



**Written Submission**  
**for the**  
**Royal Society for the Protection of Birds**  
**Response to the Examining Authority's First Written Questions**  
**(ExQ1)**

**Submitted for Deadline 2**  
**27 November 2024**

**Planning Act 2008 (as amended)**

**In the matter of:**  
**Application by Outer Dowsing Limited for an Order**  
**Granting Development Consent for the Outer Dowsing Offshore Wind Farm**

**Planning Inspectorate Ref: EN010130**  
**RSPB Registration Identification Ref: 20049053**

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## 1. Introduction

- 1.1. The RSPB's response to the Examining Authority's First Written Questions (ExQ1) are set out in the table below.

Responses to the Examining Authority’s First Written Questions

ExQ1	Question to:	Question	RSPB response
<b>HRA Habitats Regulations Assessment (HRA) - Derogation Case and Compensation Measures (p37)</b>			
Q1 HRA 2.3	NE and RSPB	<p><b>Level of information on compensation measures (pp 38, 39)</b></p> <p>Recent Orders have been made (for example for Hornsea Four and the Sheringham Shoal and Dudgeon Extension Projects) for offshore wind farm projects that contained proposed ornithological compensation measures. Comment on the level of information regarding compensation measures that was submitted to accompany these other projects, and which has been found to be acceptable by the Secretary of State, in comparison with that which has been submitted by the Applicant for this Proposed Development.</p>	<p>The RSPB is providing a single response to HRA 2.3 and 2.4, as we consider they are linked:</p> <ul style="list-style-type: none"> <li>• HRA 2.3 relates to the level of detailed work carried out before the close of an examination/granting of consent to ensure any compensation measure includes sufficient detail to be confident it is capable of being delivered in a manner which improves the likelihood of the coherence of the SPA network being protected;</li> <li>• HRA 2.4 relates to an example of the consequences of failing to anticipate and tackle key risks associated with the timely implementation of a compensation measure, resulting in a request to reduce the timescale for implementation in relation to the first adverse impact occurring.</li> </ul>
Q1 HRA 2.4	The Applicant, NE and RSPB	<p><b>Non-material change to the Hornsea Four Order (p39)</b></p> <p>On 17 July 2024 the Secretary of State accepted a non-material change request to the Hornsea Four Offshore Wind Farm Development Consent Order (SI 2023/800). This change sought to amend the Order to reduce the length of time the proposed artificial nesting structure for kittiwake needs to be in place before operation of the project from four full breeding seasons to two full breeding seasons. Comment on the implications of this recent decision in regard to the lead-in times for the Proposed Development.</p>	<p>The requirement to include a four full breeding season period before first operation of an offshore wind farm is based on the breeding ecology of the seabird species concerned e.g. kittiwake. Four years is the accepted typical period of first breeding and an acknowledgement that, assuming successful colonisation in Year 1, first breeding from fledged young will be 4 years later. It is an acknowledgement of the need to mitigate <u>some</u> of the risk arising from the predicted adverse impact occurring immediately upon first operation and of there being both an</p>

ExQ1	Question to:	Question	RSPB response
			<p>inherent delay in the compensation working, and the risk of it not working or not working successfully. Any shortening of this time period increases:</p> <ul style="list-style-type: none"> <li>- the exposure of the species to the predicted adverse impact in the absence of an effective compensation measure, and</li> <li>- the time it will take for the compensation measure to benefit the impacted species.</li> </ul> <p>It is for this reason that, notwithstanding the level of submitted information regarding compensation measures that the Secretary of State has found to be acceptable, the RSPB has been consistent in its criticism of successive developers failing to (i) provide an appropriate evidence base to test relevance and likely efficacy and (ii) identify key implementation risks and tackle these in their compensation plans submitted for examination.</p> <p>The Hornsea Four non-material change is one example of this, where known potential delivery risks were not surfaced during the examination and post-examination consultations, and appropriate measures identified or put in place to ensure the agreed timetable could be met. As a result, the original, ecologically based timescales agreed to by the Secretary of State could not be met and the non-material change resulted.</p> <p>In the context of the current scheme, we consider there is still inadequate information and evidence in front of the examination that will allow the likely</p>

ExQ1	Question to:	Question	RSPB response
			efficacy of the proposed measures to be tested, and therefore be satisfied they have a reasonable guarantee of success.
<b>OR Offshore and Intertidal Ornithology (pp 62,63)</b>			
<b>Q1 OR 1.2</b>	<b>Natural England (NE) and RSPB</b>	<p><b>Outstanding areas of disagreement (p62)</b>  Table 1.1 of Response to the Rule 17 Letter dated 3 July 2024, Doc Ref 14.2 [AS-013] and The Applicant's Responses to Relevant Representations, Doc Ref 15.3 [PD1-071] present a breakdown of what the Applicant considers to be the key areas of disagreement on assessment methodology for offshore and intertidal ornithology. Do you consider that the Applicant has adequately captured in these documents all the outstanding issues and outstanding areas of disagreement over methodology or are there any other assessment methodology matters that have been omitted in these two documents?</p>	The RSPB is content that the Applicant responses correctly represent the key areas of disagreement and there are no further assessment methodology matters that have been omitted.
<b>Q1 OR 1.4</b>	<b>The Applicant, NE and the RSPB</b>	<p><b>Closure of the English and Scottish North Sea waters for sandeel fishing (p63)</b>  Paragraph 43 of the Kittiwake Compensation Plan [APP-250] refers to the permanent closure of the sandeel fishing industry in English and Scottish waters from 1st April 2024.  What impact is this likely to have on sandeel populations and consequentially prey availability for seabird species?  When will the first monitoring results of sandeel populations become publicly available?  Has this ban on sandeel fishing been factored into any of the Applicant's assessment methodology?</p>	<p>The RSPB wishes to assist the Examining Authority with this question. However, we will have to defer our answer as the relevant specialist colleagues do not have capacity to respond at this time.</p> <p>The RSPB will submit its answer to this question to the Examining Authority as soon as practicable.</p>