	The Application considers there to be a sufficient breadth of information contained within the Application documents.	We continue to have serious concerns with the application and consider there is insufficient evidence to inform the HRA. We discuss this in detail in our response to the Ornithology Addendum.
127	HRA	The need to obtain data on relevant WeBS sectors to inform the assessments.	The Applicant has obtained WeBS data from the BTO and analysed it.	We welcome the WeBS data being presented by the Applicant. However, WeBS data is not a substitute for detailed, site-specific evidence gathering. We set out detailed comments on this in our comments on the Ornithology Addendum.