



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

Sheringham Shoal Extension and Dudgeon Extension Offshore Wind Farms

**Appendix L5 to the Natural England Deadline 7 Submission**

**Natural England's Response to the Report on the implications for European Sites  
(RIES) [PD-020]**

For:

The construction and operation of the Sheringham Shoal Extension and Dudgeon Extension Offshore Wind Farms located approximately 16km and 27km respectively from the Norfolk Coast in the Southern North Sea.

Planning Inspectorate Reference: EN010109

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10<sup>th</sup> July 2023

## **Appendix L5 Natural England's Response to the Report on the Implications for European Sites (RIES) [PD-020]**

### **Introduction**

Natural England has reviewed the Report on the Implication for European Sites (RIES) [PD-020] for the Sheringham Shoal Extension Project (SEP) and Dudgeon Extension Project (DEP). In Table 1, we provide answers to the question posed within the RIES. Further comments are detailed in Table 2.

### **General Comments**

Natural England acknowledges that only submissions up to Deadline 5 on the 13<sup>th</sup> June have been considered in the RIES, therefore the RIES does not take account of updated advice on various aspects since then. Where we are able to, we have signposted to our updated advice. Natural England recommends that the RIES is updated before it is included within an ExA report to the Secretary of State (SoS). As previously advised to PINS and BEIS, Natural England does not consider consultation on the RIES adequately discharges the statutory requirement to consult Natural England on Appropriate Assessments, as the RIES draws no AEoI conclusions.

If it is considered that the conservation objectives for any designated site interest feature will be hindered, or this is reasonable scientific doubt regarding this, then an Adverse Effect on Integrity (AEoI) cannot be excluded.

Please be advised that as a Statutory Nature Conversation Body (SNCB) our remit doesn't extend beyond advising on the ecological merits of proposals, thus excluding us from making comment on Imperative Reasons of Overriding Public Interest (IROPI) submissions.

**Table 1: Questions within the REIS**

<b>RIES ID</b>	<b>RIES Question</b>	<b>Natural England Comment</b>	<b>RAG Status</b>
RIES-Q1	To the Applicant	No response required	
RIES-Q2	To NE and all IPs - Except for those sites/features listed in Table 2-1 of this RIES, the ExA is not aware of any representations from IPs identifying any additional UK European sites or qualifying features for inclusion in the Applicant's HRA. IPs are invited to comment,	Natural England has no further representation to add.	
RIES-Q3	To NE and NS – Please can you confirm whether you are content with the Applicant's screening assessment for European sites as updated during the Examination [REP4-009].	Natural England is content with the Applicant's screening as updated during examination.	
RIES-Q4	To the Applicant	No response required	
RIES-Q5	To NE - Can NE confirm it is still in agreement that there would be no AEol to this SAC and qualifying feature from the Proposed Developments, alone or in-combination with other plans or projects.	Natural England confirms it is still in agreement that there would be no AEol to the Berwickshire and North Northumberland Coast SAC and grey seal qualifying feature from the Proposed Developments, alone or in-combination with other plans or projects.	
RIES-Q6	To the Applicant	No response required	
RIES-Q7	To the Applicant and NE – please provide a position statement for the marine mammal SACs and their qualifying features. Please provide any comments on the matters in Table 3-3 to clarify the ExA's understanding, where you consider this to be inaccurate/contain omissions.	<p>The Applicant and Natural England have created a joint position statement regarding marine mammal SACs and their qualifying features which is being submitted by the Applicant at Deadline 7.</p> <p>This position statement reflects Natural England's current position on the marine mammal SACs and their qualifying features. Please note that Natural England is expecting a response from the Applicant on two outstanding queries on the population modelling at Deadline 7. We anticipate that once we have received additional information from the Applicant at Deadline 7, we will update our position statement to a final position statement.</p>	

