



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES
2010

Rampion Two Offshore Wind Farm

Appendix A6 to the Natural England Deadline 6 Submission

Natural England's Advice on the Development Consent Order (DCO)

For:

The construction and operation of the Rampion 2 Offshore Windfarm located approximately
13km off the Sussex coast in the English Channel.

Planning Inspectorate Reference EN010117

01 August 2024

Appendix A6 – Natural England’s advice on the Development Consent Order (DCO)

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

- [REP5-009] 3.3 Schedule of changes to the Development consent order Revision E
- [PD-013] Schedule of recommended Amendments to the Applicant’s draft DCO submitted at Deadline 4
- [REP4-017] Alternative Schedule 17 (on a without prejudice basis) (Tracked Changes)
- [REP4-081] Schedule 18 – Measures of Equivalent Environmental Benefit (on a without prejudice basis) Revision A
- [PD-017] Examining Authority’s Rule 17 Letter Requesting Additional Information from the Applicant – Annex B

1. Summary

Natural England notes that the updates include a variety of amendments. Some of these amendments we support, and some have reopened issues in our Risks and Issues Log. We have provided detailed comments on Alternative Schedule 17 and Schedule 18 below, which includes some advice on wording included in Annex A.

2. Detailed Comments

Table 1 Summary of Key Issues - [REP5-009] 3.3 Schedule of changes to the Development consent order Revision E

Point number	Location within Submitted Document			Natural England Response	
	Section	Page	Paragraph, Table or Figure Number	Key Concern	Natural England's Advice to resolve the issue
1				Natural England notes a tracked changes version of the DCO has also been provided. As the changes on the DCO will be recorded in the Schedule of Changes, we will provide comments on the Schedule of Changes only to avoid replication of comments. Further as the version of the Schedule of Changes submitted at deadline 5 incorporates the changes submitted at deadline 4 in Appendix 1, we will comment on the deadline 5 version only.	N/A
2	Article 2	2	Deadline 5 changes table	Natural England notes that new definitions have been added to the DCO for the Outline Cable Burial Risk Assessment and Outline Cable Specification and Installation Plans. Further, we note that Schedules 11 and 12 conditions 11 1 (n) and 11 (1) (n) (iii) have subsequently been amended as detailed in pages 10,11 and 13. We accept these changes.	N/A
3	Schedule 1, Part 3, requirement 14	5	Deadline 5 changes table	We note that the changes have been made to this requirement in line with the ExA Schedule of Changes and refer you to our comments on this proposed change below (point 8) and pointA4 of	We advise this includes a requirement to consult the relevant SNCB.

Point number	Location within Submitted Document			Natural England Response	
	Section	Page	Paragraph, Table or Figure Number	Key Concern	Natural England's Advice to resolve the issue
				the Risk's and Issue's Log, which had been closed and should now be considered reopened.	
4	Schedule 1 Part 3, Requirement 43	8	Deadline 5 changes table	Natural England notes that a requirement has been added with regard to the pre-construction requirements for European Protected Species. We accept the proposed wording and consider the issue we raised resolved.	Issue A6 may be considered resolved and has been turned to green on our Risks and Issues Log.
5	Schedule 11 Part 2, Condition 11	10	Deadline 5 Changes table	Natural England notes the additional wording for condition 11 (1) (f) with regard to the use of the Working in Proximity to Wildlife in the Marine Environment Protocol during construction and operation. We note we had concerns related to decommissioning, however, we also note that a new marine licence will be needed at the time of decommissioning and therefore this issue can be addressed at time of decommissioning. This comment also applies to condition 11 (1) (f) of Schedule 12 Part 2.	Issue C7 may be considered resolved.
6	Schedule 11 Part 2 Condition 11	23	Appendix 1 Table of changes at Deadline 4	Natural England notes the change to condition 11 (1) (a) (iii) and (v) and considers the wording an improvement. However, it should be noted that we have outstanding concerns relating to micro-siting (see Appendices E5/6 and DF6). Furthermore, we note the wording proposed within the Schedule of recommended amendments submitted at Deadline 4 and we support the use of this wording.	We advise that this condition is updated as per the Schedule of recommended amendments at Deadline 4.

