



**Summary of
Written Representation
for the
Royal Society for the Protection of Birds**

Submitted for Deadline 2

6 February 2025

Planning Act 2008 (as amended)

In the matter of:

**Application by Dogger Bank South (West) Limited and Dogger Bank South
(East) Limited for an Order**

**Granting Development Consent for the Dogger Bank South Offshore Wind
Farms**

Planning Inspectorate Ref: EN010125

RSPB Registration Identification Ref: 20050122

Contents

1. Introduction	3
2. The nature conservation importance of the seabirds affected by the Dogger Bank South offshore wind farm schemes.....	5
3. Legislation and policy background	7
4. Offshore ornithology	8
5. Derogation case: the RSPB’s approach to evaluating compensation measures under the Conservation of Habitats and Species Regulations 2017 (as amended).....	11
6. RSPB detailed comments on the Applicant’s specific compensation proposals.....	12

1. Introduction

The RSPB

- 1.1. The Royal Society for the Protection of Birds (the RSPB) was set up in 1889. It is a registered charity incorporated by Royal Charter and is Europe's largest wildlife conservation organisation, with a membership of over 1.1 million¹. The principal objective of the RSPB is the conservation of wild birds and their habitats. The RSPB therefore attaches great importance to all international, EU and national law, policy and guidance that assist in the attainment of this objective. It campaigns throughout the UK and internationally for the development, strengthening and enforcement of such law and policy. In so doing, it also plays an active role in the domestic processes by which development plans and proposals are scrutinised and considered, offering ornithological and other wider environmental expertise. This includes making representations to, and appearing at, public inquiries and hearings during the examination of applications for development consents.

The RSPB's interest in offshore wind development

- 1.2. Faced with the threats of climate change to the natural world the RSPB considers that a low-carbon energy revolution to reach net zero is essential to safeguard biodiversity. However, inappropriately designed and/or sited developments can also cause serious and irreparable harm to biodiversity and damage the public acceptability of the necessary low-carbon energy transition technologies.
- 1.3. The RSPB recognises the significant role that offshore wind will play in decarbonising our energy systems and the renewed urgency with which this must happen. Installing this technology at the scale and pace needed is no easy task: there are significant challenges rooted in the planning frameworks and the state of our seas which threaten both nature *and* our ability to reach net zero.
- 1.4. The UK is of outstanding international importance for its breeding seabirds, including Northern Gannet for which the UK supports over 50% of the world population and around 10% of the world populations of Kittiwake and Puffin. The UK is also of international importance for its non-breeding seabirds and waterbirds. As with all Annex I and regularly migratory species, the UK has particular responsibility under the Birds Directive² to secure the conservation of these birds. The latest review of the UK Birds of Conservation Concern³ highlights alarming recent declines in UK seabird populations meaning that ten seabirds are now red-listed.
- 1.5. The available evidence suggests that the main risks of offshore wind farms for birds are collision, disturbance/displacement, barriers to movement (e.g. migrating birds, or disruption of access between the breeding areas and feeding areas), and habitat change

¹ <https://www.rspb.org.uk/about-us/annual-report> Accessed 20 January 2025.

² Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version) (the Birds Directive).

³ <https://www.rspb.org.uk/whats-happening/news/alarming-declines-in-uk-seabird-species-sees-five-more-added-to-the-red-list> Accessed 14 October 2024.

particularly with associated changes in food availability and the cumulative and in-combination effects of these across multiple wind farms.

- 1.6. Such impacts are avoidable, and the RSPB has spent considerable time working with stakeholders in the UK offshore wind industry to ensure that decisions about deployment of renewable energy infrastructure take account of environmental constraints and seek to avoid or minimise impacts wherever possible. The RSPB therefore strongly advocates the use of rigorous, participative environmental assessments to inform the development of projects.

Scope of written submission

- 1.7. This Written Submission covers the following:
 - The nature conservation importance of the seabirds affected by the Dogger Bank South Offshore wind farm scheme;
 - Legislation and policy background;
 - Offshore ornithology;
 - Derogation case: the RSPB's approach to evaluating compensation measures under the Conservation of Habitats and Species Regulations 2017 (as amended); and
 - RSPB detailed comments on the Applicant's specific compensation proposals.

2. The nature conservation importance of the seabirds affected by the Dogger Bank South offshore wind farm schemes

Introduction

- 2.1. The UK is of outstanding international importance for its breeding seabirds. As with all Annex I and regularly occurring migratory species, the UK has particular responsibility under the Birds Directive⁴ to secure the conservation of these important seabird populations.
- 2.2. The RSPB is particularly concerned regarding the impacts on the following designated sites:
 - Flamborough and Filey Coast SPA;
 - A series of English and Scottish SPAs where, due to methodological concerns, we are unable to reach conclusions as to the significance of in-combination impacts (see section 4 below).
- 2.3. Natural England has referred to the conservation advice for some designated sites listed above in Table 5.1 in their Relevant Representation RR-039 including providing weblinks to current Conservation Objectives and Supplementary Advice on Conservation Objectives.

