

FIVE ESTUARIES OFFSHORE WIND FARM STATEMENT OF COMMON GROUND ROYAL SOCIETY FOR THE PROTECTION OF BIRDS

Application Reference
Application Document Number
Revision
Pursuant to
Ecodoc Number
Date

EN010115 10.10.25 A Deadline 5 005558038-01 January 2025

COMPANY NO

PHONE: 0333 880 5306

EMAIL: fiveestuaries@rwe.com
WEBSITE www.fiveestuaries.co.uk
REGISTERED Five Estuaries Offshore Wind Farm Ltd
OFFICE: Windmill Hill Business Park
Whitehill Way, Swindon, Wiltshire, SN5 6PB
Registered in England and Wales company



COPYRIGHT © Five Estuaries Wind Farm Ltd

All pre-existing rights reserved.

In preparation of this document Five Estuaries Wind Farm Ltd has made reasonable efforts to ensure that the content is accurate, up to date and complete for purpose.

Revision	Date	Status/Reason for Issue	Originator	Checked	Approved
Α	Jan-25	SoCG	GoBe	VEOWFL	VEOWFL



SIGNATORIES

Signed	
Name	Kieran Somers
Position	Senior Consents Manager
For	Five Estuaries Offshore Wind Farm Limited
Signed	A Dodd
Name	Andrew Dodd
Position	Head of Casework
For	Royal Society For the Protection of Birds



CONTENTS

1 In	ntroduction	5
1.1	Background	5
1.2	Approach to SoCG	5
1.3	The Proposed Development	5
2 R	SPB's Remit	6
2.1	introduction	6
2.2	Consultation Summary	7
3 A	greements Log	8
TABL	LES	
Table	e 3.1: Position Status key	8
	3.2: Status of discussions	



DEFINITION OF ACRONYMS

Term	Definition
AEOI	Adverse Effect on Integrity
ANS	Artificial Nesting Structure
AOE	Alde Ore Estuary
DCO	Development Consent Order
FFC	Flamborough and Filey Coast
GRIMP	Guillemot and Razorbill Implementation and Monitoring Plan
HPAI	Highly Pathogenic Avian Influenza
KIMP	Kittiwake Implementation and Monitoring Plan
LBBG	Lesser Black Backed Gull
LIMP	Lesser Black-backed Gull Implementation and Monitoring Plan
OTE	Outer Thames Estuary
RSPB	The Royal Society for the Protection of Birds
SPA	Special Protection Area



1 INTRODUCTION

1.1 BACKGROUND

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared between Five Estuaries Offshore Wind Farm Limited (hereafter referred to as 'the Applicant') and The Royal Society for the Protection of Birds (RSPB) to set out the areas of agreement and disagreement between the two parties in relation to the proposed Development Consent Order (DCO) application for the Five Estuaries Offshore Wind Farm (hereafter referred to as "VE").
- 1.1.2 Following detailed discussions undertaken between the parties, the Applicant and the RSPB have sought to progress a SoCG. It is the intention that this document provides the Planning Inspectorate with a clear overview of the level of common ground between both parties. This document will be updated if any additional points are identified or any positions change during the Examination.

1.2 APPROACH TO SOCG

- 1.2.1 This SoCG sets out the topic, a brief summary of the issue or matter subject to disagreement or agreement, the position of the Applicant and that of the RSPB, and a colour coding to illustrate the level of agreement and/or materiality.
- 1.2.2 A full description of the approach adopted is set out in 9.33 Approach to Statements of Common Ground [APP-266] submitted as part of the DCO application.

1.3 THE PROPOSED DEVELOPMENT

- 1.3.1 The Five Estuaries Offshore Wind Farm (hereafter referred to as VE) is the proposed extension to the operational Galloper Offshore Wind Farm. The project includes provision for the construction, operation, maintenance and decommissioning of an offshore wind farm located approximately 37 kilometres off the coast of Suffolk at its closest point in the southern North Sea; including up to 79 wind turbine generators and associated infrastructure making landfall at Sandy Point between Frinton-on-Sea and Holland-on-Sea, the installation of underground cables, and the construction of an electrical substation and associated infrastructure near to the existing Lawford Substation to the west of Little Bromley in order to connect the development to National Grid's proposed East Anglia Connection Node substation, which would be located nearby.
- 1.3.2 All onshore connection infrastructure would be located in the administrative area of Tendring District Council, within Essex County Council. VE will have an overall capacity of greater than 100 Megawatts (MW) and therefore constitutes a Nationally Significant Infrastructure Project (NSIP) under the Section 15 (3) of the Planning Act 2008.
- 1.3.3 A full Project description is included in the Environmental Statement, in particular 6.2.1 Offshore Project Description [APP-069] and 6.3.1 Onshore Project Description [APP-083].