RIES ID	RIES Question	Natural England Comment	RAG Status
		<p>Natural England's position on the points raised in Table 3-3 of the RIES are as follows:</p> <p>ID 3-3-1 – Natural England is satisfied with the revised assessment provided by the Applicant regarding the Humber Estuary SAC in Annex 2 of the Marine Mammals Technical Note and Addendum. Please see our detailed response to the population modelling in the Marine Mammals Technical Note and Addendum submitted at Deadline 6.</p> <p>ID 3-3-2 – Please see our detailed response to the population modelling in the Marine Mammals Technical Note and Addendum submitted at Deadline 6.</p> <p>ID 3-3-3 – see response to RIES-Q10a and RIES-Q10b.</p> <p>ID 3-3-4 – see response to RIES-Q11.</p> <p>ID 3-3-5 - Natural England is satisfied with the revised assessment provided by the Applicant regarding the Wash and North Norfolk Coast SAC in Annex 2 of the Marine Mammals Technical Note and Addendum. Regarding the population modelling undertaken for the Wash and North Norfolk Coast SAC, please see our response at Deadline 6.</p> <p>ID 3-3-6 - Please see our response to RIES-Q10a.</p> <p>ID 3-3-7 – We are satisfied with the Applicant’s assessment of barrier effects to harbour seal, as stated in our Risk and Issues Log submitted at Deadline 5.</p> <p>ID 3-3-8 – We await the Applicant’s response on this point and RIES-Q12.</p> <p>ID 3-3-9 - Natural England provided a detailed response to the population modelling of the Marine Mammals Technical Note and Addendum at Deadline 6. Please refer to this response. In summary, there were two</p>	

RIES ID	RIES Question	Natural England Comment	RAG Status
		<p>outstanding queries on the population modelling. The Applicant has indicated that they will submit an updated Marine Mammals Technical Note and Addendum at Deadline 7 which addresses the outstanding queries.</p> <p>ID 3-3-10 – Please see our response to RIES-Q13. Please also see our concerns raised regarding the SIP process.</p> <p>ID 3-10-11 – We are satisfied with the Applicant’s assessment of geophysical and seismic sources, as stated in our Risk and Issues Log submitted at Deadline 5. Please also see our concerns raised regarding the SIP process.</p> <p>ID 3-10-12 – Please see our response to RIES-Q14.</p> <p>ID 3-3-13 - Please see our response to RIES-Q15.</p> <p>ID 3-3-14, 3-3-15, 3-3-16 – The Applicant has updated their assessment of in-combination disturbance against the seasonal threshold (as we noted in the Risk and Issues Log submitted at Deadline 5); we are satisfied with the updated assessment. As stated in the RIES, we consider our concerns around the SIP process to be unresolved.</p> <p>ID 3-3-17 – Please see our response to RIES-Q16.</p> <p>ID 3-3-18 – Please see our response to RIES-Q17. Please also see our concerns raised regarding the SIP process.</p> <p>ID 3-3-19 – Please see our response to RIES-Q18.</p> <p>ID 3-3-20 - As stated in the RIES, we consider this matter relating to the OIPMP to be unresolved.</p>	

RIES ID	RIES Question	Natural England Comment	RAG Status
RIES-Q8(a)	To NE – Can NE confirm whether the updated OEMP [REP3-068] and updated Outline CoCP [REP5-029] satisfy its request for further information to be provided in the OLEMS.	<p>Natural England advises that while there are commitments and some outline mitigation measures included within the OEMP [REP3-068] and/or Outline CoCP [REP5-029], the detail is not consistent between documents and not sufficient for the purposes of bentonite breakout (see ID RIES-Q8(b) and pink-footed geese (RIES-Q9).</p> <p>Our general advice remains unchanged that outline mitigation measures should be included as separate plans as part of the consenting phase.</p> <p>In addition, as advised through the examination, we have advised the Applicant to combine the Outline Landscape Management Plan and the Outline Ecological Management Plan into a joint Outline Landscape and Ecological Management Strategy (OLEMS). This request is based upon our experience with other Offshore Wind Farm NSIPs and has been successfully undertaken by East Anglia ONE North (EA1N) and East Anglia TWO (EA2). Given the nature of these documents, there is a need to cross reference between documents, particularly in discharging DCO requirements post consent.</p>	
RIES-Q8(b)	To NE: Does NE consider the necessary mitigation is adequately secured through the dDCO (current version [REP5-029]) and is NE of the view that an AEol can be excluded to the SAC and its qualifying features?	<p>As above, our general advice remains unchanged that outline mitigation measures should be included as separate plans as part of the consenting phase.</p> <p>Natural England notes the Applicant’s intention within the outline CoCP [REP5-030] to produce a bentonite breakout plan post consent. The condition within the DCO that the final CoCP will be in accordance with the outline document secures this commitment.</p> <p>However, through examination we were expecting the Applicant to submit an outline bentonite breakout mitigation plan and therefore we had reserved any comment on the measures within the OCoCP [REP5-030].</p> <p>Natural England advises we have concerns with the second and third bentonite mitigation measures outlined in Para 137 of the Outline CoCP [REP5-030]. These measures to use sand bags and pumping bentonite</p>	