Point number	Location within Submitted Document			Natural England Response	
	Section	Page	Paragraph, Table or Figure Number	Key Concern	Natural England's Advice to resolve the issue
7	Schedule 11 Part 2, Condition 11	24	Appendix 1 Table of changes at Deadline 4	<p>The amendment of condition 11 (1) (c) (i) to note that the construction method statement will include the maximum hammer energy does not address the concerns we have raised in our Relevant Representation (Issue A8 of the Risks and Issues log). The maximum hammer energy is a key metric of Rochdale Envelope that has been used to assess the impact of noise on marine mammals and sensitive fish species. It should therefore be restricted by specific reference as other important factors have been, such as the number of piles. We note that all recent OWF DCOs have included specific hammer energy, with some including different limits for monopile and pin piles (as have been proposed for Rampion 2). Please see DCO for East Anglia One North and Two as an example.</p> <p>Additionally, we note that the licence as drafted does not restrict piling to the maximum scenario assessed in the ES Underwater Noise Assessment in relation to the number of piles/simultaneous locations for piling within 24hrs. See Appendix E6, point 2.1, paragraph 1 for our understanding of the maximum scenario that would need to be conditioned.</p>	We advise that the condition requires a further update as per our comments and previous OWF DCOs. We advise that the parameters of the maximum piling scenario assessed in the ES must be secured in a condition. Issue A8 remains unresolved.

Table 2 Summary of Key Issues - [PD-013] Schedule of recommended Amendments to the Applicant's draft DCO submitted at Deadline 4

Point number	Location within Submitted Document			Natural England Response	
	Section	Page	Paragraph, Table or Figure Number	Key Concern	Natural England's Advice to resolve the issue
8	Number 10	11	Schedule 1, Part 3, Requirement 14	Natural England notes that the proposed wording seems to remove the requirement to consult the Statutory Nature Conservation Body. We would note we requested the requirement be amended to include consultation of the relevant SNCB within our Relevant Reps (issue A4 of the Risks and Issues Log). This change has reversed the change we previously agreed to and therefore our Issue at A4 should be considered reopened.	We advise this is amended to include a requirement to consult the SNCB.
9	Number 23	24	Part 2 Condition 11 (1)(a)	We note and support the proposed wording here.	This wording should be included in the final DCO.

Table 3 - Summary of Key Issues - [REP4-017] Alternative Schedule 17 (on a without prejudice basis) (Tracked Changes)

Point number	Location within Submitted Document			Natural England Response	
	Section	Page	Paragraph, Table or Figure Number	Key Concern	Natural England's Advice to resolve the issue
10	Overarching comment	N/A	N/A	<p>Natural England has drafted some template wording for the use of compensation schedules which include an option to submit through the Marine Recovery Fund (Annex 1 below), which the Applicant indicates they may choose as an alternative mechanism to deliver their compensation.</p> <p>This wording was drafted with a benthic scheme in mind however can easily be adapted for other receptors. We would advise that conditions 2-6 of our template should be considered for inclusion within this schedule for both part 1 and Part 2. Condition 4 of the template is of particular importance as it details what factors should be considered when determining the value of any contribution to a strategic scheme. This gives more transparency and security with regard to the contribution.</p>	Consider amendments to the schedule to include additional conditions to appropriately secure strategic compensation through the Marine Recovery Fund.

