



# Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects

The Applicant's Response to the Examining Authority's  
Rule 17 Letter dated 12 July 2023

**Revision A**

Deadline 8

July 2023

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## **1 The Applicant's Response to Rule 17 Letter dated 12 July 2023**

1. The following table sets out the Applicant's Response to the Rule 17 Letter dated 12 July 2023.

## 2 Offshore Habitats Regulation Assessment and response to the decision for the Hornsea Project Four Offshore Windfarm

Table 1 Applicant's responses to Offshore Habitats Regulation Assessment and response to the decision for the Hornsea Project Four Offshore Windfarm

ID	Respondent	Question	Applicant Response
1	Applicant Natural England Royal Society for the Protection of Birds	<p><b>Methodology</b></p> <p>a) Does the SoS's decision on Hornsea 4 change any of the worst-case scenarios and/or conclusions, at an Environmental Impact Assessment (EIA) scale, for any offshore ornithology species?</p>	<p>As a preliminary matter, the Applicant notes that the questions within this section of the Examining Authority's Rule 17 letter have been prompted by the Secretary of State's decision of 12 July 2023 to grant development consent for The Hornsea Four Offshore Wind Farm Order (EN010098) (Hornsea Project Four). The Applicant appreciates that the Examining Authority in this application will be keen to understand what the implications of that decision are for their assessment of SEP and DEP.</p> <p>However, the Applicant has simply not had sufficient time to fully review the decision (including the Habitats Regulations Assessment and recommendation report) and understand all of the implications for SEP and DEP. Furthermore, the Applicant has had to consider this decision whilst also ensuring it meets the other procedural deadlines fixed for Deadline 8.</p> <p>The Applicant has sought to be as helpful as possible in responding to the questions raised by the ExA in the Rule 17 letter. However, the Applicant considers that there may be aspects of the Hornsea Four decision that are material to SEP and DEP that have not been identified below, given the time limitations. The Applicant considers that it may be necessary and appropriate to prepare a more detailed response in due course to be submitted to the Secretary of State and would reserve its position on doing so.</p> <p>a)</p> <p>Within ES <b>Chapter 11 Offshore Ornithology</b> [APP-097] the Applicant concluded a cumulative moderate adverse impact (i.e. a significant adverse impact) on great black-backed gull and Sandwich tern (the latter at a localised scale). It is noted that in</p>

ID	Respondent	Question	Applicant Response
			<p>Natural England's most recent position submitted at Deadline 7, it considered that a significant adverse impact could not be ruled out for gannet, kittiwake, guillemot, razorbill and great black-backed gull. In his decision letter for Hornsea Four, the SoS has concluded that there is a likelihood of significant cumulative adverse effects for kittiwake, guillemot and great black-backed gull at the EIA scale.</p> <p>The Applicant has not identified anything within the SoS's decision in respect of Hornsea Four that would affect the worst-case scenarios assumed by the Applicant in respect of SEP and DEP. With regard to the conclusions to the EIA assessment, the Applicant's position, as set out above, is unchanged. However, it is noted that the SoS concluded for Hornsea Four that there would be no significant cumulative adverse effect in respect of gannet and razorbill (both species for which NE concluded a significant cumulative adverse impact could not be ruled out, for both Hornsea Four and SEP and DEP); it is the Applicant's view that this supports the Applicant's position (i.e. no significant cumulative effect) for these species.</p>
2	Applicant Natural England	<p><b>Flamborough and Filey Coast Special Protection Area (SPA)</b></p> <p>The SoS has concluded, in paragraph 5.13 of the decision letter for Hornsea 4, that an Adverse Effect on Integrity (AEoI) could be ruled out on all sites except for the Flamborough and Filey Coast SPA due to in-combination impacts on kittiwake and guillemot features.</p> <p>b) Applicant, in respect of guillemot, will you amend your 'without prejudice' position regarding compensatory measures and submit these as a finalised proposal?</p> <p>c) Applicant – does the SoS's Habitats Regulation Assessment (HRA) change your 'without prejudice' position regarding razorbill? Explain with reasons.</p>	<p>b) The SoS's conclusion in respect of these species is acknowledged by the Applicant. It is firstly noted that for FFC SPA kittiwake, the Applicant has agreed that AEoI cannot be ruled out (and that compensatory measures are required) and therefore the conclusion in respect of Hornsea Four is aligned with this position. In respect of FFC SPA guillemot, the Applicant requires time to fully review all of the relevant Hornsea Four documents to be able to give a properly considered response, and therefore does not propose to amend its position for this feature prior to the end of Examination.</p> <p>c) The Applicant's position in respect of FFC SPA razorbill, as set out in the <a href="#">RIAA [APP-059]</a> and relevant updates in the <a href="#">Apportioning and Habitats Regulations Assessment Updates Technical Note (Revision D)</a> [document reference 13.3] remains that there would be no in-combination AEoI for</p>

ID	Respondent	Question	Applicant Response
		<p>d) Natural England (NE), in paragraph 5.74 of the SoS's decision, it is concluded that looming eye buoys and bycatch reduction represent a feasible additional compensatory measure. Does that change your position regarding the efficacy of these measures in the context of this current Examination?</p> <p>e) Does the SoS's decision on Hornsea 4 change any of the EIA and HRA conclusions, for any offshore ornithology species, or indeed marine mammal species?</p>	<p>this feature. The SoS's conclusion within the Hornsea Four HRA supports the Applicant's position in respect of SEP and DEP, given that the in-combination values are effectively the same for both projects i.e. a mean value of 4 razorbills is predicted to be subject to mortality as a result of SEP and DEP based on Natural England's standard approach to displacement of assuming a 70% displacement and 2% mortality rate. While the Applicant considers these rates are not supported by the available evidence, they have been applied by the SoS as the basis of auk mortalities in his Hornsea Four decision. 'Without prejudice' compensation measures for FFC SPA razorbill were provided by the Applicant on the basis that such measures would not be required (given that no AEoI was assumed). This conclusion is supported by the SoS's HRA for Hornsea Four, and the Applicant's position is therefore unchanged. Given the SoS's conclusion on this matter, the Applicant has removed without prejudice razorbill compensation from the <b>Without Prejudice DCO Drafting (Revision D)</b> [document reference 3.1.3]. However, the Applicant does not propose to amend other relevant documents that describe the without prejudice compensatory measures for razorbill (e.g. Appendix 4 Guillemot and Razorbill Compensation Document Revision D [REP7-020]) from the Examination as there is not sufficient time to do so. Nonetheless, references to razorbill in these documents should now be disregarded.</p> <p>e) Based on a preliminary review of the SoS's decision on Hornsea Four, the outcomes do not change the conclusions of the EIA or HRA for offshore ornithology or marine mammals. The worst-case scenario does not change (as set out in response to point 1 above) and, as confirmed in the <b>Applicant's Responses to the Examining Authority's Fourth Written Questions</b> [document reference 21.5] (Question 4.14.1.11), the contribution of SEP and DEP to in-combination bird mortality remains unchanged irrespective of the approach taken on Hornsea Four, and the position on AEoI remains unchanged.</p>