2 RSPB'S REMIT

2.1 INTRODUCTION

- 2.1.1 The RSPB is a charity and a non-statutory nature conservation body with expertise in ornithology. The Applicant recognizes the importance of the RSPB as a consultee due it its extensive role in the Evidence Plan process.
- 2.1.2 The following application documents have informed the discussions with the RSPB and address the elements of VE that may affect the interests of the interested party:
 - > 6.2.4 Offshore Ornithology [APP-073]
 - > 6.3.4 Onshore Biodiversity and Nature Conservation [APP-086]
 - > 6.5.4.15 Apportioning Note [REP1-020]
 - > 6.5.4.15 Population Viability Analysis [REP1-022]
 - > 5.5.3 Lesser Black Backed Gull Compensation Evidence, Site Selection and Roadmap [APP-049]
 - > 5.5.4 Kittiwake Evidence, Site Selection and Roadmap [APP-050]
 - > 5.5.5 Guillemot and Razorbill Evidence, Site Selection and Roadmap [APP-051]
 - > 5.5.6 Lesser Black Backed Gull Implementation and Monitoring Plans [APP-052]
 - > 5.5.7 Kittiwake Implementation and Monitoring Plans [APP-053]
 - > 5.5.8 Guillemot and Razorbill Implementation and Monitoring Plans [APP-054]
 - > 5.5.9 Lesser Black Backed Gull Compensation Site Suitability Report [APP-055]
 - > 5.5.10 Compensation Measures Funding Statement [APP056]
 - > 5.5.11 Compensation Longlist and Shortlist [APP057]
- 2.1.3 The main areas of interest raised by the RSPB were the following:
 - > Conclusions of Adverse Effect on Integrity (AEoI) fo the following species:
 - Lesser Black Backed Gull (LBBG) at Alde Ore Estuary (AOE) Special Protection Area (SPA)
 - > Gannet at Flamborough and Filey Coast SPA
 - > Kittiwake, Guillemot and Razorbill at Flamborough and Filey Coast SPA
 - > Red Throated Diver at Outer Thames Estuary (OTE) SPA
 - > Proposed compensation measures for the following species: LBBG; Kittiwake; and Guillemot/ Razorbill.



2.2 CONSULTATION SUMMARY

2.2.1 Since 2019, the project has been engaging with relevant stakeholders through different levels of activity. The project has undertaken the necessary consultations before submitting the application and has held Expert Topic Groups (ETGs) on a number of specific topics, as well as bilateral meetings with key stakeholders. The comments received and the meetings between the project and the interested party have informed the basis for this SoCG.



3 AGREEMENTS LOG

- 3.1.1 The following sections of this SoCG set out the level of agreement between the Applicant and the RSPB for each relevant component of the Application identified in paragraph 2.1.3. The tables below detail the positions of the Applicant alongside those of the RSPB and whether the matter is agreed or not agreed.
- 3.1.2 In order to easily identify whether a matter is 'agreed', 'not agreed' or an 'ongoing point of discussion, the agreements logs in the tables below are colour coded to represent the status of the position according to the criteria in Table 3.1 below. Colours were chosen in order to ensure inclusivity for the visibility of data.

Table 3.1: Position Status key

POSITION STATUS	COLOUR CODE
The matter is considered to be agreed between the parties.	Agreed
The matter is neither 'agreed' or 'not agreed' and is a matter where further discussion is required between the parties, for example where relevant documents are being prepared or reviewed.	Ongoing point of discussion
The matter is not agreed between the parties.	Not agreed
The matter is not agreed but it makes no material difference to the project.	Not agreed – no material difference