RIES ID	RIES Question	Natural England Comment	RAG Status
		<p>back to a lagoon are only workable in drier conditions and therefore not applicable to all situations within the River Wensum SAC.</p> <p>Therefore, until an outline bentonite mitigation plan is agreed, Natural England is unable to conclude with certainty that the likelihood of AEol to the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC can be avoided.</p> <p>However, as advised in REP3-145 once the mitigation measures are agreed, Natural England is likely to agree that the risk of AEol to the River Wensum SAC will be significantly reduced. Therefore, along with the Environment Agency, Natural England wishes to be a named consultee to the outline bentonite mitigation plan.</p>	
RIES-Q9	<p>To the Applicant and NE –please provide an update with regards to the discussions concerning pink-footed goose mitigation measures and how these are to be secured. Could the Applicant confirm whether amendments are required to the dDCO to secure such measures. Does NE agree that there would be no AEol to this feature of the SPA and Ramsar?</p>	<p>As per our advice to WQ4.14.1.12, we understand from the Applicant they do not wish to progress Best Practice Guidance on mitigation for pink-footed geese (PFG). Therefore, there is insufficient time remaining within the examination to inform an agreed PFG mitigation plan.</p> <p>The Applicant has provided further confirmation directly to NE, that there is a commitment for a pink footed geese mitigation plan within the Outline EMP and will commit to further engagement with Natural England post examination. If appropriate, we will respond to further updates to the EMP submitted by the Applicant at D7. However, our general advice remains unchanged that outline mitigation measures should be included as separate plans as part of the consenting phase.</p> <p>As our concerns as to what the PFG mitigations will include remain outstanding at this time, our position is that we are unable to provide the decision maker the necessary comfort that appropriate mitigation measures will (and can) be adopted to remove and/or suitably reduce the risk of the likelihood of AEol to the pink-footed geese feature of the North Norfolk Coast SPA and Ramsar.</p> <p>Natural England advises that a condition is added to the DCO that ensures that until the PFG mitigation measures are agreed no works can commence.</p>	

RIES ID	RIES Question	Natural England Comment	RAG Status
		This has also been included within our updated R&I Log (Tabs A and I at D7).	
RIES-Q10a	To NE - Could NE confirm whether the Applicant's response to this matter at Deadline 1 [REP1-034] addressed the point raised by NE that an assessment of impacts to seal SACs (Humber Estuary and The Wash and North Norfolk Coast SAC) should include impacts to functionally linked habitat in the wider environment that is used by the seal qualifying features?	Whilst Natural England maintains that impacts to functionally linked habitat of seal SACs should be considered for LSE, we are content that there would be no AEol from this pathway.	
RIES-Q10a	RIES-Q10b: To NE -Noting that D16 in the latest Risk and Issues Log [REP5-093](original Point 68 of NE's RR) identifies that the Applicant has in part addresses its concerns, could NE expand on its outstanding concerns.	As above, in response to RIES-Q10a.	
RIES-Q11	RIES-Q11: To NE –Can NE confirm whether the Applicant has satisfied its request for an updated assessment of barrier effects with information on movements (from telemetry data) and area lost due to effects. Please expand on any remaining concerns with the assessment of barrier effects.	The Applicant has provided an updated assessment of barrier effects that provides part of the requested information. We are content that there would be no AEol from this pathway.	
RIES-Q12	To the Applicant	No response required	
RIES-Q13:	To NE - Point 74 of NE's RR [RR-063] does not specifically appear in NE'S Risk and Issues Log [REP5-093]. It is unclear if the clarification provided by the Applicant at Deadline 2 [REP2-051] and in the Marine Mammals Technical Note [REP3-115] with regards to simultaneous piling has addressed NE's concerns on this matter. Please can NE respond.	The clarification provided by the Applicant in the Marine Mammals Technical Note has addressed Natural England's concerns on the matter.	
RIES-Q14	To NE: Can NE Confirm whether the Applicant has addressed its concerns in its Deadline 2 response [REP2-051]. Please expand on any remaining concerns.	The Applicant has sufficiently addressed Natural England's concerns (Point 72 in NE's RR) in its Deadline 2 response. There are no remaining concerns.	