ID	Respondent	Question	Applicant Response
			<p>With respect to marine mammals and specifically the SNS SAC harbour porpoise feature, the Applicant notes that the SoS's decision on Hornsea 4 confirms that the Site Integrity Plan (SIP) remains the appropriate means of mitigating disturbance effects. This supports the Applicant's position on this matter.</p>
3	Applicant Natural England	<p><b>Derogation Case</b></p> <p>f) Does the SoS's decision on Hornsea 4, give any greater confidence on strategic/ collaborative compensatory measures, that could be relied upon, and consequently what weight can be given to the strategic/ collaborative compensatory measures in the ExA's considerations and conclusions?</p> <p>g) Applicant, would you like to propose any changes to the reliance on strategic/ collaborative compensatory measures in the Proposed Development. Indeed, does this prompt you to propose any changes to strengthen project-led compensatory measures in the Proposed Development?</p>	<p>(f) and (g)</p> <p>As set out above, in the time available the Applicant has not had an opportunity to fully consider the Secretary of State's decision on Hornsea 4 and the possible implications of that decision.</p> <p>However, based on an initial review of that decision, the Applicant does not consider there is a reason to change its approach to the compensation measures proposed.</p> <p>The Applicant has set out the rationale for the inclusion of the strategic/collaborative measures in the overall package within the application documents (see <a href="#">Appendix 1 - Compensatory Measures Overview</a> [APP-064], <a href="#">Strategic and Collaborative Approaches to Compensation and Measures of Equivalent Environmental Benefit</a> [APP-084]) and in responses submitted through the Examination, including the responses to Q1.14.1.20 in <a href="#">The Applicant's Responses to the Examining Authority's First Written Questions</a> [REP1-036], Q2.14.1.4 in <a href="#">The Applicant's Responses to the Examining Authority's Second Written Questions</a> [REP3-101] and Q3.14.1.16 in <a href="#">The Applicant's response to the Examining Authority's Third Written Questions</a> [REP5-049]. In summary:</p> <ol style="list-style-type: none"> <li>i. The Applicant considers that its proposed project-led measures would fully compensate for the predicted impacts from SEP and DEP (if required).</li> <li>ii. The application has been made in an evolving policy and legislative context. The UK Government has stated its intention to have a mechanism to deliver strategic compensation in place by the end of 2023.</li> </ol>



ID	Respondent	Question	Applicant Response
			<ul style="list-style-type: none"> <li>iii. The Applicant anticipates that the Secretary of State will make a decision on whether to grant development consent for SEP and DEP in Q1 2024, after the Government's target date for the MRF to be established.</li> <li>iv. It is reasonably foreseeable that a suitable delivery mechanism for strategic compensation will become available either (a) by the time that this application is determined, or (b) within the necessary timescales for development of SEP and DEP. The Applicant would look to explore implementation either wholly or partly in substitution of project-led compensation measures or as part of an adaptive management approach for these species. This is secured through schedule 17 of the draft DCO.</li> <li>v. Including these measures provides additional robustness to the overall compensation package, including the provision of adaptive management (if required).</li> <li>vi. For the avoidance of doubt, the Applicant is continuing to prioritise project-led measures. The Applicant considers that the Examining Authority and the Secretary of State can have a high degree of confidence that those measures would fully compensate for the predicted impacts from SEP and DEP.</li> </ul> <p>The Applicant further notes that in its recommendation report, the Examining Authority for Hornsea Project Four stated (emphasis added):</p> <p><i>"13.12.122. The implementation of the MRF is set out in current policy, specifically the BESS, and the need for strategic compensation is recognised by the UK Government and TCE, as well as in the industry, and it has the general support of</i></p>

ID	Respondent	Question	Applicant Response
			<p><i>SNCBs and Non-Government Organisations. Nevertheless, neither the MRF nor any other appropriate vehicle for strategic compensation was in place at the end of the Examination.</i></p> <p><i>13.12.123. The details of the strategic compensation in terms of locations, design, any necessary consents, timescales, and mechanism of implementation are as yet unknown. <u>The SoS will need to be satisfied that this work could be in place at an appropriate juncture to compensate for the predicted AEol of the Flamborough and Filey Coast SPA. If all such details can be finalised and secured, the ExA is content that, in principle, strategic compensation as proposed could ensure the overall coherence of the UK National Site Network.</u></i></p> <p>As summarised above, the Applicant considers that the detail for the delivery of strategic compensation could be available within the necessary timescales for development of SEP and DEP. It is considered appropriate for strategic and collaborative measures to remain part of the compensation package.</p> <p>Whilst the Applicant acknowledges that the Hornsea Four Offshore Wind Farm Order 2023 (as made) did not include strategic measures, the Secretary of State's decision letter dated 12 July 2023 does not disagree with the analysis of the Examining Authority referred to above.</p> <p>With regard to project-led measures for guillemot, the Applicant notes the conclusion of the SoS in respect of the compensation measures for Hornsea Project 4 that bycatch reduction through the use of looming eye buoys is technically feasible and deliverable, and likely to be additional to standard measures required for the management of protected sites under the Habitats Regulations. The Applicant has committed to investment into looming eye buoy studies to support and strengthen the ongoing development of this measure.</p>

### 3 Onshore Ecology, including HRA matters

Table 2 Applicant's responses to Onshore Ecology, including HRA matters

ID	Respondent	Question	Applicant Response
4	Applicant Natural England	<p><b>River Wensum Special Area of Conservation (SAC)</b></p> <p>a) Further to responses received to questions raised by the ExA from NE [REP5-094, Q3.12.2.3] and the Applicant [REP6-013, Q3.12.2.3], provide without prejudice wording for a Requirement within the dDCO which secures mitigation that removes or reduces the risk of AEoI to the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC, before any work on the Proposed Development could commence.</p>	<p>The Applicant highlights that Q3.12.2.3 [REP6-013] relates to the <b>Outline Project Environmental Management Plan [APP-297]</b> and the <b>Outline Offshore Operations and Maintenance Plan [APP-296]</b> which do not include mitigation relevant to the River Wensum Special Area of Conservation (SAC).</p> <p>Mitigation in respect of the River Wensum SAC is secured within the <b>Outline Ecological Management Plan (Revision E)</b> [document reference 9.19] (submitted at Deadline 7) and the <b>Outline Code of Construction Practice (Revision G)</b> [document reference 9.17] which are secured by Requirements 13 and 19 of the <b>draft DCO (Rev K)</b> [document reference 3.1], respectively.</p> <p>The Applicant understands that this question relates to a request made by Natural England to provide a standalone Bentonite Breakout Management Plan, noting that Horizontal Directional Drilling (HDD) methods will be used to cross the River Wensum SAC to mitigate impacts to qualifying features of the River Wensum SAC such as white-clawed crayfish (see paragraph 68 of the <b>Outline Ecological Management Plan (Revision E)</b> [document reference 9.19] submitted at Deadline 7).</p> <p>For the reasons set out below, the Applicant considers that such a requirement is unnecessary and would not comply with the relevant policy on when requirements should be imposed. Furthermore, the issues raised by Natural England in respect of the risk of bentonite breakout are not unique to SEP and DEP. Such a risk will be present in any development that utilises HDD methods for installation (whether cables, pipelines or otherwise). The Applicant is proposing to control this risk in an industry</p>