Conservation Objectives

- 2.4. In England, the Conservation Objectives for SPAs generally follow the same format (it is formulated differently in Scotland but seeks to achieve similar objectives) i.e.:

“...to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

 - The extent and distribution of the habitats of the qualifying features
 - The structure and function of the habitats of the qualifying features
 - The supporting processes on which the habitats of the qualifying features rely
 - The populations of each of the qualifying features
 - The distribution of the qualifying features within the site.”
- 2.5. Natural England’s Supplementary Advice on the Conservation Objectives for the various SPAs identifies, for each SPA feature, key attributes and targets. Attributes are the ecological characteristics or requirements of the classified features within the SPA and deemed to best describe the site’s ecological integrity. If safeguarded this will enable achievement of the Conservation Objectives and favourable conservation status for all the designation features, including any assemblage feature.
- 2.6. It is vital to consider whether an SPA and its qualifying features meet the attributes and targets set by Natural England and/or NatureScot when considering whether the SPA’s conservation objectives to maintain or restore site integrity can be met and the SPA achieve

⁴ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (codified version) (the Birds Directive).

favourable conservation status throughout the lifetime of the development and any subsequent period where its impacts continue to affect the SPA features.

3. Legislation and policy background

- 3.1. There is a statutory duty to comply with the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations, as amended) which offer protection for protected sites (Ramsar, SPA, SAC) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (Offshore Regulations)(as amended). The Habitats and Offshore Regulations set out a sequence of steps to be taken by the competent authority (here the Secretary of State for Energy Security and Net Zero (DESNZ)) when considering authorisation for a project *likely to have an effect* on a European site and its species before deciding to authorise that project.
- 3.2. We set out a series of related matters to be considered in this context, including:
 - SPA and SAC Conservation Objectives;
 - Appropriate assessment;
 - In-combination effects and compensation for other schemes;
 - Habitats Regulations General Duties; and
 - Environmental Impact Assessment.

4. Offshore ornithology

Impact Assessment Conclusions

Conclusions on Adverse Effect on Integrity (AEOI)

- 4.1. We have significant concerns in respect of offshore ornithology impacts for the following reasons:
- In some cases, as a result of scale of impacts; and
 - In other cases as a result of methodological concerns.
- 4.2. Below we summarise our current position with respect to adverse effect on the integrity (AEOI) on different Special Protection Areas (SPAs). These conclusions are based on a worst-case scenario of both Dogger Bank South East and West being developed.
- Project alone – RSPB AEOI conclusions*
- 4.3. We cannot rule out an adverse effect on site integrity on the following features of the Flamborough and Filey Coast SPA:
- The impact of combined collision and displacement mortality on the Gannet population.
- Project in combination with other plans and projects – RSPB AEOI conclusions*
- 4.4. We consider there is an in-combination AEOI on the following features of the FFC SPA:
- The impact of collision mortality on the Kittiwake population (and therefore agree with the Applicant's conclusion in this respect);
 - The impact of displacement mortality on the Guillemot population (and therefore we welcome the Applicant's adopted position on this);
 - The impact of displacement mortality on the Razorbill population.
- 4.5. We cannot rule out in-combination impacts on the following features of the Flamborough and Filey Coast SPA:
- The impact of combined collision and displacement mortality on the Gannet population; and
 - The impact of combined collision and displacement mortality on the seabird assemblage.
- 4.6. Due to the methodological concerns, in particular with the Applicant's approach to a *de minimis*, background mortality threshold, but also the application of a macro-avoidance correction factor to Gannet densities, as detailed below, we are unable to reach conclusions as to the significance of in-combination impacts on the following SPAs and listed features:
- Coquet Island SPA: Puffin (displacement mortality);
 - Farne Islands SPA: Kittiwake (collision mortality);
 - St. Abbs to Fast Castle SPA: Kittiwake (collision mortality), Guillemot (displacement mortality), Razorbill (displacement mortality);

