

Date: 03 December 2024  
Our ref: Case: 27347 Consultation: 486674  
Your ref: EN010115



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**BY EMAIL ONLY**

Dear Sir/Madam,

**Five Estuaries Offshore Windfarm**

The following constitutes Natural England's formal statutory response for Examination Deadline 4.

**1. Natural England's Deadline 4 Submissions**

Natural England has reviewed the documents submitted by the Applicant at Deadlines 1 and 2 (including the Applicant's Change Request). An update of Natural England's position regarding documents relevant to our remit is provided in Annex 1, including anticipated timing of responses. Natural England is also submitting the following detailed responses, signposted from Annex 1:

- EN010115 486674 Five Estuaries Appendix C4 – NE Comments on Offshore Ornithology - Deadline 4.doc
- EN010115 486674 Five Estuaries Appendix E4 – NE Comments on the Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan Revision B – Deadline 4.doc
- EN010115 486674 Five Estuaries Appendix J4 – NE Comments on Change Request Documents – LBBG Compensation Area.doc
- EN010115 486674 Five Estuaries Appendix L4 – Natural England's Risk and Issues Log DL4.xls
- EN010115 486674 Five Estuaries Appendix M3 – Natural England's Response to ExQ1 Deadline 4.doc
- EN010115 486674 Five Estuaries Appendix M4 – Natural England's Response to ExQ2 Deadline 4.doc

- EN010115 486674 Five Estuaries Appendix N4 – Natural England Comments on the Offshore In Principle Monitoring Plan – Deadline 4.doc
- EN010115 486674 Five Estuaries Appendix O4 – Natural England’s Comments on the Offshore Decommissioning Technical Note

## **2. [PD-001] Examining Authority’s Written Questions and Requests for Information (ExQ1)**

Natural England provided a response at Deadline 3 [REP3-034] to the ornithology aspects of ExQ1 **ME. 1.01**. In Appendix M3 of this cover letter we are now providing our response to the fish ecology (herring) and marine mammal aspects of this question.

## **3. [REP2-039] Applicant’s Response to ExQ1 ME. 1.01 Assessment Methodologies**

### **3.1.1 Marine Mammals - Porpoise Density**

The Applicant’s response: *“Natural England has stated that the porpoise assessment should be based on the site-specific density estimate, rather than the SCANS III and IV density estimates. In response the Applicant would note that in 6.3.7 Marine Mammal Ecology [APP-076] the permanent threshold shift, temporary threshold shift and disturbance assessments do use the average site-specific density estimate of 1.82 porpoise/km<sup>2</sup> that NE advise, as well as densities from SCANS III and SCANS IV. In the marine mammal baseline technical report [APP-126], the Applicant highlighted the issue with using the site-specific survey density to assess larger scale impacts such as disturbance and explained why the SCANS densities were presented in addition to the site-specific density estimate. All three density options are presented, and the assessment conclusions are based on the highest predicted numbers across these three densities, which comes from the site-specific Digital Aerial Surveys. The Applicant accordingly considers that the NE query is likely to be able to be resolved.”*

Natural England response: We welcome the response from the Applicant and the use of the site-specific harbour porpoise density to inform the quantitative assessment and conclusions therein. Natural England now considers this issue to be resolved.

### **3.1.2 Marine Mammals – Population Modelling**

The Applicant’s response: *“The Applicant has carried out the requested population modelling for the Project alone and is satisfied that the outputs support the conclusions for the disturbance from piling assessment reached in the ES. The iPCoD modelling outputs were submitted at Deadline 1 (10.13 Marine Mammal iPCoD Modelling for Project alone [REP1-056]). The Applicant accordingly considers that the NE query is likely to be able to be resolved. The Applicant has not undertaken iPCoD for in-combination impacts. This is because this would require detailed piling schedules for every project included in the in-combination assessment, which the Applicant does not have. As a result this is not an exercise the Applicant is in a position to undertake. The Applicant considers that it is not realistically practicable for any developer to carry out such modelling.”*

Natural England’s response: Natural England has provided a response to this in Appendix M3.