ID	Respondent	Question	Applicant Response
			<p>standard manner and in accordance with how this has been secured in other DCOs and in other consenting regimes.</p> <p>On that basis, the Applicant has not provided without prejudice wording for a Requirement within the draft DCO.</p> <p>The policy position on the use of requirements within DCOs is set out in paragraph 4.1.7 of EN-1 (paragraph 4.1.16 of draft EN-1 (March 2023)). This states that the Secretary of State should only impose requirements where they are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. The policy goes on to state that the Secretary of State should take account of guidance in the (now replaced) guidance in Circular 11/95 or any successor to it. Paragraph 56 of the National Planning Policy Framework and the Planning Practice Guidance on the use of planning conditions are up to date national policy and reiterate the policy requirements that conditions (or requirements) should be kept to a minimum. The NPPF and PPG re-state the same policy requirements as those set out in Paragraph 4.1.7 EN-1.</p> <p>The Applicant responded direct to Natural England's concerns within row I2 of the <a href="#">Natural England's Risk and Issues Log at Deadline 5</a> [REP5-065]. The Applicant is also submitting an updated response to the <a href="#">Risks and Issues Log</a> [document reference 22.10] at Deadline 8].</p> <p>The Applicant considers that mitigation measures are already sufficiently secured that remove any risk of AEoI to the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC.</p> <p>The <a href="#">Outline Code of Construction Practice (Revision G)</a> [document reference 9.17] contains mitigation measures for sediment management (Section 8.1.1), pollution prevention (Section 8.1.2) and bentonite breakout (8.1.4). The</p>

ID	Respondent	Question	Applicant Response
			<p>implementation of Requirement 19 of the <b>draft DCO (Revision K)</b> [document reference 3.1]. Sub-paragraph 19(1) states:</p> <p><i>“(1) No phase of the onshore works may commence until a code of construction practice (which must accord with the outline code of construction practice) for that phase has been submitted to and approved by the relevant planning authority following consultation as appropriate with Norfolk County Council, the Environment Agency, Natural England and, if applicable, the MMO.”</i></p> <p>Sub-paragraph (3) goes on to state that all construction works for each phase must be undertaken in accordance with the relevant approved code of construction practice.</p> <p>The Applicant notes that Natural England is a named consultee for the planning authority when it comes to them discharging requirement 19.</p> <p>A final Bentonite Breakout Plan would be developed prior to construction and would be informed by further detailed design and surveys including hydrofraction survey at all drill sites. A site-specific risk assessment would then be undertaken as part of the post consent detailed design process (see paragraph 131 of the <b>Outline Code of Construction Practice (Revision G)</b> [document reference 9.17]). This will include measures to ensure drilling stops once a breakout is reported (there will be a drop in pressure at the drill head). At the request of Natural England, the <b>Outline Code of Construction Practice (Revision G)</b> [document reference 9.17], para. 144] requires that any bentonite breakout within designated sites are to be reported to Natural England as soon as possible and, in any event, within 24 hours.</p> <p>The Applicant considers that including these measures in the code of construction practice is the appropriate mechanism to secure these mitigations. The Applicant notes that this is well precedented and other nationally significant infrastructure</p>

ID	Respondent	Question	Applicant Response
			<p>projects do not include standalone plans for bentonite breakout and, instead, incorporate these within the Outline Code of Construction Practice at the consenting phase e.g. Hornsea Four Offshore Wind Farm Order (2023), Norfolk Boreas Offshore Wind Farm Order (2021), and The Hornsea Three Offshore Wind Farm Order (2020). Similarly, the Construction and Environmental Plan submitted in support of the Aquind Interconnector DCO application included details of measures that will used to avoid and mitigate impacts of a bentonite breakout. No commitment has been provided by that project to prepare a standalone Bentonite Breakout Plan.</p> <p>The Applicant has assessed the risk of impact to the to the white-clawed crayfish, brook lamprey and bullhead features of the River Wensum SAC within the <b>Report to Inform the Appropriate Assessment (RIAA) (onshore) Technical Note [REP2-050]</b> (the assessment on the habitat feature and Desmoulin's whorl snail having already been carried out in the previously submitted RIAA [APP-059]. The technical note concludes that following the mitigation identified in the document (Sections 2.3.2.1 to 2.3.2.3), which has been incorporated within the <b>Outline Code of Construction Practice (Revision G)</b> [document reference 9.17], there would be no adverse effect on the integrity of the River Wensum SAC in relation to the conservation objectives for white-clawed crayfish, bullhead or brook lamprey (that conclusion having previously been made for the habitat feature and Desmoulin's whorl snail in the RIAA [APP-059]).</p> <p>To include a standalone requirement in respect of bentonite breakout would be unnecessary duplication of controls on development. That can lead to complications and delay in the discharge of requirements and would be unreasonable to impose. Such a requirement would not comply with the relevant policy in EN-1. Natural England have given no good reason to depart from the well-precedented approach. As outlined above,</p>

ID	Respondent	Question	Applicant Response
			<p>Natural England will be consulted by the Applicant in developing the final bentonite breakout plan and will be consulted by the planning authority in discharging requirement 19.</p> <p>In the event that the Examining Authority is minded to impose a Requirement relating to the Bentonite Breakout Management Plan, and recommends this to the Secretary of State, the Applicant requests the opportunity to be consulted on the proposed drafting of such a Requirement.</p>
5	Applicant Natural England	<p><b>Pink Footed Goose Feature of North Norfolk Coast SPA</b></p> <p>b) Further to responses received to questions raised by the ExA from NE [REP5-094, Q3.14.1.17] and the Applicant [REP6-013, Q3.14.1.17], provide without prejudice wording for a Requirement within the dDCO which secures mitigation that removes or reduces the risk of AEol to the pink footed goose feature of the North Norfolk Coast SPA and Ramsar site, before any work on the Proposed Development could commence.</p>	<p>For the reasons set out below, the Applicant considers that a standalone requirement relating to mitigation of potential impacts on pink footed geese is unnecessary. The mitigation has already been adequately secured. The Applicant considers that it would be unreasonable to impose a further requirement within the DCO that duplicates controls that already exist elsewhere. The suggested requirement does not meet the policy tests. Notwithstanding, the Applicant has provided below a draft requirement on a 'without prejudice' basis.</p> <p>The policy position on the use of requirements is set out in ID4 and ID5 above. In summary, the Secretary of State should only impose requirements where they are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects.</p> <p>The <b>Outline Ecological Management Plan (Revision E)</b> [document reference 9.19] submitted at Deadline 7, commits the Applicant to provide a Pink Footed Geese Mitigation Plan (see section 3.3.1). The <b>Outline Ecological Management Plan (Revision E)</b> [document reference 9.19] submitted at Deadline 7, includes an example of what could be included within the management plan, the exact details to be confirmed and finalised once pre-construction surveys have concluded. This demonstrates that mitigation is readily available. <b>Outline Ecological Management Plan (Revision E)</b> [document reference 9.19] submitted at Deadline 7, is secured by</p>