- Forth Islands SPA: Gannet (combined collision and displacement mortality), Kittiwake (collision mortality), Guillemot (displacement mortality), Razorbill (displacement mortality), Puffin (displacement mortality);
- Fowlsheugh SPA: Kittiwake (collision mortality), Guillemot (displacement mortality), Razorbill (displacement mortality);
- Buchan Ness to Collieston Coast SPA: Kittiwake (collision mortality), Guillemot (displacement mortality);
- Troup, Pennan and Lion's Head SPA: Gannet (combined collision and displacement mortality), Kittiwake (collision mortality), Guillemot (displacement mortality), Razorbill (displacement mortality);
- East Caithness Cliffs SPA: Kittiwake (collision mortality), Guillemot (displacement mortality), Razorbill (displacement mortality);
- North Caithness Cliffs SPA: Kittiwake (collision mortality), Guillemot (displacement mortality), Razorbill (displacement mortality);
- Copinsay SPA: Kittiwake (collision mortality), Guillemot (displacement mortality);
- Hoy SPA: Kittiwake (collision mortality), Guillemot (displacement mortality), Puffin (displacement mortality);
- Rousay SPA: Kittiwake (collision mortality), Guillemot (displacement mortality);
- Calf of Eday SPA: Kittiwake (collision mortality), Guillemot (displacement mortality);
- Marwick Head SPA: Kittiwake (collision mortality), Guillemot (displacement mortality);
- West Westray SPA: Kittiwake (collision mortality), Guillemot (displacement mortality), Razorbill (displacement mortality);
- Fair Isle SPA: Gannet (combined collision and displacement mortality), Kittiwake (collision mortality), Guillemot (displacement mortality), Razorbill (displacement mortality), Puffin (displacement mortality);
- Sumburgh Head SPA: Kittiwake (collision mortality), Guillemot (displacement mortality);
- Noss SPA: Gannet (combined collision and displacement mortality), Kittiwake (collision mortality), Guillemot (displacement mortality);
- Foula SPA: Kittiwake (collision mortality); Guillemot (displacement mortality), Razorbill (displacement mortality), Puffin (displacement mortality);
- Hermaness, Saxa Vord and Valla Field SPA: Gannet (combined collision and displacement mortality), Kittiwake (collision mortality), Guillemot (displacement mortality), Puffin (displacement mortality).

Impact assessment – methodological concerns

4.7. The RSPB's key concerns with the impact assessment relate to:

- The application of a macro avoidance correction to Gannet collision risk modelling;
- Approach to the apportioning of Gannets to the Forth Islands SPA;
- Digital Aerial Survey;
- an inadequate consideration of impacts compounded by Highly Pathogenic Avian Influenza; and

- Approach to non-measurable “de minimis” impacts.

4.8. In addition, we have noted other concerns in relation to:

- Population Viability Analysis; and
- The use of prejudicial language.

5. Derogation case: the RSPB’s approach to evaluating compensation measures under the Conservation of Habitats and Species Regulations 2017 (as amended)

- 5.1. This section sets out the RSPB’s approach to evaluating compensation measures. It includes our general approach to assessing compensation proposals and the level of detail we consider is required in order to evaluate compensation proposals as part of the Examination process, before drawing out some general issues raised by the Applicant’s proposals.
- 5.2. The RSPB has reviewed both the EC⁵ and Defra⁶ guidance on compensatory measures. Both are in broad alignment as to the principles to adopt when considering compensatory measures. This review also draws on the RSPB’s over 20 years’ experience evaluating and negotiating compensation proposals under the Habitats Regulations by developers across various sectors. As the EC Guidance is fuller, we have used that as our primary reference, while drawing out any additional points made in the Defra guidance since it is UK focused.
- 5.3. The RSPB will use the EC’s criteria and its experience to evaluate the various compensation proposals where sufficient detail is available:
 - Targeted;
 - Effective;
 - Technical feasibility;
 - Extent;
 - Location;
 - Timing;
 - Long-term implementation;
 - Additionality.
- 5.4. In addition, we have set out the level of detail we consider is required in any proposed compensation measures, and have gone on to identify generic issues raised by the Applicant’s proposals:
 - Lack of specific proposals and locations for compensation measures;
 - Scale of compensation;
 - Lead-in times for compensation;
 - Lifetime of compensation in relation to damage.

⁵ [EC \(2018\) Managing Natura 2000 sites](#) – The provisions of Article 6 of the ‘Habitats’ Directive 92/43/EEC (21/11/18) C(2018) 7621 final. Due to the further details this EU guidance provides, we believe it is important to also consider along with the Defra guidance

⁶ Defra (2021) <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>. Accessed January 2025.

6. RSPB detailed comments on the Applicant's specific compensation proposals

- 6.1. We set out the RSPB's views on the following compensation measures put forward by the Applicant:
- Offshore and onshore artificial nesting structures (Kittiwake);
 - Predator eradication (Guillemot and Razorbill);
 - Potential adaptive management measures for Guillemot and Razorbill.
- 6.2. The RSPB's overarching comment is that the Applicant has failed to put forward detailed and location specific compensation measures for any impacted species. We note the work to narrow down Areas of Search for potential offshore Artificial Nesting Structure locations for Kittiwake compensation. We also note the ongoing refinement of potential locations for predator eradication schemes for Guillemot and Razorbill. However, at this stage, we lack detailed, location specific measures for any of these species, and therefore nor have any been secured.
- 6.3. It is therefore not possible at this stage for the RSPB to assess any of the compensation measures properly and provide detailed advice to the Examining Authority on whether each has a reasonable guarantee of success in meeting specific, agreed compensation objectives.