#### 4. Examining Authority's Written Questions and Requests for Information (ExQ2)

Natural England has provided a response to the following Examining Authority's Written Questions in Appendix M3:

- ME. 2.02
- ME. 2.03
- ME. 2.10
- ME. 2.15

Please note that we have already provided a response to ExQ2 ME. 2.04 in the cover letter of our Deadline 3 response [REP3-031].

#### 5. [REP2-005] 5.4.1 Habitats Regulations Assessment Site Integrity Matrices – Revision B (Tracked)

##### 5.1 Marine Mammals

The text for all marine mammal matrices has been updated, but there is no material change to the outcome of the Applicant's assessment i.e. they concluded no adverse effect on integrity (AEoI) for all of them. **Therefore, our original advice stands that we cannot agree no AEoI without a full commitment to Noise Abatement in their Marine Mammal Mitigation Protocol and Site Integrity Plan.**

##### 5.2 Offshore Ornithology

###### 5.2.1 Matrix 9 Outer Thames Estuary Special Protection Area (OTE SPA)

The evidence supporting conclusions state that there will be no work in the OTE SPA between 01 November-31 March. However, it does not specify the spatial limits of this restriction relative to the SPA. We reiterate the advice provided in our Relevant Representations [PD2-005], that we would support the Applicant's conclusions if no work on the offshore Export Cable Corridor (ECC) is undertaken within the SPA + 2km buffer during the seasonal restriction period. Please also refer to our detailed advice in Appendix D4 to this Deadline 4 submission.

###### 5.2.2 Matrix 10/11 Alde-Ore Estuary Special Protection Area/Ramsar site

The evidence supporting conclusions quote the estimated impacts on lesser black-backed gull (LBBG) solely using the Applicant's approach and not those advised by Natural England. We advise that values for the project alone and in-combination impacts on LBBG estimated using Natural England's advised approach should be presented alongside those of the Applicant.

##### 5.3 Onshore Ecology

Orfordness-Shingle Street Special Area of Conservation (SAC) is not considered in the matrices (which includes shingle and coastal lagoon habitats as features). It does not appear to have been included in previous iterations or the screening process. Vegetated shingle impacts are not considered in the matrix. Therefore, we advise that this SAC should be included in the matrix and screened in Please also refer to Appendix J4 to this Deadline 4 submission.

#### 6. [REP1-017] 5.4 Report to Inform Appropriate Assessment – Revision B (Tracked).

## 6.1 Benthic Ecology

Natural England notes that no updates have been made to the RIAA in relation to pressures/impacts on SPA feature supporting habitat. Therefore, our concerns remain unchanged as detailed in our Deadline 4 Risk and Issues Log.

Natural England notes that the Applicant refers to Marine Evidence-based Sensitivity Assessment ('MarESA') benchmarks. However, MarESA benchmarks refer to single discrete events, not repeated and/or ongoing events over the lifetime of the project. Therefore, there remains a requirement on the Applicant to clarify whether the impacts being assessed against the benchmarks are single discrete events or otherwise and further justify their assessment conclusions/positions.

## **7. [REP1-046] 9.32 Offshore In Principle Monitoring Plan – Revision B (Tracked).**

Natural England has reviewed the Offshore In Principle Monitoring Plan – Revision B (Tracked) and have provided our detailed advice in Appendix O4 to this Deadline 4 submission.

Natural England would like to highlight our comments on the potential requirement for monitoring of migratory bats, as per our response to ExA Q2 Appendix M4 and our comments on the In Principle Monitoring Plan Appendix N4. We would recommend that the draft DCO will need to be updated to secure this monitoring and the potential for additional mitigation should the monitoring highlight a significant impact.