ID	Respondent	Question	Applicant Response
			<p>Requirement 13 (Ecological management plan) of the <b>draft DCO (Revision K)</b> [document reference 3.1] which requires an Ecological Management Plan (to be based on the outline) to be submitted to approved by the Local Planning Authority, in consultation with Natural England and other bodies, prior to the commencement of any phase of the onshore works.</p> <p>The Applicant therefore considers that the mitigation is already adequately secured a standalone requirement would duplicate controls that exist elsewhere and it would be unnecessary and unreasonable to impose such a requirement. The policy test in EN-1 would not be met.</p> <p>Notwithstanding, the Applicant is providing the following drafting on a without prejudice basis:</p> <p><b>Protection of Pink Footed Geese</b></p> <p><i>1.(1) No phase of the of the onshore works within 10.4km of the North Norfolk Coast Special Protection Area may commence until a scheme for protection and mitigation measures for pink footed geese has been submitted to and approved by the relevant planning authority in consultation with Natural England.</i></p> <p><i>(2) The scheme of protection and mitigation measures submitted for approval under sub-paragraph (1) must include-</i></p> <ul style="list-style-type: none"> <li><i>(a) details of pre-construction surveys to be undertaken to establish whether any pink footed geese are present on any of the land affected, or likely to be affected, by that phase of the onshore work;</i></li> <li><i>(b) details of ongoing monitoring to be undertaken during the phase of the onshore work; and</i></li> </ul> <p><i>I details of the mitigation measures to be undertaken if the pre-construction or ongoing monitoring identifies the presence of pink footed geese in any of the land affected, or likely to be affected, by that phase of the onshore work.</i></p>



ID	Respondent	Question	Applicant Response
			<p>(3) <i>The relevant phase of the onshore works must be carried out in accordance with any scheme approved under sub-paragraph (1).</i></p> <p>(4) <i>Sub-paragraph (1) does not apply if the relevant planning authority confirms, after consultation with the Natural England, that no scheme of protection and mitigation measures for pink footed geese is required for the relevant phase of the of the onshore works.</i></p> <p>A 10.4km buffer zone is proposed under sub-paragraph (1) on the basis that the <b>Best Practice Advice on the North Norfolk Coast SPA Pink Footed Geese</b> [REP1-137] references studies which confirms average foraging range of 10.4km. Whilst it is acknowledged that the guidance states that 'Pink Footed Geese are regularly observed making foraging flights to other parts of the country, more than 20km,' no evidence supporting this statement is provided and it is therefore not considered reasonable to impose a 20km buffer. The Applicant considers that that applying the mitigation measures to any works within 10.4km of the SPA would be more than sufficient to remove the risk of any AEoI.</p> <p>The Applicant is not aware of any precedent for the above requirement, as it is not aware of any DCO that has secured a pink footed geese management plan through a standalone requirement. In fact, where mitigation for this species has been secured (for example, Hornsea Project Three), it was done so in a similar manner to what is proposed by the Applicant in this application (i.e. within an existing management plan).</p> <p>The Applicant has included drafting at sub-paragraph (4) that would allow the requirement for a scheme of mitigation to be waived by the planning authority, following consultation with Natural England, if this was considered to be unnecessary. The Applicant considers that, should the Secretary of State consider a standalone requirement is needed, this sub-paragraph would</p>

ID	Respondent	Question	Applicant Response
			<p>provide for a proportionate approach to be taken and avoid a detailed plan being prepared where one is not necessary. There is precedent for the inclusion of such a provision in made DCOs, for example requirement 34 of The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015. In the event that the Examining Authority is minded to impose an alternative Requirement relating to Pink Footed Geese, and recommends this to the Secretary of State, the Applicant requests the opportunity to be consulted on the proposed drafting of such a Requirement.</p>
6	Applicant Natural England	<p><b>Wensum Woodlands</b></p> <p>c) Further to responses received to questions raised by the ExA from NE [REP5-094] and the Applicant [REP6-013, Q3.13.2] provide without prejudice wording for a requirement within the dDCO which secures mitigation that removes or reduces the risk of potential habitat loss and which ensures that the Proposed Development would not hinder any potential notification of Sites of Special Scientific Interest (SSSI) status to the Wensum Woodlands in the future. Alternatively, provide detailed reasoning which explains why such wording would not be required.</p>	<p>The Wensum Woodlands is a candidate SSSI and it is understood that it has been added to Natural England's designations programme. The Applicant notes that inclusion on the list is not a commitment to designate.</p> <p>It is understood that Natural England remain concerned that potential habitat loss in this area as a result of SEP and DEP and could hinder potential future notification of the SSSI. The Applicant refers to its response to Q2.13.2.1 [REP3-101] and reiterates that the potential impacts of this potential designation cannot be assessed given the extent of the SSSI has not been defined. However, the Order Limits do not pass through any woodland habitat in the vicinity of the River Wensum, so it is expected that all habitats which would be designated as part of the Wensum Woods SSSI would be avoided.</p> <p>Any potential impacts to Core Sustenance Zones (i.e. in this area, hedgerows), would be informed by pre-construction surveys, which are secured within the <b>Outline Ecological Management Plan (Revision E)</b> [document reference 9.19] submitted at Deadline 7. The approval and implementation of an Ecological Management Plan (based on the outline) is already secured by Requirement 13 (Ecological Management Plan) of the <b>draft DCO (Revision K)</b> [document reference 3.1]. Any impacts to Core Sustenance Zones will be avoided and the <b>Bats – Alderford Common SSSI and Swannington Ugate</b></p>

ID	Respondent	Question	Applicant Response
			<p><b>Common SSSI Technical Note</b> [REP1-063] provides further information on how impacts to Core Sustenance Zones in the area around the River Wensum will be managed and mitigated. As set out within the Technical Note, it is proposed to HDD underneath a number of hedgerows near the River Wensum including those bordering Upgate and Reephams Road and at Marriott's Way County Wildlife Site (see Figure 1). It is also recognised that there are a number of hedgerows that may be breached through use of open cut techniques and in these instances, pre-construction surveys will be carried out to ensure that risks of habitat severance are considered. Similarly, efforts will be made in these instances to reduce/avoid impact through siting the cable through existing gaps within the hedgerows where possible. Where it is not possible to avoid impact, mitigation will be incorporated and will be secured under the <b>Outline Ecological Management Plan (Revision E)</b> [document reference 9.19], submitted at Deadline 7. This could include replanting of existing hedgerows, as well as timing works so that any hedgerow breach is during bat dormancy periods.</p> <p>Given that impacts on habitat that are likely to be designated as part of the SSSI are avoided and, where there are potential impacts to the Core Sustenance Zones, measures are already secured through the DCO and management plans that would mitigate those impacts, the Applicant considers that there is no risk from SEP and DEP of potential habitat loss that would not hinder any potential notification of SSSI status to the Wensum Woodlands. The Applicant does not consider it necessary to provide any additional or further controls.</p> <p>In the event that the Examining Authority is minded to impose a Requirement relating to the candidate Wensum Woodlands SSSI, and recommends this to the Secretary of State, the Applicant requests the opportunity to be consulted on the proposed drafting of any such Requirement.</p>

