

Date: 14 March 2025  
Our ref: Case: 27347 Consultation: 502605  
Your ref: EN010115



National Infrastructure Planning  
The Planning Inspectorate  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Hornbeam House  
Crewe Business  
Park Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

**BY EMAIL ONLY**

Dear Sir/Madam,

**Five Estuaries Offshore Wind Farm**

The following constitutes Natural England's formal statutory response for Examination Deadline 8A.

**1. Natural England's Deadline 8A Submissions**

Natural England has reviewed the documents submitted by the Applicant at Deadlines 6, 7 and 8. 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 502605 Five Estuaries Appendix C8A - NE Comments on 10.48 Red Throated Diver Note [REP6-052] - Deadline 8A.pdf
- EN010115 502605 Five Estuaries Appendix D8A – NE Comments on 10.20.12 Methodological Differences - Ornithology Matters [REP7-076] - Deadline 8A.pdf
- EN010115 502605 Five Estuaries Appendix N8A – NE Comments on 9.32 Offshore In Principle Monitoring Plan [REP7-061] - Deadline 8A.pdf
- EN010115 502605 Five Estuaries Appendix L8A – Natural England's Risk and Issues Log DL8A.xls
- EN010115 502605 Five Estuaries Appendix E8A – Natural England's Benthic Ecology, Mitigation and Compensation Advice on the Applicant's Deadline 8 Documents – DL8.pdf

**2. Documents Submitted by the Applicant at Deadline 8**

Natural England has been unable to review all the documents submitted by the Applicant at Deadline 8 owing to the limited amount of time between Deadlines 8 and 8A. This is reflected in our updates to Annex 1 of this cover letter.

### **3. Draft Development Consent Order (DCO)/deemed Marine Licence (dML)**

Natural England advises that a standard condition should be applied to all cable-related dMLs with wording similar to that outlined below, which will require return of information in relation to the as-built scenario, including the location, volume, area, and coordinates of the cable protection laid within benthic MPAs. This is to ensure that a record is provided of all areas of cable protection, which will be beneficial at time of decommissioning.

*(1) Not more than 4 months following completion of the construction phase of the authorised scheme, the undertaker must provide the MMO and the relevant statutory nature*

*conservation bodies with a report setting out details of the cable protection used for the authorised scheme.*

*(2) The report must include the following information—*

*(a) location of the cable protection.*

*(b) volume and area of cable protection; and*

*(c) any other information relating to the cable protection as agreed between the MMO and the undertaker.*

*(3) For any subsequent deployments of cable protection following the completion of construction, the undertaker will provide an updated report as defined in (1) and (2) not more than 4 months following deployment of the cable protection.*

### **4. Defra 'Reducing Marine Noise' Policy Paper (2025)**

In January 2025, Defra published their Marine Noise Package including their 'Reducing Marine Noise' policy paper [Reducing marine noise - GOV.UK](#). This paper includes the expectation that *'all offshore wind pile driving activity across all English waters will be required to demonstrate that they have utilised best endeavours to deliver noise reductions through the use of primary and/or secondary noise reduction methods in the first instance.'*

Natural England's advice to date has consistently been that projects should commit to the use of Noise Abatement Systems (NAS) where driven or part-driven piles are to be used, as early as possible and in the cases of projects currently going through the consenting process, this should be done prior to consent being granted. Noise abatement systems are proven to reduce the level of noise generated by piling and its propagation through the marine environment. As the noise levels are reduced at or close to the source, the range and area over which noise-related impacts occur will be reduced significantly and we consider the use of NAS to be the best currently available option to achieve these reductions. We also consider that making this commitment prior to consent allows the projects sufficient time to finance, source and implement NAS into their projects prior to the start of construction.

The overall level of noise in the Southern North Sea SAC is increasing due to increasing levels of offshore wind construction and other noisy marine activities taking place. Therefore, it will be increasingly difficult to determine no Adverse Effect on Site Integrity (AEoI) from cumulative noise disturbance going forward. Projects that do not use noise abatement systems risk

contributing to cumulative noise disturbance that could exceed the daily and seasonal thresholds for significant disturbance leading to AEoI and therefore may not be able to construct as planned.