Table 3.2: Status of discussions

Reference Number	Topic	The Applicant's Position	RSPB Position	Position Status
RSPB01	Conclusion of AEoI for Lesser Black Backed Gull (LBBG) at AOE SPA.	The Applicant has noted the RSPBs position and agree with the conclusion for lesser black-backed gull at the Alde-Ore Estuary SPA. The Applicant agrees that there will be an adverse effect on the LBBG population at the AOE SPA.	The RSPB conclude there will be an adverse effect on site integrity of the Alde-Ore Estuary SPA due to the impact of collision mortality on the Lesser Black-backed Gull (LBBG) population, both from the project alone and in combination with other offshore windfarm projects.	Agreed
RSPB02	Conclusion of AEol for the following species: > Gannet at FFC SPA > Kittiwake, Guillemot and Razorbill at FFC SPA > Red Throated Diver at OTE SPA	The Applicant has agreement with Natural England over no AEol for Gannet, therefore are not presenting a derogation case for Gannet at FFC SPA. The Applicant has concluded that an AEol on kittiwake, guillemot and razorbill for Flamborough and Filey Coast (FFC) SPA can be ruled out. The Applicant does not believe there to be an AEol for red-throated diver at OTE SPA the Applicant has committed to seasonal restrictions for vessel movements associated with Cable Installation in the SPA, as set out in the Working in Proximity to Wildlife plan, secured though Part 11, Condition 12(1)(d)(v) and Part 12, Condition 13(1)(d)(v).	As a result of methodological concerns, the RSPB considers that the impacts on Northern Gannet have not been adequately assessed and, as such consider that an adverse effect on site integrity of the Flamborough and Filey Coast (FFC) SPA cannot be ruled out for the impact of combined collision and displacement mortality on the Northern Gannet population. The RSPB conclude there will be an adverse effect on site integrity on the following features of the FFC SPA: The impact of mortality arising from collision and distributional change combined on the Kittiwake population. The impact of mortality arising from distributional change on the Guillemot population. The impact of mortality arising from distributional change on the Razorbill population. The RSPB cannot rule out an adverse effect on site integrity on the following features of the FFC SPA: The impact of mortality arising from collision and distributional change combined on the Northern Gannet population. The impact of combined collision and displacement mortality on the seabird assemblage. The RSPB cannot rule out an adverse effect on the integrity of the Outer Thames Estuary (OTE) SPA, arising through the project alone and in combination through distributional change on the SPA's Red-throated Diver population arising from vessel movement during construction and decommissioning and operations and maintenance.	Ongoing point of discussion



Reference Number	Topic	The Applicant's Position	RSPB Position	Position Status
RSPB03	Proposed compensation measures for LBBG.	A full derogation case and compensation documents have been submitted regarding LBBG. The LBBG compensation measures set out in the Outline LBBG Implementation and Monitoring Plan (LIMP) are appropriate to adequately compensate for impacts to the LBBG feature of the AOE SPA, The Applicant has proposed removing threats from mammalian predation and habitat management to increase productivity and benefit LBBGs at Orford Ness, through the installation of predator proof fencing. The Applicant has also proposed predator eradication measures at Outer Trial Bank as an alternative (mutually exclusive) compensation measure for LBBG. The Applicant has presented the compensation quantum required using the Applicants preferred approach using national productivity rates and nesting densities.	The RSPB dispute that a full derogation case and suitable compensation measures have been submitted for LBBG. At Orford Ness, RSPB consider that further detail is required on the option, including further discussion on nesting densities and productivities. The RSPB will continue to engage with the Applicant on this matter. The RSPB consider the Outer Trial Bank option as being incapable of progression due to the lack of key baseline information on the status of the LBBG on the island, and the environmental implications of the proposal.	Ongoing point of discussion
RSPB04	Proposed compensation measures for Kittiwake.	The Applicant considers that sufficient detail has been provided at this stage given the Applicant's 'without prejudice' position with respect to this species, set out in the Outline Kittiwake Implementation and Monitoring Plan (KIMP). The Applicant has provided details on the agreements in regard to apportioning of the ANS with other offshore wind farms once they are finalised. The Applicant is confident that the ANS is large enough to accommodate the compensation requirements for the project.	The RSPB has highlighted that further information is required on this measure, as in our representations. This relates to further detail on the manner of apportionment between those developers using the Gateshead ANS for their projects, and further information on the use of existing ANS in the area to determine the likely take up/demand for the identified Gateshead ANS. The RSPB is anticipating further information to be submitted to the Examination at a future deadline and will update its position following review of that further information.	Ongoing point of discussion
RSPB05	Proposed compensation measures for Guillemot/Razorbill.	The Applicant considers that sufficient detail has been provided at this stage given the Applicant's 'without prejudice' position with respect to these species, set out in the Outline Guillemot and Razorbill Implementation and Monitoring Plan (GRIMP). The Applicant has proposed the compensation measures for guillemot and razorbill following consultation with Natural England, who are broadly supportive that the measures are appropriate and proportionate to the impact. The Applicant has carried out disturbance surveys at each site during the 2024 breeding season and a Survey Report will be submitted during the Examination and has committed to productivity surveys from the 2025 season	The RSPB considers these measures to be extremely underdeveloped at present, albeit further information is expected during the Examination. Our representation summarises our current position with these as measures on which the Secretary of State cannot rely as compensation for the impacts on Guillemot and Razorbill.	Ongoing point of discussion