## 4 Benthic ecology, Intertidal, Subtidal and Coastal effects

*Table 3 Applicant's responses to Benthic ecology, Intertidal, Subtidal and Coastal effects*

ID	Respondent	Question	Applicant Response
7	Applicant Natural England	<p><b>Cromer Shoals MCZ</b></p> <p>a) NE, in your response to Q4.3.1.3 to The Examining Authority's Fourth Written Questions you have stated that "We note a condition (Schedule 10 Part 2 Condition 13(1i)) has been included in the DCO, however, this only considers Annex 1 habitats and not features of the MCZ." Provide wording for this condition to ensure it is broad enough to include reference to all sensitive habitats and species, including those within the MCZ?</p> <p>b) Applicant may respond.</p>	<p>The Applicant has updated Condition 12(1)(j) of Schedules 12 and 13 (i.e. the transmission DMLs) of the <b>Draft DCO (Revision K)</b> [document reference 3.1] to include provision within the mitigation scheme for mitigation of the designated features of the MCZ. The Applicant considers that this addresses the Natural England comment.</p>
8	Applicant Natural England Marine Management Organisation	<p><b>Secondary Scour</b></p> <p>c) As has been highlighted by NE (see Natural England's Response to The Examining Authority's Fourth Written Questions - Revision A (Document Reference 21.5) at Q4.3.3.1), there is no detailed secondary scour assessment. Applicant, confirm if you have assessed in the Environmental Statement (ES) a situation where it transpires that it is the secondary scour which necessitates further scour prevention, and have certain impacts to physical offshore processes for example?</p> <p>d) Could this result in an additional marine licence being required post installation?</p>	<p>c)</p> <p>As noted at ID 54 and 55 of Table 4.18.4 in <b>The Applicant's Comments to Relevant Representations</b> [REP1-033], no scour assessment has been carried out. An assumption has been made for the worst-case scenario that scour protection will be used wherever scour will occur, reducing sediment release to negligible quantities. A conservative worst-case scenario of all foundations having scour protection is considered for footprint / habitat loss.</p> <p>The limited geographical extent of secondary scour means that any impact would be nugatory. Hence, an assessment of secondary scour has not been undertaken within <b>Chapter 6 Marine Geology, Oceanography and Physical Processes</b> [APP-092]. Furthermore, as noted in <b>The Applicant's Comments on Responses to the Examining Authority's Third Written Questions</b> [REP6-013], the Applicant is not aware that there is any guidance on or information / data upon which to base an assessment of secondary scour or to estimate its potential scale. The Applicant understands that Natural</p>

ID	Respondent	Question	Applicant Response
			<p>England have previously signposted to Schultz et al. (2020) and Christiansen et al. (2022) as potential sources; however, the Applicant notes that these studies largely relate to turbulence in the wake of turbines which could cause scour (and increased suspended sediment concentrations), but do not provide any information on the potential for secondary scour. As previously noted by the Applicant, where scour is likely to occur, scour protection would be installed to prevent scour.</p> <p><u>The occurrence of secondary scour would not be anticipated to require additional scour protection (due to its likely small scale).</u></p> <p>However, the Applicant has assessed a worst-case scenario of up to 1.1km<sup>2</sup> of habitat loss from the installation of wind turbine foundations with scour protection. No scour protection would be required along the offshore cable routes; however, the assessment of potential habitat loss impacts from the installation of external cable protection has been provided.</p> <p>The Applicant reiterates that it has committed through the <b>Offshore IPMP (Revision C)</b> [document reference 9.5] to monitor the extent of secondary scour (where scour protection is installed). Data from this monitoring could then be used to inform any future secondary scour assessment.</p> <p>d)</p> <p>As above, the Applicant has assessed a worst-case scenario of up to 1.1km<sup>2</sup> of habitat loss from the installation of wind turbine foundations and scour protection which would be permitted to be installed under the DMLs. No scour protection would be required along the offshore cable routes and therefore this has not been assessed; however, habitat loss from the installation of external cable protection has been assessed. As noted in the <b>Outline OOMP (Revision C)</b> [REP3-058], “<i>Unless the total area of scour protection installed for the chosen foundation type exceeds that assessed in the ES or a period of five years has elapsed since the completion of construction then no additional marine licence is required.</i>”. Therefore, unless the above</p>

ID	Respondent	Question	Applicant Response
			<p>circumstances were to apply, an additional marine licence would not be required.</p>
9	<p>Applicant Natural England Marine Management Organisation</p>	<p><b>Measures of Equivalent Environmental Benefit (MEEB)</b> In Natural England's Response to The Examining Authority's Fourth Written Questions at Q4.3.4.2, NE states that it considers that the condition within the Without Prejudice DCO Drafting (Revision C) [REP5-008], should require that the MEEB should be in place prior to any impact.</p> <p>e) Applicant, provide wording for dDCO.</p> <p>f) NE and Marine Management Organisation (MMO), provide alternative wording for the dDCO regarding the timing of when the MEEB should be required.</p> <p>g) Applicant, if the MEEB needs to be in place prior to cable installation works, would this mean that it would be unknown at the time of initiating the MEEB whether cable protection would be necessary?</p>	<p>e) The Applicant maintains that the appropriate timing control for MEEB is that no external cable protection works may be commenced within the Cromer Shoal Chalk Beds MCZ until the MEEB Implementation and Monitoring Plan (MIMP) has been approved by the Secretary of State (SoS), as reflected in the existing <b>Proposed Without Prejudice DCO Drafting (Revision D)</b> [document reference 3.1.3].</p> <p>Following a decision by the SoS that MEEB may be required, the Applicant would commence formation of the MEEB steering group and would develop a plan of work for the group which would require approval by the SoS. This would be required prior to commencement of the licensed activities. Then, following consultation with the MEEB steering group, the MIMP would be submitted to the SoS for approval in consultation with the MMO and the relevant statutory nature conservation bodies. The MIMP would be based on the principles set out in <b>Appendix 1: In-principle CSCB MCZ MEEB Plan (Revision C)</b> [REP2-020].</p> <p>Given the nascent stage of native oyster restoration practices in the UK and Europe, and the complexities involved in restoring a native oyster reef in an offshore area, as is proposed by SEP and DEP, the Applicant considers that restricting the ability of the Applicant to install external cable protection within the MCZ until after the MEEB is 'in place' (see below clarification of what this is presumed to mean) could place unwarranted restrictions on the Applicant, if sections of the export cable which are unable to be buried are required to be left unprotected because of such a requirement in the DCO. This could lead to safety issues in respect of snagging risk from commercial fishing vessels coupled with the risk that the export cables could be damaged by vessel anchors whilst unprotected.</p>

