



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

Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Project

Planning Inspectorate Reference: EN010109

Secretary of State Further Information Request
(22 November 2023)

Appendix 3 Pink-Footed Goose Mitigation Strategy

20 December 2023

Appendix 3 Pink-Footed Goose Mitigation Strategy

19. Natural England is invited to comment on the without-prejudice draft DCO Requirement provided by the Applicant [REP8-052 ID 5, page 16].

Natural England has reviewed the Applicant's response in [REP8-052 ID5] in relation to the ExA's Rule 17 request for 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*".

Natural England welcomes the Applicant's inclusion of a without prejudice draft DCO condition in REP8-052 ID5. For reference, the Applicant provided the following draft condition:

"Protection of Pink Footed Geese

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.*

(2) *The scheme of protection and mitigation measures submitted for approval under sub-paragraph (1) must include-*

(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;*

(b) *details of ongoing monitoring to be undertaken during the phase of the onshore work; and 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.*

(3) *The relevant phase of the onshore works must be carried out in accordance with any scheme approved under sub-paragraph (1).*

(4) *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."*

Following the summary below, our detailed advice to the Applicant's response in [REP8-052 ID5] in relation to the ExA's Rule 17 request is set out in Section 2, with further comments to the PFG mitigation measures within the EMP [REP8-026] presented in Section 3.

1. Summary

Natural England is not supportive of the current mitigation measures included within the Ecological Management Plan (EMP) and/or proposed draft condition as written.

Given the potential for an Adverse Effect on the North Norfolk Coast SPA through disturbance to foraging Pink-Footed Geese (PFG) from onshore cable construction works during the non-breeding season and the fact that the Ecological Management Plan (EMP) as submitted at Deadline 8 doesn't fully include the necessary mitigation, Natural England supports the inclusion of a 'Protection of Pink Footed Geese' condition on the face of the DCO. We advise that it is insufficient to rely solely upon the mitigation measures provided within the Ecological Management Plan secured by Requirement 13 at this time.

In order to satisfactorily reduce the risk of AEoI to the PFG feature of the North Norfolk Coast SPA, we advise the following amendments are made to the condition wording:

1.(1): Natural England advises suitable timelines are included within this paragraph of the condition in order to ensure the PFG Mitigation Plan can be agreed in a timely manner prior to the onset of the construction phase.

(2) We advise that (2) '*Scheme of protection and mitigation measures*', is instead worded in accordance with our latest PFG Guidance, updated in line with recent advice to other projects, as follows :

a) In advance of works and to an agreed timescale, map all fields within the cable corridor DCO order limits (red line boundary) to the agreed extent of the species' foraging range and a suitable buffer either side of the order limits.

b) Delay works near potential goose foraging locations by implementing the following conditions:

- Between 1st November and 31st January inclusive, works must avoid all areas that have been planted with sugar beet until 14 days after they have been harvested, or such a time after harvesting where the beet has been drilled in.
- If the proposed works are outwith a beet field/ 250m away from foraging birds in a neighbouring beet field/the works are in the field next door but with one hedge in between, then works can proceed.

Note, the condition should reference 'the relevant SNCB', not solely 'Natural England'.

2. Detailed advice to the Applicant's response in [REP8-052 ID 5, page 16]

ID	Respondent	Question	Applicant Response	Natural England Response
5	Applicant Natural England	<p>Pink Footed Goose Feature of North Norfolk Coast SPA</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 Outline Ecological Management Plan (Revision E) [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 Outline Ecological Management Plan (Revision E) [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</p>	<p>Para1: Given the potential for an Adverse Effect on the Integrity (AEol) of the North Norfolk Coast SPA through disturbance to foraging Pink-Footed Geese (PFG) from onshore cable construction works during the non-breeding season, Natural England supports the inclusion of a 'Protection of Pink Footed Geese' condition on the face of the DCO. We advise that it is insufficient to rely solely upon mitigation measures provided within the Ecological Management Plan as submitted at Deadline 8 [REP8-026] as secured in Requirement 13 of the DCO, as these are yet to be agreed with Natural England and do not fully include the necessary mitigation required.</p> <p>Para 2: Natural England acknowledges the Applicant's reply regarding policy on the use of requirements set out in ID4 and ID5. However, Natural England reiterates our above position as to the importance of ensuring a pink footed-geese mitigation management plan is secured.</p> <p>Para 3: Please see Natural England's advice in Table 3 below to the PFG mitigation measures set out by the Applicant</p>