Reference Number	Topic	The Applicant's Position	RSPB Position	Position Status
RSPB06	Consideration of Highly Pathogenic Avian Influenza (HPAI) in the Assessment.	should the SoS decide that a derogation case for guillemot and razorbill is required. The Applicant is pursuing collaborative approaches to compensation delivery and monitoring where possible. The Applicant believes that adequate consideration into the impacts of HPAI have been taken. Baseline data was collected pre HPAI and the impacts are calculated based on the larger population and the impacts are assessed based on the most recent available affected population (post/during HPAI) counts, therefore the assessment is precautionary with regards to HPAI impacts on populations. The species with a 'without prejudice' case at FFC SPA have fared reasonably well since the HPAI outbreak based on the most recent data (Clarkson <i>et al</i> , 2022): LBBG – AOE population remained stable after HPAI (using 2023 count data) Guillemot – FFC population increasing after latest count post/during HPAI (latest count available = 2022) RA – FFC population increasing after latest count post/during HPAI (latest count available = 2022) KI – Slight decline (3%) of the FFC population (latest count available = 2022) Caution has also been applied when looking at compensation measures, with a range of compensation ratios presented and several sites/options for the compensation measures to make them more robust.	The RSPB has expressed concern regarding the potentially severe population scale impacts on seabird populations from the outbreak of the H5N1 strain of Highly Pathogenic Avian Influenza (HPAI), and disagrees that the Applicant has given this proper consideration. This scale of the impact of HPAI means that seabird populations will be much less robust to additional mortality arising from offshore wind farm developments. It also means that there may need to be a reassessment of whether SPA populations are in Favourable Conservation Status. The impacts of HPAI and thus reductions in colony sizes may be manifested through the direct effects of mortality or the indirect effects arising through physiological constraints due to infection. These could arise for example, through impaired foraging ability or lower productivity. The severity and rate of recovery from these effects will determine the utilisation of space by seabird populations and consequently their interactions with wind farms. As well as changes to population numbers, HPAI infection is likely to cause variation in space use over time between individual birds and colonies, in part due to a likely decrease in competition, but also potentially related to physiological changes, such as in vision and fitness. This change in space use will be reflected in changes in the extent of interactions with wind farms, and in the lethal and sub-lethal consequences of those interactions.	Not Agreed
RSPB07	Detail on the DAS methodology.	The RSPB and the Applicant have agreement with the method used to deal with spatial autocorrelation. The Applicant has provided appropriate detail on the methodology such as potential biases; consideration of response to bird disturbance from the survey; and rationale for use of transect rather than grid survey use.	The RSPB agree that the method used to deal with spatial autocorrelation is appropriate. However we do not agree that there is appropriate detail on • consideration of response to bird disturbance from the survey; and • the rationale for use of transect rather than grid survey use	Not Agreed
RSPB08	Application of a macro- avoidance correction factor to predicted Northern Gannet collision mortalities.	The Applicant's approach followed Natural England guidance and is considered to be robust.	For the reasons set out in its Relevant Representation, the RSPB does not agree with Natural England's advice in respect of the application of a correction factor equivalent to reduction of 70% of the mortalities predicted	Not Agreed



Reference Number	Topic	The Applicant's Position	RSPB Position	Position Status
			by the gannet collision risk modelling in order to account for macro-avoidance.	
			The SNCBs do not have a common position on this correction factor, and the RSPB position aligns with that of NatureScot.	
			Therefore, while we recognise that the Applicant has followed Natural England's advice, we do not agree with this approach, are concerned that the predicted Gannet mortalities arising from collision are not robust and therefore cannot come to any conclusions with regard to any adverse effects on site integrity	
RSPB09	The worst case scenario presented for the assessment of impacts on Guillemot and Razorbill arising through distributional responses, displacement and barrier effects.	The Applicant has presented both Natural England's preferred approach (70% displacement and 2% mortality) alongside the Applicant's preferred approach of 50% displacement and 1% mortality. These approaches are highlighted in paragraph 11.4.35 of 5.4 RIAA [APP-040].	The Applicant has presented a range of displacement and mortality rates with a worst case scenario of 70% displacement and 2% mortality. The RSPB prefer that a single displacement rate is presented, 60%, and a range of mortality rates, 3-5% during the breeding season, and 1-3% in the non-breeding season, as these represent a most probable range of impacts, although a wider range would be plausible. This is also the position that NatureScot take in their assessments. Under this recommendation, the worst case scenario would be 60% displacement and 5% breeding and 3% non-breeding mortality rate.	Not Agreed



PHONE EMAIL WEBSITE ADDRESS

COMPANY NO

0333 880 5306 fiveestuaries@rwe.com www.fiveestuaries.co.uk

Five Estuaries Offshore Wind Farm Ltd Windmill Hill Business Park Whitehill Way, Swindon, SN5 6PB Registered in England and Wales company number 12292474