ID	Respondent	Question	Applicant Response
			<p>The Applicant refers to its response at Q3.3.4.2 in <b>The Applicant's Response to the Examining Authority's Third Written Questions</b> [REP5-049] where it is confirmed that achieving a density of 5 live oysters per m<sup>2</sup> would be used as the primary metric to determine if the MEEB is successful, alongside achieving a 10,000m<sup>2</sup> reef following the phased deployment approach – it is these metrics that the ExA's reference to 'in place' is considered to be set against. The Applicant explained in its response to Q3.3.4.2 (regarding success metrics), the need to take account of the complex nature of native oyster restoration, and the subsequent need for some degree of flexibility in consideration of these metrics in order to prevent an over-reliance on them in demonstrating out-and-out success or failure of the MEEB. The Applicant stresses that flexibility in the timing of delivery of the MEEB is also required, which the proposed approach of securing no external cable protection works within the MCZ until approval of the MIMP would provide.</p> <p>On the basis of the above, the Applicant therefore does not consider that it is appropriate to provide updated without prejudice DCO drafting.</p> <p>g)</p> <p>The Applicant can confirm that this would be the case. However, it should be noted that if the SoS deems that MEEB may be required, the Applicant would seek approval of the MIMP significantly in advance of offshore construction and therefore if a scenario were to arise whereby external cable protection in the MCZ was not required and, as per the provisions in the <b>Without Prejudice DCO Drafting (Revision D)</b> [document reference 3.1.3], the requirement for MEEB were to fall away, the Applicant may volunteer to continue bringing forward the proposals.</p>

## 5 Oil, Gas and Other offshore infrastructure and activities

Table 4 Applicant's responses to Oil, Gas and Other offshore infrastructure and activities

ID	Respondent	Question	Applicant Response
10	Perenco	<p><b>Helicopter Access to Waveney</b></p> <p>a) In The Applicant's Comments on Perenco's Deadline Submission – Revision A (Document Reference 21.17) the Applicant states at Paragraph 17 that “under typical North Sea conditions the loss of payload will be minimal. Additionally, the Perenco Vantage data indicates that a full load of 12 passengers is not usually flown to the Waveney NUI. Therefore, any loss of required payload is only likely when flying to an NPI located at Waveney. Even in this case, a full load of passengers may still be carried due to the proximity of Norwich Airport”. Perenco, respond to the Applicant, and provide any further evidence to support your requirement for a minimum of 1.34nm to the nearest wind turbine rotor tip for a one engine inoperable (OEI) take-off (Section 4.2 of Summary of Perenco's Oral Evidence Concerning Aviation (Helicopter) Impacts at ISH7).</p>	<p>In Perenco's Deadline 7 Submission (<b>Perenco North Sea Limited - Responses to the Examining Authority's Fourth Written Questions</b>) in answer to question Q4.21.1.1, Perenco state:</p> <p><i>“Recognising the minimum wind turbine spacing of 1.05km, Perenco accepts that an OEI take-off could be executed with wind turbine rotor tips no nearer than 1.26nm from the helideck.”</i></p> <p>The Applicant has updated the definition of 'facilities proximity area' within the Protective Provisions for the benefit of Perenco to refer to 'up 1.26nm'. Please see Part 15 of Schedule 15 of the <b>draft DCO (Revision K)</b> [document reference 3.1].</p>



## 6 Navigation and Shipping

*Table 5 Applicant's responses to Navigation and Shipping*

ID	Respondent	Question	Applicant Response
11	Maritime and Coastguard Agency UK Chamber of Shipping Trinity House	<p><b>Shipping Collision Risk and Mitigation</b></p> <p>In The Applicant's Responses to the Examining Authority's Fourth Written Questions - Revision A (Document Reference 21.5) at Q4.19.1.1, the Applicant has provided localised results of Navigational Risk Assessment modelling for DEP-North, plus information on a submitted 'without prejudice' Offshore Work Plans for a surface structure free area (see Works Plans (Offshore) (Without Prejudice) - Revision A (Document Reference 2.7.2)), amongst other things.</p> <ul style="list-style-type: none"> <li>a) Respond in full to the Applicant's submissions on the matter of navigation and shipping, including if you agree with the analysis and conclusions.</li> <li>b) Specify if the Applicant's revised 'without prejudice' proposal addresses your concerns and changes your position if the risk to navigation would be as low as reasonably possible (ALARP), and if the policy requirements in NSP EN-3 (including Paragraph 2.6.165) are met.</li> <li>c) If your concerns are not alleviated with the Applicant's revised 'without prejudice' proposal, confirm if your proposed wording for the dDCO in your letter dated 6 July 2023 and the accompanying diagram (Figure 1) is your final position, or provide alternative wording and diagram.</li> </ul>	No response required.

ID	Respondent	Question	Applicant Response
12	Applicant	<p><b>DEP North Output</b></p> <p>In your response to Q4.19.1.6 to The Examining Authority's Fourth Written Questions you have stated that the Applicant is strongly of the view that the ability of DEP North to be developed on its own using the full quantum of wind turbine generators would be compromised if the Maritime Coastguard Agency (MCA) advised buoy to buoy restriction is imposed. Provide more detail as to what level the proposed development of DEP North would be compromised, in terms of power generation and wind turbines?</p>	<p>The Applicant carefully considered its response to Q4.19.1.6 in <b>The Applicant's Responses to the Examining Authority's Fourth Written Questions - Revision A</b> (Document Reference 21.5). The factors which go into considering that question are complex and it is simply not possible to specify in terms of power generation or wind turbine numbers the impact involved. It involves too many variables and assumptions, including assumptions, for example, as to future turbine availability and selection. To attempt to do so would run the risk of misleading the ExA and the SoS. The Applicant wishes to stress, however, that this should not be interpreted as lessening the impact on the project. Any restriction on buildable area within DEP North will restrict the overall flexibility of delivering DEP in the DEP North array area only. As such the loss of the area proposed by the MCA would be a substantial issue for the project and would – as the Applicant stated in its original response – compromise its ability to deliver DEP North on its own.</p>

## 7 Construction Effects Onshore

Table 6 Applicant's responses to Construction Effects Onshore

ID	Respondent	Question	Applicant Response
13	Applicant	<p><b>Development Scenarios</b></p> <p>Appendix A.1 of Supporting Documents for the Applicant's Responses to the Examining Authority's Fourth Written Questions (Document Reference 21.5.1) sets out tables showing Light Vehicles (LV) and Heavy Goods Vehicle (HGV) numbers of SEP or DEP in Isolation vs SEP and DEP Concurrently. It is noted from these tables that for activities where there would be no shared works (such as crossings, ducting, jointing bays and cable pulling) in a concurrent scenario the total number of LV and HGV movements per activity for the construction of SEP and DEP concurrently is around double than for the construction of SEP or DEP in isolation. Whilst this is what the ExA would expect, the tables in Appendix A.1 also show for these non-shared activities that it has been assumed that the works would take around twice as long.</p> <p>The ExA is of the view that this is not representative of any of the concurrent scenarios but is more akin to the sequential scenario (1c) where either SEP or DEP would be constructed one after the other resulting in twice the construction time/ working days as one of the projects in isolation. The ExA would expect by their nature all concurrent scenarios to take less working days to construct, but increase and potentially double the LV and HGV traffic, as opposed to the sequential scenario, particularly as for example Scenario 1d, would allow two</p>	<p>The Applicant wishes to clarify an apparent misunderstanding (within the Planning Inspectorate's Rule 17 Letter) in response to the <b>Applicant's Responses to the Examining Authority's Fourth Written Questions</b> [Document Reference: 21.5] and <b>Appendix A.1 of Supporting Documents for the Applicant's Responses to the Examining Authority's Fourth Written Questions</b> [document reference 21.5.1]. In particular, the ExA outlines that:</p> <p><i>"Whilst this is what the ExA would expect, the tables in Appendix A.1 also show for these non-shared activities that it has been assumed that the works would take around twice as long"</i></p> <p>The Applicant clarifies that it has not stated that the works would take twice as long. It can be evidenced from Annex 11 and 12 of the <b>Transport Assessment</b> [APP-269] that all construction works have been scheduled within approximately three years<sup>1</sup> for SEP and DEP concurrently (Scenario 1d) and also for SEP or DEP in Isolation (Scenario 1a and 1b). This is the same duration, not twice as long. In contrast, as outlined within the <b>Project Description</b> [APP-090], for the sequential scenario (Scenario 1c) the minimum construction duration would be approximately five years (not three), i.e. each Project taking three years to construct with a minimum gap for two years between the start of construction of the first Project and the start of construction of the second Project.</p>