## **8. [REP2-021] 9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan – Revision B (Tracked).**

Natural England has reviewed the updated Margate and Long Sands Special Area of Conservation (MLS SAC) Benthic Mitigation Plan – Revision B (Tracked) and, unfortunately, it has not allayed our concerns in relation to benthic impacts to MLS SAC and NERC Priority Habitats. For full details of our advice, please see Appendix F4 to this Deadline 4 submission.

## **9. [REP3-022] 10.24 Applicant's Summaries of Oral Submissions – ISH3, CAH2, ISH4**

### 9.1 Section 1.6 (f) Ornithology - HRA

Natural England notes that the Applicant has provided an updated RIAA, which we welcome. The Applicant states that the updated RIAA is now in line with the Natural England approach. However, we advise that there remain some discrepancies where the RIAA does not match their compensation documents. There also remains disagreement, as stated by the Applicant, on the measures in terms of which approach to the impact assessments is most appropriate and which should be applied to the compensation quantum calculations. These have been highlighted in Appendix J4 to this Deadline 4 submission.

### 9.2 Section 1.6.7 Migrating Bats

We note that concerning impacts to migrating bats, the Applicant's comment that "...NE has not flagged this as an issue". To clarify, we have previously advised during the pre-application phase that the Applicant considers potential impacts to migrating bats and surveys for Nathusius' pipistrelle *Pipistrellus nathusii* which migrate across the North Sea. Furthermore, we advised that surveys needed to be carried out at the appropriate times and locations (e.g. PEIR response, May 2023). Please see Appendix M4 to this Deadline 4 submission on this matter.

10. Natural England's Risk and Issues Log and Updated Principal Areas of Disagreement Summary Statement (PADSS)

Natural England has updated their Risk and Issues Log and PADSS which can be found in Appendix L4 to this Deadline 4 submission. Please note that the PADSS can be found within the Risk and Issues Log.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours faithfully,

Yolanda Foote  
Marine Senior Officer - Sussex and Kent Area Team  
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Telephone: [REDACTED]

## Annex 1: Natural England's Response to the Applicant's Documents Submitted at Deadlines 1, 2 and 3 Relevant to our Remit

PINS Document Reference	Document Name	Natural England's Response/Position Summary
<b>Deadline 1</b>		
REP1-017	5.4 Report to Inform Appropriate Assessment – Revision B (Tracked)	Please refer to Section 6 of this cover letter.
REP1-025	6.5.6.4 Environmental Statement Annex Herring Seasonal Restriction Note (Tracked)	Natural England's response to this document is provided in Appendix M3.
REP1-046	9.32 Offshore In Principle Monitoring Plan – Revision B (Tracked)	Natural England's response to this document is provided in Appendix N4.
REP1-056	10.13 Marine Mammal iPCoD Modelling for Project Alone	Natural England's response to this document is provided in Appendix M3.
REP1-058	10.15 Revised International Herring Larval Survey Heat Map Figures	Natural England defers to the comments raised by the Marine Management Organisation.
<b>Deadline 2</b>		
REP2-005	5.4.1 Habitats Regulations Assessment Site Integrity Matrices – Revision B (Tracked)	Please refer to Section 5 of this cover letter.
REP2-007	5.5.3 Lesser Black Backed Gull Compensation – Evidence, Site Selection and Roadmap – Revision B (Tracked)	Natural England's response to this document is provided in Appendix C4.
REP2-009	5.5.4 Kittiwake – Evidence, Site Selection and Roadmap – Revision B (Tracked)	Natural England's response to this document is provided in Appendix C4.
REP2-011	5.5.5 Guillemot and Razorbill – Evidence, Site Selection and Roadmap – Revision B (Tracked)	Natural England's response to this document is provided in Appendix C4.
REP2-013	5.5.6 Lesser Black Backed Gull Implementation and Monitoring Plans – Revision B (Tracked)	Natural England's response to this document is provided in Appendix C4.
REP2-015	5.5.7 Kittiwake Implementation and Monitoring Plans – Revision B (Tracked)	Natural England's response to this document is provided in Appendix C4.
REP2-017	5.5.8 Guillemot and Razorbill Implementation and Monitoring Plans – Revision B (Tracked)	Natural England's response to this document is provided in Appendix C4.