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			<p>concluded. This demonstrates that mitigation is readily available. Outline Ecological Management Plan (Revision E) [document reference 9.19] submitted at Deadline 7, is secured by Requirement 13 (Ecological management plan) of the draft DCO (Revision K) [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>Protection of Pink Footed Geese</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</i></p>	<p>within the Outline EMP [REP8-026]. The EMP doesn't fully include the necessary mitigation. As a condition of consent, we advise the details of the Pink-Footed Geese Mitigation Plan are agreed within a set timescale in advance of construction works to ensure there will no risk of AEol to the PFG feature of the North Norfolk Coast SPA. As our updated PFG mitigation guidance states, this would minimise the potential risk of delay with any real-time mitigation requests immediately before works commencing.</p> <p>Para 4 DCO Wording: Please refer to Natural England's advice to the without prejudice wording in the Summary section above. Note, the condition should reference the relevant SNCB, not solely Natural England.</p> <p><i>Sub paragraph (2)</i> Natural England advises this wording of (a) and (b) does not align with the Applicant's approach as set out in the Outline EMP, para 87 [REP8-026]. Please see Natural England's advice below to the mitigation measures presented within this document. We advise that in order to satisfactorily reduce the risk of AEol, the wording of '(2) The scheme of</p>

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			<p><i>and mitigation measures submitted for approval under sub-paragraph (1) must include-</i></p> <p><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></p> <p><i>(b) details of ongoing monitoring to be undertaken during the phase of the onshore work; and 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> <p><i>(3) The relevant phase of the onshore works must be carried out in accordance with any scheme approved under sub-paragraph (1).</i></p> <p><i>(4) 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-</p>	<p><i>protection and mitigation measures', must instead include measures in accordance with our latest PFG Guidance updated in line with recent advice to other projects as follows:</i></p> <ul style="list-style-type: none"> • In advance of works and to an agreed timescale, map all fields within the cable route DCO order limits (red line boundary) to the agreed extent of the species' foraging range and a suitable buffer either side of the order limits. Delay works near potential goose foraging locations by implementing the following condition: <ul style="list-style-type: none"> - Between 1st November and 31st January inclusive, the works must avoid all areas that have been planted with sugar beet until 14 days after they have been harvested, or such a time after harvesting where the beet has been drilled in. - If the proposed works are out with a beet field/ 250m away from foraging birds in a neighbouring beet field/the works are in the field next door but with one hedge in between, then works can proceed.

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			<p>paragraph (1) on the basis that the Best Practice Advice on the North Norfolk Coast SPA Pink Footed Geese [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 AEol.</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). 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</p>	<p>Para 5: In line with our PFG Guidance, Natural England is satisfied that the 10.4km buffer zone is appropriate for a North-South cable corridor only.</p> <p>Para 6: Natural England advises that there is no precedent setting. As set out in our advice, we consider the risk of AEol to the PFG feature of the North Norfolk Coast SPA is sufficiently high and that such a requirement would only apply to other sites and projects if they presented a similar level of risk or greater. For projects with lesser risk, it may be appropriate to have the mitigation captured within the broad scale catch all of Requirement 13.</p> <p>With regards to the Applicant's reference to Dogger Bank Teesside, we advise our knowledge and understanding had progressed over the last 8 years.</p> <p>Further, our understanding of Hornsea Project 3 and the recent issues this developer has had in providing PFG mitigation to sufficiently reduce the risk of an AEol has informed our updated best practice advice for PFG mitigation advice and advice as set out within this response.</p> <p>As advised throughout examination, there is a</p>

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			<p>standalone requirement is needed, this sub-paragraph would 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>	<p>real risk of delay to onshore works if mitigation is not agreed as part consent or as soon as possible post consent to align mitigation with other NSIPs.</p>

3. Natural England’s Comments and Advice to the Applicant’s Proposed Pink-Footed Geese Mitigation included within the Outline Ecological Management Plan Rev E [\[REP8-026\]](#) ‘Section 3.3.1 Wintering Birds’.