<sup>1</sup> NB. Work days expressed in **Appendix A.1 of Supporting Documents for the Applicant's Responses to the Examining Authority's Fourth Written Questions** are representative of the number of Full Time Equivalent (FTE) days required to complete an activity, not calendar days. Work days are a project planning tool that enables resource and programme planning.

ID	Respondent	Question	Applicant Response
		<p>separate construction crews to be undertaking such non shared activities at the same time.</p> <p>The ExA considers that the Applicant's assumption that the non-shared activities would take twice as many working days significantly underestimates the likely peak daily LV and HGV vehicles movements for the concurrent scenario in Appendix A.1. Given that this is the starting point for subsequent modelling and trip distribution on to the links in the study area, the ExA remain unconvinced that the worst case (Scenario 1d) has been robustly assessed in the ES.</p> <p>The ExA does however note that the Outline Construction Traffic Management Plan (OCTMP) [REP5-027] contains at Annex A, maximum daily vehicle trips per link, which has been assessed in the ES. Given the concerns set out above, the ExA considers it is imperative that such maximums are not exceeded to ensure that impacts do not occur above those that have been assessed in the ES, including for other receiving environments such as air quality and noise and vibration that rely upon estimated vehicle movements.</p> <p>a) On this basis, Applicant provide without prejudice wording for a new requirement that secures the maximum daily vehicle trips set out in Annex A of the OCTMP within the dDCO.</p>	<p>The distinction that may not have been fully appreciated is that works for individual activities per section may take longer for Scenario 1d than Scenario 1a or 1b, but would still be completed within the overall three year construction period. This reflects that within the three year construction period there are opportunities to spread individual activities. This approach to deriving traffic numbers reflects the imperative to optimise activities to ensure economic use of personnel vehicles, and materials (i.e. make best use of finite resource).</p> <p>Whilst peak daily numbers per activity are broadly comparable between the two scenarios, it is evidenced from Table 24-19 and Table 24-20 of ES <b>Chapter 24 Traffic and Transport</b> [APP-110] that the concurrent scenario typically results in higher traffic movement per link (therefore higher potential impacts). This reflects that there would be more concurrent activities given that activities are occurring over a longer duration which leads to a greater propensity for overlap of activities in adjacent sections.</p> <p>The Applicant has selected an example from Annex 11 and 12 of the <b>Transport Assessment</b> [APP-269] that helps highlight this. It can be seen from a comparison of Annex 11 and 12 that 'Ducting' (a non-shared works activity) in section CS01 takes approximately three weeks for the construction of SEP and DEP concurrently, whilst for the construction of SEP or DEP in isolation the ducting activity takes one week. However, when considering the activity of Ducting across all sections, it can be seen that all Ducting activities are completed within three years for both scenarios.</p> <p>It is therefore demonstrated that the Applicant has robustly assessed a worst case (Scenario 1d) in the ES <b>Chapter 24 Traffic and Transport</b> [APP-110].</p>

ID	Respondent	Question	Applicant Response
			<p>a)</p> <p>The Applicant welcomes confirmation that the ExA accepts that the maximum daily vehicle trips per link (which has been assessed in the ES) contained within Annex A of the <b>Outline Construction Traffic Management Plan (OCTMP)</b> [REP5-027] are a mechanism for controlling traffic demand and therefore impacts.</p> <p>The Applicant does not consider it necessary to introduce a further DCO Requirement that secures the maximum daily vehicle trips set out in Annex A of the <b>OCTMP</b> [REP5-027] and considers that the <b>OCTMP</b> [REP5-027] as currently drafted is suitable. In particular, the Applicant directs the ExA to paragraph 8 which outlines that:</p> <p><i>“The OCTMP contains the control measures and monitoring procedures for managing the potential traffic and transport impacts of constructing SEP and DEP. The objective of the OCTMP is to define a strategy to ensure that the construction traffic parameters (e.g. traffic numbers and routes) assessed within the ES are managed and not exceeded.”</i></p> <p>Furthermore, sections 2.3.1 and 3.2.1 of the <b>OCTMP</b> [REP5-027] outline measures to ensure compliance with the assessed worst-case scenario for HGV and LV trips in Annex A. The <b>OCTMP</b> [REP5-027] also includes a comprehensive strategy for monitoring, reporting and enforcing against the targets outlined in Annex A.</p> <p>The Applicant would further highlight that both highway authorities (Norfolk County Council and National Highways) have agreed that the measures within the <b>OCTMP</b> [REP5-027] are adequate and appropriate to mitigate likely significant impacts identified in the ES <b>Chapter 24 Traffic and Transport</b> [APP-110]. This can be evidenced at:</p>

ID	Respondent	Question	Applicant Response
			<ul style="list-style-type: none"> <li>• ID28 of the <b>Statement of Common Ground with Norfolk County Council (Revision C)</b> [REP4-021]; and</li> <li>• ID28 of the <b>Statement of Common Ground with National Highways (Revision D)</b> [Document References 12.22].</li> </ul> <p>Notwithstanding the extensive controls that have been agreed with the relevant highway authorities, the Applicant is providing the following drafting on a without prejudice basis as sub-paragraph (5) to Requirement 15:</p> <p><i>15 (5) During construction of the authorised development, the maximum daily vehicle trips set out in Annex A of the outline construction traffic management plan must not be exceeded.</i></p> <p>The Applicant does, however, have significant concerns over the appropriateness and enforceability of including such wording within a Requirement or as a standalone Requirement. The Applicant remains strongly of the view that the relevant control sits most appropriately within the OCTMP which also includes the mechanisms for monitoring, reporting and enforcing the targets as agreed with the relevant highway authorities and is duly secured by Requirement 15. The Applicant considers that because the appropriate mitigation is already adequately secured, standalone wording within a Requirement or a standalone Requirement would duplicate controls that exist elsewhere, such that it would be unnecessary and unreasonable to impose such a requirement. The policy test in EN-1 (as set out at ID4 and 5 above) would not be met.</p> <p>In the event that the Examining Authority is minded to impose a Requirement relating to maximum daily vehicle trips and recommends this to the Secretary of State, the Applicant requests the opportunity to be consulted on the proposed drafting of any such Requirement.</p>