<b>PINS Document Reference</b>	<b>Document Name</b>	<b>Natural England's Response/Position Summary</b>
REP2-019	6.5.6.2 Underwater Noise Technical Report – Revision B (Tracked)	Natural England has no comments to make on this document.
REP2-021	9.13 Margate and Long Sands Benthic Mitigation Plan – Revision B (Tracked)	Natural England's response to this document is provided in Appendix E4.
REP2-023	9.22 Outline Landscape and Ecological Management Plan – Revision C (Tracked)	Natural England will provide a response on this document at Deadline 5.
REP2-027	10.20.1 Technical Note – Methodology for Determining the MDS (Offshore)	Natural England's response to this document is provided in Appendix M4.
REP2-028	10.20.2 Technical Note – Offshore Decommissioning	Natural England's response to this document is provided in Appendix O4.
REP2-039	10.22 Applicant's Response to ExQ1	Natural England has no comments to make on this document.
<b>Applicant's Change Request Documents</b>		
AS-025	2.10 Tree Preservation Order and Hedgerow Plan – Revision B	Natural England has no comments to make on this document.
AS-027	2.13 Statutory or Non-Statutory Sites and Features of Nature Conservation – Onshore – Revision B	Natural England has no comments to make on this document.
AS-042	6.3.1 Onshore Project Description – Revision C (Tracked)	We have noted the changes made to the Draft DCO and have no comments to make.
AS-048	6.8.1 Lesser Black Backed Gull Compensatory Areas Environmental Impact Assessment Revision B (Tracked)	Natural England's response to this document is provided in Appendix J4.
AS-050	6.8.1.1 Lesser Black Backed Gull Flood Risk Assessment – Revision B (Tracked)	Natural England's response to this document is provided in Appendix J4.
AS-054	6.8.1.3 Lesser Black Backed Gull Ecological Impact Assessment – Revision B (Tracked)	Natural England's response to this document is provided in Appendix J4.
AS-057	10.18 Report on Proposed Changes	Natural England's response to this document is provided in Appendix J4.

<b>PINS Document Reference</b>	<b>Document Name</b>	<b>Natural England's Response/Position Summary</b>
AS-058	10.18.1 Figures for Report on Proposed Changes	Natural England's response to this document is provided in Appendix J4.
<b>Deadline 3</b>		
REP3-004	2.5 Works Plan – Onshore – Revision C	We have noted the changes made to the Draft DCO and have no comments to make.
REP3-006	3.1 Draft Development Consent Order – Revision D (Tracked)	We have noted the changes made to the Draft DCO and have no comments to make.
REP3-007	3.1 Schedule of Changes to the Draft DCO (To Revision D Deadline 3)	We have noted the changes made to this document and have no comments to make.
REP3-020	10.20.5 Technical Note: Number of Wind Turbine Generators	Natural England has no comments to make on this document.
REP3-022	10.24 Applicant's Summaries of Oral Submissions – ISH3, CAH2, ISH4	Please refer to Section 9 of this cover letter.
REP3-023	10.25 Applicant's Response to Action Points – ISH3, CAH2, ISH4	Natural England has no comments to make on this document.
REP3-024	10.26 Applicant's Comments on Deadline 2 Submissions	Natural England has no comments to make on this document.
REP3-025	10.26.1 Applicant's Comments on Local Impact Reports	Natural England has no comments to make on this document.
REP3-026	10.27 Digital Aerial Surveys – Outer Trial Bank	Natural England's response to this document is provided in Appendix C4.