



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES  
2010

FIVE ESTUARIES OFFSHORE WIND FARM

**Appendix J4 to the Natural England Deadline 4 Submission  
Natural England's Comments on the Applicant's Change Request Documents [AS-  
040, AS-048, AS-054, and AS-057]**

For:

The construction and operation of Five Estuaries Offshore Wind Farm, located  
approximately 57km km from the Essex Coast in the Southern North Sea.

Planning Inspectorate Reference EN010115

03 December 2024

## **Natural England's Advice on the Applicant's Change Request Documents Relating to the Lesser Black Backed Gull Compensation. Area**

In formulating these comments, the following documents have been considered:

- [AS-040] 4.4.5 Lesser Black Backed Gull Compensation Site – Habitats Regulations Assessment – Revision B (Tracked)
- [AS-048] 6.8.1 Lesser Black Backed Gull Compensatory Areas Environmental Impact Assessment – Revision B (Tracked)
- [AS-052] 6.8.1.2 Lesser Black Backed Gull Landscape and Visual Impact Assessment – Revision B (Tracked)
- [AS-054] 6.8.1.3 Lesser Black Backed Gull Ecological Impact Assessment – Revision B (Tracked)
- [AS-057] 10.18 Report on Proposed Changes
- [REP2-005] 5.4.1 Habitats Regulations Assessment Site Integrity matrices (Tracked)
- [REP3-041] EN010115-001047-Nicholas Gold - Cobra Mist Limited.pdf

### **1. Summary**

Natural England is providing the following advice on the Applicant's Change Request documents regarding the Orford Ness Lesser Black Backed Gull (LBBG) compensation area, on the basis that it is currently one of the two sites proposed by the Applicant. However, we note the Deadline 3 submission [REP3-041] made on behalf of Cobra Mist Ltd., which raises significant concerns regarding the feasibility of the Lesser Black Backed Gull (LBBG) compensation area on Orford Ness.

#### **[AS-040] 4.4.5 Lesser Black Backed Gull Compensation Site – Habitats Regulations Assessment (HRA) – Revision B (Tracked).**

Natural England notes that the Applicant continues to conclude no likely significant effects despite acknowledging that baseline survey data and assessment are still required. Therefore, our concerns remain unresolved.

#### **[AS-048] 6.8.1 Lesser Black Backed Gull Compensatory Areas Environmental Impact Assessment – Revision B (Tracked).**

Natural England advises that new areas and amended boundaries have been identified with the refined LBBG compensation area, however, baseline data are still absent for the refined area. Therefore, the Applicant needs to provide additional information to confirm their conclusions of no significant impact. Consequently, our concerns remain unresolved.

#### **[AS-052] 6.8.1.2: Lesser Black Backed Gull Landscape and Visual Impact Assessment – Revision B (Tracked).**

Natural England has no comment on this document because the changes do not appear to change the visual impact considerations.

#### **[AS-054] 6.8.1.3 Lesser Black Backed Gull Compensation Site - Ecological Impact Assessment – Revision B (Tracked).**

Natural England notes that the map on page 66 shows that more than a third of the current proposed compensation site sits outside of the original survey area. Consequently, without baseline information we are unable to adequately assess the ecological impacts. Furthermore, our earlier comments may need to be revisited, along with those issues previously considered resolved, when the necessary additional information is available.

#### **[AS-057] 10.18 REPORT ON PROPOSED CHANGES**

Natural England advises that the statements noting our agreement that the proposed compensation can support the sufficient breeding pairs of LBBG to ensure the necessary

recruitment and therefore provide appropriate compensation in this document are not supported by the ornithological comments we provided in our Deadline 4 Risk and Issues Log (Tab D – Ornithology Compensation, NE Ref D26) around sufficient provision for LBBG impacts.