## 8 Noise and Vibration

Table 7 Applicant's responses to Noise and Vibration

ID	Respondent	Question	Applicant Response
14	Applicant	<p><b>HDD Works at Night</b></p> <p>The Applicant's Responses to the Examining Authority's Fourth Written Questions - Revision A (Document Reference 21.5) at Q4.20.2.3 notes that the Draft Development Consent Order (Revision J) (Document Reference 3.1) has been amended to remove R20 (2)(d) and amend R20 (2)(a) to include HDD. The ExA considers that this would still allow all HDD works to be undertaken at night, contrary to the Applicant's reply to Q2.20.4.2 [REP3-101] and recent changes made to the Outline Code of Construction Practice (Revision F) (Document Reference 19.1), which states: "A worst-case scenario could occur requiring night time working for the HDDs in emergencies or as stipulated by a Statutory Undertaker (e.g Network Rail or National Highways)".</p> <p>To avoid potentially significant impacts from noise, the ExA remains of the view that the dDCO should make clear that night time HDD works will only occur in an emergency or where works relate to the A11 (RD048), Cambridge to Norwich Railway (RLX002) and North Norfolk Railway line (RLX001) crossings.</p> <p>a) Applicant, provide such wording.</p>	<p>The Applicant considers that adequate controls exist within the draft DCO to manage both:</p> <ul style="list-style-type: none"> <li>• noise and vibration impacts arising from works, including HDD's; and</li> <li>• the ability to carry out works at night, including HDD's.</li> </ul> <p>The Applicant has adopted industry standard practices, that are well precedented in managing noise and vibration impacts from large scale infrastructure development to a satisfactory standard. The Applicant does not consider that the requirement wording requested in this question is necessary or appropriate and has not provided drafting to this effect.</p> <p>Exact locations of HDD and receptor pits will be identified during detailed design. This will be informed by detailed surveys and the location of sensitive features to avoid. The locations of HDD and receptor pits will be sited to reduce potential impacts, wherever possible. The location of HDD's and the receptor pits will be set out within the Construction Method Statements, which forms part of the Code of Construction Practice and is secured within Requirement 19 of the <b>draft DCO (Revision K)</b> [document number 3.1].</p> <p>In addition to the above-mentioned avoidance measures, the Construction Noise and Vibration Plan, which also forms part of the Code of Construction Practice, secured within Requirement 19 of the <b>draft DCO (Revision K)</b> [document number 3.1] will set out the detailed measures that will be implemented to manage and reduce noise. The <b>Outline Code of Construction Practice (Revision G) (OCOCP)</b> [document reference 9.19], provides examples of what these measures could involve within section 11.1, including the use of Best Practicable Means (BPM)</p>

ID	Respondent	Question	Applicant Response
			<p>as well as site-specific mitigation measures such as the use of temporary noise barriers. Whilst measures will be introduced to try and avoid the need for temporary rehousing, the <b>OCoCP</b> does include this as an option in the event that all reasonable mitigation measures and BPM results in construction noise exceeding threshold levels. Therefore, following implementation of these mitigation measures, the effects will not be significant.</p> <p>Finally, Requirement 20 of the <b>draft DCO (Revision K)</b> [document reference 3.1] and Section 3 of the <b>OCoCP</b> restricts onshore works to specified daytime hours. If any scheduled night time works are proposed, this would need to be agreed in advance with the Local Planning Authority. In approving such works, the Local Planning Authority can ensure that the necessary mitigation measures will be implemented and the works scheduled appropriately to minimise potential impacts on sensitive receptors.</p> <p>Whilst it is currently not anticipated that night time HDD will take place except in the event of an emergency or in the three locations specified in the question, it cannot be ruled out e.g. should ground conditions dictate. Furthermore, including additional restrictions on HDD night time working is not only considered unnecessary when readily available controls and mitigation exist, but could result in non-compliance with a Statutory Undertaker's request and result in the unintended consequence of extending the construction programme.</p> <p>The approach proposed by the Applicant, and the controls which already exist, are well precedented. It is noted that the Hornsea Four Offshore Wind Farm Order (2023) does not include any Requirement relating to working hours as these are secured within the Code of Construction Practice. The Norfolk Vanguard Offshore Wind Farm Order (2022), which also includes HDD, does not include any specific night time restrictions on HDD works.</p>



ID	Respondent	Question	Applicant Response
			<p>The Applicant therefore not only considers that adequate controls exist regarding night time working and that no additional Requirements are necessary, but that adding any further controls would be unprecedented, and would not meet the policy tests outlined in ID4 and ID5 above.</p>

## 9 Compulsory Acquisition and Temporary Possession

*Table 8 Applicant's responses to Compulsory Acquisition and Temporary Possession*

ID	Respondent	Question	Applicant Response
15	Applicant	<p><b>Plot 27-006</b></p> <p>a) The ExA notes the examples in The Applicant's Responses to the Examining Authority's Fourth Written Questions - Revision A (Document Reference 21.5), at Q4.8.2.1, d. From the limited context provided, the ExA finds that the examples are for white land, where Compulsory Acquisition (CA) powers were not sought, but that land was needed for the delivery of the project and therefore legitimately included in the DCO. In the case of Plot 27-006 to enable access ACC46, there is a part of the land that is not in fact needed for the proposed Development. How does the Applicant justify including that land in the application and within the order limits?</p> <p>b) What is preventing you from applying for a change request to the SoS during the determination period after the completion of the reporting period? If you would consider doing this, what would be the process and associated timescales?</p>	<p>a) The Applicant needs to preserve the ability to carry out works on (using the Further Associated Development provision in Schedule 1 of the DCO), or make other use of, this land as part of the potential solution to the access issue. It is expected that at least some of this land will be required for the access redesign (by way of planning permission or otherwise) and it is prudent for the land to remain in the DCO. This will only happen in practice if agreement has been reached with the landowner, and so the landowner's position is protected. In the context of the overall scheme and the works nearby there is no reason to remove this plot from the DCO in these circumstances. The DCO will only grant development consent. It will not grant CA powers.</p> <p>b) The Applicant is not aware that such a change request has been made direct to the SoS before on other DCOs. It would be inconsistent with policy that matters to be decided by the SoS should have been considered as part of the Examination first. Whilst there are exceptions to this in relation to, for example, protective provisions negotiations which have not been concluded by the end of an Examination, it would seem to the Applicant that a change request made to the SoS would be highly unlikely to be entertained. It is the Applicant's assumption that the SoS would only do so in exceptional circumstances, which do not, in the Applicant's view, apply here. The process and timescales for considering such a change request would be a matter for the Secretary of State. The Applicant is not aware of a precedent and cannot comment on what they might be. Finally, the Applicant considers that it has put forward a complete and robust approach to addressing the</p>

ID	Respondent	Question	Applicant Response
			access road misalignment issue and that the ExA and SoS can have confidence in that strategy.

## References

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