Large-scale piling campaigns for offshore wind projects risk causing injury and disturbance offences to marine mammals of European Protected Species (EPS), therefore developers typically apply for a wildlife licence to exempt them from an offence under the regulations. A licence can only be granted where the regulator is satisfied that the required legislative tests are met, such as that there is no other satisfactory alternative. We expect it to be increasingly difficult for projects to demonstrate that noise abatement is not a satisfactory alternative. Projects that do not use noise abatement therefore risk not meeting the legislative test needed in order to be granted a wildlife licence.

Natural England does not consider that a commitment to employ best endeavours constitutes a commitment to use NAS and that it does not go far enough to provide confidence and certainty that a project will implement either primary or secondary NAS for their projects and therefore noise reduction at source may not be achieved. Consequently, Natural England strongly advises that all Applicants should commit to the use of NAS as mitigation to ensure the satisfactory alternatives test for EPS licensing can be passed and significant noise reductions can be achieved to help avoid adverse effects on integrity of designated sites, particularly from cumulative and in-combination impacts with other plans and projects.

If a commitment to the use of NAS can be made pre-consent, Natural England would welcome the use of Best Endeavours by Applicants to secure the most appropriate noise abatement system or noise mitigation technology they can between consent and construction. Natural England would welcome the opportunity to engage with the Applicant in this regard post-consent.

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

Yours faithfully,

Yolanda Foote

Sussex and Kent Area Team

E-mail: [REDACTED]@[naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk)

Telephone: [REDACTED]

## Annex 1: Natural England's Response to the Applicant's Documents Submitted at Deadlines 6, 7 and 8 Relevant to our Remit

PINS Document Reference	Document Name	Natural England's Response/Position Summary
<b>Deadline 6</b>		
REP6-052	10.48 Red Throated Diver Note	Natural England's response to this document is provided in Appendix C8A to this Deadline 8A submission.
<b>Deadline 7</b>		
REP7-061	9.32 Offshore In Principle Monitoring Plan – (Rev E) (Tracked)	Natural England's response to this document is provided in Appendix N8A to this Deadline 8A submission.
REP7-076	10.20.12 Methodological Differences between the Applicant and NE on Ornithology Matters.	Natural England's response to this document is provided in Appendix D8A to this Deadline 8A submission.
<b>Deadline 8</b>		
REP8-001	Five Estuaries Cover Letter	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-003	1.3 Guide to the Application - Revision L (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-005	5.4 Report to Inform Appropriate Assessment - Revision D (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-007	5.4.3 HRA Screening Matrices - Revision D (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-009	5.5.1 Benthic Compensation Strategy Roadmap - Revision C (Tracked)	Natural England has provided a response to this

<b>PINS Document Reference</b>	<b>Document Name</b>	<b>Natural England's Response/Position Summary</b>
		document in Appendix E8A to this Deadline 8A submission.
REP8-011	5.5.3 Lesser Black Backed Gull Compensation - Evidence, Site Selection and Roadmap - Revision D (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-013	5.5.5 Guillemot and Razorbill - Evidence, Site Selection and Roadmap - Revision D (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-015	5.5.8 Guillemot and Razorbill Implementation and Monitoring Plans - Revision D (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-017	6.5.4.14 Migratory Collision Risk Modelling - Revision B (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-021	9.4 Onshore Substation Design Principles Document - Revision C (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-023	9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan - Revision F (Tracked)	Natural England has provided a response to this document in Appendix E8A to this Deadline 8A submission.
REP8-025	9.22 Outline Landscape and Ecological Management Plan - Revision E (Tracked)	Natural England has provided a response to this document in an update to our Deadline 8A Risk and Issues Log.
REP8-027	9.22.1 Arboricultural Report - Revision B (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-030	9.30 Coordination Document - Revision B (Tracked)	Natural England has not been able to review this

<b>PINS Document Reference</b>	<b>Document Name</b>	<b>Natural England's Response/Position Summary</b>
		document owing to the limited time between Deadlines 8 and 8A.
REP8-032	9.32 Offshore In Principle Monitoring Plan - Revision F (Tracked)	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-035	10.63 Applicant's Comments on Deadline 7 Submissions	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-036	10.63.1 Applicant's Comments on Natural England's Deadline 7 Submission	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-037	10.64 Response to Rule 17 Letter - 27 February 2025	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.
REP8-038	10.64.1 Response to East Anglia Two's Deadline 7 submissions and the ExA's Rule 17 Request to the Applicant	Natural England has not been able to review this document owing to the limited time between Deadlines 8 and 8A.