## 2. Detailed comments

**Table 1: Natural England’s advice on: Lesser Black Backed Gull Compensation Proposals.**

Document reviewed	Update made	Issue resolved? Yes/No/Progressed
[AS-040] 5.4.5/Para 2.2.5	<p><u>Revised LBBG Compensation Site HRA</u> This document still relies on insufficient baseline survey data owing to surveys carried out outside of an appropriate survey window. Para 2.2.5 states that updated survey results/assessments will be included in a later iteration of the HRA. Therefore, conclusions of no Likely Significant Effect (LSE) are based on incomplete baseline information and are therefore not robust.</p>	Not progressed. NE Rel Rep D25 is not resolved.
[AS-040] 5.4.5/Paras 2.2.6 & 2.3.8	<p><u>Survey Area Partial Overlap with Proposed Compensation Area</u> Para 2.2.6 [AS-040] confirms that the boundary of the proposed LBBG compensation site has been changed. The original surveys and desk-based data collation and assessment do not cover all of the new area and are, therefore, incomplete. Consequently, the conclusions of no LSE are based on insufficient evidence.</p> <p>Para 2.3.8 states that a new ditch crossing will be required including a temporary bridge or permanent culvert installation to allow vehicle access. Therefore, we advise that further information will be required to assess these impacts.</p>	New issues have been identified.
[AS-040] 5.4.5/Table 2.1	<p>The Applicant’s response to Natural England’s Relevant Reps and Risk and Issues Log:</p> <ul style="list-style-type: none"> <li>• J4 – The Applicant states that the reduction of the site area to 6ha has been agreed with Natural England as sufficient to support required number of LBBG pairs. It is worth noting that the level of compensation in terms of the population needed has not yet been agreed, and that the size of the area needed will in part relate to the habitats present, noting that areas have been both removed and added from the proposed area.</li> <li>• J4 – The Applicant states that the area does not have natural morphology and</li> </ul>	<p>J4 - Rel Rep D26 states that the level of compensation has not been agreed. Progressed. Baseline surveys are required to confirm current sensitivity of the shingle habitats before we can agree with the conclusions.</p> <p>J4 - The Applicant needs to check</p>

	<p>precedent from agreements around North Norfolk Compensation, hence conclusion of no LSE for shingle geomorphology.</p> <ul style="list-style-type: none"> <li>• J8 – The Applicant has assessed climate change impacts. The compensation area has been assessed as stable; no impact assessment is considered necessary.</li> <li>• J11 – The Applicant considers that there is no requirement to reconsider the conclusion of no LSE for fence installation based on the assumption that the site has already been modified and the delicate matrix already impacted. However, this does not preclude the presence of rare and sensitive shingle flora and fauna associated with the SAC, and new survey data should be acquired to support this conclusion.</li> <li>• J12 – The Applicant states that because the morphology has already been modified, it considers that impacts of fence installation and maintenance do not need to be included in EIA. However, this will be included the implementation and monitoring plan.</li> <li>• J13 – The Applicant has stated that the new fence line will avoid saline lagoons. Climate change impacts have also been assessed in J8. Therefore, this issue is resolved.</li> <li>• J22 – The Applicant has agreed to discuss maintenance and best practice options with Natural England.</li> <li>• J23 – in Para 4.4.8 [AS-040] and [REP2-013], the Applicant states that once a colony has established, if nutrients are increased, consideration may be given to removing cut vegetation from the site, which they consider sufficient <u>additional</u> mitigation for any increased nutrient levels. This remains part of the</li> </ul>	<p>National Coastal Erosion Risk Mapping 2 (NCERM2) data, when released, to allow further consideration of the 50-year erosion line position.</p> <p>J8 - Not resolved.</p> <p>J11 - Baseline surveys are needed to confirm current sensitivity of shingle habitats before conclusions can be agreed.</p> <p>J12 - Resolved.</p> <p>J13 - Resolved.</p> <p>J22- In progress, pending discussions.</p> <p>J23 - The proposed mitigation was already secured, and we do not consider it as additional. Natural England queries if this mitigation sufficient.</p>
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	<p>maintenance plan (4.1.10 [AS-040] and 6.2.3 [REP2-103]). However, we question whether this is additional mitigation?</p> <ul style="list-style-type: none"> <li>• J24 – refers to the shingle matrix and damage to the communities present. Reference is again made to the modified nature of this site, a broad definition of habitat is made, it is stated that best practice will be adopted during installation to limit damage, and Annex 1 habitat would not be lost. However, we are concerned that machinery will have to operate on the shingle habitat and there is the additional concern that this new area has not yet been surveyed.</li> <li>• J25 – Natural England advised previously on the HRA that we wished the Applicant to consider fencing impacts on saline lagoons and climate change impacts/coastal stability. The Applicant has signposted to J13 and stated that saline lagoons are no longer within the fence line.</li> </ul>	<p>J24 - Baseline survey data is needed to confirm no LSE. Not resolved.</p> <p>J25 - Resolved – see also J13.</p>
[AS-040] 5.4.5	<p>4.2.3 – We note that the <u>new fence alignment</u> boundary runs along an existing ditch line. The manmade nature of the ditch and the excavated shingle material along the banks are considered disturbed communities. However, this disturbance dates from 1881 to 1960's, therefore recovery of shingle communities is possible. However, we advise that updated baseline surveys are required.</p>	<p>New information regarding the alignment of the fence has been provided, therefore, Natural England needs to see and consider updated baseline data to assess conclusions. Not resolved.</p>
[AS-048] 6.8.1	<p><u>Table 1.2 [AS-048] Summary of Consultation</u> Issues regarding concerns around birds finding the site and numbers of breeding pairs to be presented in an updated LBBG Compensation Evidence, Site Selection and Roadmap at a future deadline.</p> <p>We note that the Applicant is liaising with North Falls about potential collaboration on compensation measures.</p> <p>Natural England raised the need for Outer Trial Bank access and methodology to be submitted within our Relevant Representations (Issue D25) this requirement remains.</p>	<p>Rel Rep D23 and D26 not resolved. Final level of compensation not agreed. Concerns about securing sites remain.</p> <p>Rel Rep D28 and D32 progressing.</p> <p>Rel Rep D25 not resolved.</p>