Para	EMP Rev E [REP8-026] Wording	Natural England’s Comment
85	<i>Where works are undertaken between November and January and within areas of land which are potentially functionally linked to the North Norfolk Coast SPA/Ramsar site (i.e. sugar beet fields within 10.4km of the North Norfolk Coast SPA/Ramsar site), a pink-footed goose mitigation plan will be prepared and submitted to Natural England prior to its implementation and commencement of construction activities. The details of the plan will have regard to Natural England’s emerging best practice advice on North Norfolk Coast SPA Pink Footed Geese</i>	<p>Natural England advises the sensitive winter period is referred to as ‘November to January <u>inclusive</u>’.</p> <p>The wording should be amended to reflect that the pink-footed goose mitigation plan will be... ‘submitted to the LPA in consultation with the relevant SNCB’.</p> <p>In developing the mitigation plan, we advise the Applicant reviews our latest PFG Guidance, updated in line with recent advice to other projects.</p> <p>The details of the mitigation should be agreed as a condition of consent within an agreed timescale in order to avoid any risk of AEoI to the PFG feature of the North Norfolk Coast SPA. As our updated PFG mitigation guidance sets out, this would minimise the potential risk of delay with real-time mitigation.</p>
86.	<i>The emerging Natural England best practice advice on North Norfolk Coast SPA Pink Footed Geese involves two route options for mitigating impacts to this species, both of which, at time of writing, are under development. However, as the pre-application surveys (which spanned two winters from 2019-2021) recorded no pink-footed geese within the Order Limits and therefore no impact on Pink Footed Geese, neither of the Natural England mitigation options is considered completely suitable for addressing the negligible/low risks posed by SEP and DEP.</i>	<p>As above, Natural England refers the Applicant to our updated PFG mitigation guidance.</p> <p>Natural England wishes to highlight crop rotation is in play within North Norfolk so there is no guarantee there will be no beet and/or PFG at the time of construction.</p> <p>In addition, it must be considered that the surveys undertaken represented a snap shot in time and may have missed key PFG foraging times.</p>
87.	<i>The approach likely to be proposed, could be a bespoke version of Natural England’s emerging pink-footed goose mitigation guidance and site-specific evidence, involving the following:</i>	<p>As above, Natural England refers the Applicant to our updated PFG mitigation guidance. We advise in line with our latest PFG guidance, a 250m buffer is applied surrounding the order limits.</p>

Para	EMP Rev E [REP8-026] Wording	Natural England's Comment
	<p><i>•In the October prior to construction works commencing, all fields which are within the Order Limits and surrounding 200m buffer and also within 10.4km of the North Norfolk Coast SPA/Ramsar, would be inspected to identify and map fields which:</i></p> <ul style="list-style-type: none"> <i>o Have crop cover suitable for use by pink-footed geese;</i> <i>o Are over 6 hectares in size; and,</i> <i>o In which construction works are due to commence between November and January inclusive.</i> <p><i>•Any fields which comply with the above criteria would then be monitored by the ECoW at a rate of once per week between the following November and January.</i></p> <p><i>•Where the monitoring finds that pink-footed geese are present on a field, no construction works will take place within that field or the surrounding 200m until the geese have concluded their foraging activity, which will be confirmed by ongoing monitoring. Once foraging has concluded, construction works within that field and the surrounding 200m will be able to commence.</i></p> <p><i>•At other suitable fields where monitoring finds no evidence of pink-footed geese foraging, no construction works will commence until after January. This restriction will ensure that the resource of potential pink-footed goose foraging habitat is not pre-emptively depleted by construction works.</i></p> <p><i>•The presence of foraging pink-footed geese would be determined by visual observation of the birds themselves, plus inspections of the ground cover to check for foraged crops and bird droppings.</i></p>	<p>Natural England advises caution in seeking this information in October, just before the seasonal restriction period. As summarised above and our updated PFG sets out, there is risk in a delay to works if the Applicant is seeking agreement with the LPA in consultation with Natural England, based upon real-time data. It is Natural England's preference that inspection/land owner data, verified with published British sugar data confirming which fields have been planted with sugar beet is provided earlier in the season.</p> <p>Natural England advises that the mitigation is as set out in our summary above:</p> <ul style="list-style-type: none"> a) In advance of works and to an agreed timescale, map all fields within the cable corridor DCO order limits (red line boundary) to the agreed extent of the species' foraging range and a suitable buffer either side of the order limits. b) Delay works near potential goose foraging locations by implementing the following conditions: <ul style="list-style-type: none"> • Between 1st November and 31st January inclusive, works must avoid all areas that have been planted with sugar beet until 14 days after they have been harvested, or such a time after harvesting where the beet has been drilled in. • If the proposed works are outwith a beet field/ 250m away from foraging birds in a neighbouring beet field/the works are in a field next door but one with hedge in between, then works can proceed.
88	<p><i>The above approach is an iteration of Natural England's best practice advice on North Norfolk Coast SPA Pink Footed Geese, that is considered to be appropriate to the particular wintering bird impact risks associated with SEP and DEP. The approach of avoiding any fields suitable for pink-footed geese unless</i></p>	<p>Natural England welcomes the Applicant's intention that fields suitable for pink-footed geese are avoided through mitigation. We advise this is achieved through our mitigation measures outlined above or through an alternative option of strategic mitigation to provide an alternative foraging source as</p>

Para	<i>EMP Rev E [REP8-026] Wording</i>	Natural England's Comment
	<i>and until the geese have exhausted that field's foraging resource is expected to be fully effective at ensuring no impacts to functionally linked land. Further detail and justification of the approach will be provided within the Pink-footed goose mitigation plan.</i>	provided in our PFG mitigation guidance.