RIES ID	RIES Question	Natural England Comment	RAG Status
RIES-Q15	To NE: Can NE confirm whether the Applicant has addressed its concerns in its Deadline 2 response [REP2-051]. Please expand on any remaining concerns.	Whilst Natural England maintains that an assessment of impacts to sandeel would be beneficial, but we consider it unlikely that impacts to sand eels for marine mammals will have an AEol from this pathway. This is due to sufficient alternative prey availability.	
RIES-Q16	Can NE confirm whether the Applicant has addressed its concerns in the Marine Mammals Technical Note [REP3-115]. Please expand on any remaining concerns.	The Applicant has sufficiently addressed Natural England's concerns (General Comments, Assessment: In combination, Paragraph 1 in NE's RR) in its Deadline 2 response. There are no remaining concerns.	
RIES-Q17	To NE - Noting NE's response at Deadline 5 [REP5-094] to WQ3 Q3.12.2.4 and initial comments in its RR [RR-063], together with statements made in the Applicant's Marine Mammal Technical Note [REP3-115] that 'any mitigation measures to reduce the disturbance of harbour porpoise in the project specific SIPs may also reduce the potential disturbance of grey seal/harbour seal', does the matter of the use of the MMMP and SIP for disturbance also relate to the seal SACs (Humber Estuary SAC and The Wash and North Norfolk Coast SAC) or only the SNS SAC?	<p>The SIP is a mechanism to control and mitigate in-combination disturbance to the SNS SAC only.</p> <p>The MMMP outlines mitigation measures to minimise the risk of auditory injury to all marine mammals from underwater noise.</p>	
RIES-Q18	To NE – Can NE confirm whether the Applicant has addressed its concerns in its Deadline 3 response [REP3-017]. Please expand on any remaining concerns,	The Applicant has sufficiently addressed Natural England's concerns (General Comment 2 in NE's RR) in its Deadline 3 response. There are no remaining concerns.	
RIES-Q19	To the Applicant	No response required	

**Table 2: Detailed Comments**

NE ID	Page/ Section/Table Ref	Natural England Comment	RAG Status
<b>Offshore Ornithology</b>			
1	Outer Thames Estuary SPA. Page 100  3-4-21	Within the REIS it is stated that “The Applicant [REP4-031] stated at Deadline 4 that, as it had set out in its RIAA [APP-059] (Paragraph 1088), it maintains that 1% mortality is sufficiently precautionary and that there is no evidence to support the application of 10% mortality for birds displaced by O&M vessels. The Applicant [REP4-031] stated this it can present the 10% mortality values in the update to the Apportioning and Habitats Regulations Assessment Updates Technical Note to be submitted at Deadline 5.” Natural England observes that this information was not included by the Applicant within the Apportioning and HRA Update (Revision C) [REP5-043] submitted at Deadline 5. However, subsequent clarifications from the Applicant regarding vessel activity within the Outer Thames Estuary and Greater Wash SPAs has meant that in this instance, having site of the 10% mortality rate calculations is not critical to our conclusions of impacts on these sites. Amend REIS to clarify this. No further updates necessary for this impact pathway.	
2		We note that in regards the in-combination impact to Guillemot, Razorbill and the seabird assemblage at FFC SPA, we have already reached a conclusion of AEoI for these features at the close of the Hornsea 4 Examination. The additional impacts arising from SEP and DEP (albeit at a level that results in conclusion of no AEoI alone or together) will add to the adverse effect for these features and will continue to result in a conclusion of AEoI in combination. Amend REIS to clarify Natural England’s position at the end of the Hornsea 4 Examination and the implications for our SADEP integrity judgements.	