[AS-048] 6.8.1	<u>Perennial Vegetation on Coastal Shingle</u> 1.11.55 states that stones supporting lichens will be placed to one side and replaced upright near to their original location, once the digger has finished installing the fence. This is not new but is this a feasible/robust mitigation approach?	Further detail on the methodology and efficacy of the proposed mitigation is required to confirm if this is adequate mitigation for impact to lichen and other important floral species based on the updated survey results.
[AS-048] 6.8.1	<u>Ditches</u> 1.11.65 to 1.11.68 Updated baseline information is still required to confirm the no LSE conclusion.	Issue not resolved.
[AS-048] 6.8.1	<u>Increase in Nutrients Effect on Perennial Vegetation on Coastal Shingle</u> 1.11.95 to 1.11.101 The Applicant still needs to consider, and a commitment made within the outline LBBG Implementation and Mitigation Plan (IMP) removal of arisings from vegetative maintenance and clearance of blockages in fences to remove issues around nutrient increases and flood risk.	No change to our response.
[AS-048] 6.8.1	<u>Climate Change Effects</u> 1.13 Climate change effects have been assessed, including roll back of the shingle ridge. However, the site boundary has been moved further inland away from main coastal ridge so this should address impacts to the site due to climate change-related roll back of the ridge. The Applicant has concluded no significant effects are expected from climate change.	The Applicant needs to check NCERM2 data when released to consider the 50-year erosion line position to confirm their conclusion is accurate.
[AS-054] 6.8.1.3 & [AS-040]	<u>2.1.1 Proposed Compensation Measures</u> Despite noting the changes to the compensation area boundary and the incomplete surveys, 6.1.1 has still concluded no LSE or AEol. However, seasonally appropriate baseline surveys are needed for the new compensation area, along with updating the January surveys for the rest of the site.  We note [AS-040] that the final details (including location) of the new ditch crossing will be set out in the final LIMP and the construction method statement for approval by the Secretary of State and LPA respectively.  New information has been provided stating that vegetation management will be outside the bird breeding season. We advise that this needs to be for all relevant species, not just LBBG.	Our concerns remain unresolved.  This appears to include new information, and potentially significant additional impacts. Until the updated survey information is provided and

	To mitigate for installation works impacts to rare plants, pre-installation surveys are now planned (Table 11.1, Row 5 – LSE has residual negative impacts).	assessed we cannot confirm if we can support a conclusion of no LSE.
[REP2-005] 5.4.1, Pages 19-20	<u>Orfordness-Shingle Street SAC</u> HRA Integrity Matrices 10 and 11 are related to LBBG. However, we note that Orfordness-Shingle Street SAC is not considered in the matrices (which includes shingle and coastal lagoon habitats as features). It also does not appear to have been included in previous iterations or the screening process. Similarly, vegetated shingle impacts are not considered in the matrix. This SAC was included in our Table 5.1 of our Rel Reps Cover Letter [PD2-002].	Orfordness-Shingle Street SAC should be in the matrix and screened.
[AS-057] 10.18	3.2.5 - The <u>boundary changes for the LBBG compensation site at Orford Ness</u> will be assessed through ongoing and planned vegetation and invertebrate surveys, alongside an ecological walkover survey. Natural England notes that updated documents expected at Deadline 4, but it is anticipated that there will be no change to the conclusions.  4.1.4 – This states that Natural England agreed the reduction in compensation site to 6ha, and the survey scope and methods to address data gaps. This agreement was prior to the boundary change that encompasses a new area.	We need to see the new baseline survey data to assess the robustness of surveys and conclusions.