Point number	Location within Submitted Document			Natural England Response	
	Section	Page	Paragraph, Table or Figure Number	Key Concern	Natural England's Advice to resolve the issue
11	Part 1	1-2	Part 1 conditions 1-4	Natural England notes that these conditions include the requirement to create and consult an Offshore Kittiwake engagement Group. This amendment partially addresses the comments we provided within our Deadline 1 response Appendix A1 point 10 (Issue A25 within our Risks and Issues Log). However, the amendment does not include the requirement to provide a schedule of preparation and delivery. We consider this an important requirement and advise it is included.	We advise that issue A25 may be considered partially resolved. However, we still recommend an amendment to this condition to include the provision of a schedule of preparation and delivery within the new condition 3.
12	Part 1	3	Condition 7 (formerly condition 4)	Natural England notes that this condition has been amended and now include a requirement that no operation may be undertaken until Artificial Nesting Structures (ANS) have been in place for at least 4 full breeding seasons. We support this amendment and would note this resolves point 11 of our Deadline 1 response Appendix A1, and issue A26 of our Risks and issues Log. However, given the specificity this applies only in the event ANS are used, and given the wording it is possible other options may be considered. It is important that any compensation is delivered and functioning prior to operation.	Consider amendment to require all compensation options to be delivered 4 full breeding seasons prior to works.
13	General	N/A	N/A	Natural England notes the wording for part 2 mirrors that in part 1 and therefore our comments above should be considered for both parts where similar provisions are included.	N/A

Table 4 - Summary of Key Issues - [REP4-081] Schedule 18 – Measures of Equivalent Environmental Benefit (on a without prejudice basis) Revision A

Point number	Location within Submitted Document			Natural England Response	
	Section	Page	Paragraph, Table or Figure Number	Key Concern	Natural England's Advice to resolve the issue
14	General Comment			Natural England have overarching concerns regarding the MEEB measures proposed (see Appendix E5). Notwithstanding this Natural England have provided the advice below.	N/A
15		4	5	This paragraph does not have any actions which can be taken should the monitoring highlight that the Measures of Equivalent Environmental Benefit (MEEB) are not working as expected. Natural England advise this is amended to include adaptive management measures.	We advise that this is amended to include a requirement to develop and instigate adaptive management should the monitoring highlight a failure in the MEEB.

Table 5 - Summary of Key Issues - [PD-017] Examining Authority's Rule 17 Letter Requesting Additional Information from the Applicant – Annex B

Point number	Location within Submitted Document			Natural England Response	
	Section	Page	Paragraph, Table or Figure Number	Key Concern	Natural England's Advice to resolve the issue
16	Point 4 - ExA's Additional Suggested Amendments to the draft DCO			<i>'Notwithstanding the mitigation measures proposed within the submitted information and the Commitment Register, there shall be no piling associated with this development between the dates of 01 March to 31 July inclusive, unless otherwise agreed in writing before the commencement of any piling by the Marine Management Organisation'</i>	We note the condition proposed by the ExA in Point 4 and support the need for the condition as worded by the ExA.

Annex 1- Draft template Schedule for compensation with a strategic fund option.

Schedule XX

[Site Name] Special Area of Conservation: Delivery of measures to compensate for [impacts]

1. In this Schedule—
 - “BIMP” means the benthic implementation and monitoring plan for the delivery of measures to compensate for the cable installation and protection in the [Site Name] SAC as a result of the authorised development;
 - “BSG” means the benthic steering group who will shape and inform the scope and delivery of the BIMP;
 - “[Site ref] SAC” means the [Site name] Special Area of Conservation;
 - “[Site ref] SAC compensation plan” means the document certified as [In Principle Compensation Plan Document Ref] by the Secretary of State for the purposes of this Order under article XX (Certification of plans etc); and
 - “Strategic Compensation Fund” means the [name of strategic fund] fund established by Defra [or another Government body] for the purpose of implementing strategic compensation measures.
 - “Strategic Compensation Owner” means the government body which established the Strategic Compensation Fund with the responsibility to manage the fund.

2. No later than 2 years from the date of this order the Undertaker must advise the Secretary of State of the intention to provide compensation either;
 - a. Through a monetary contribution to the Strategic Compensation Fund; or
 - b. Through a project alone compensation scheme for the undertaker to provide compensation as outlined in the [site ref] SAC Compensation Plan.Paragraphs 7-15 of this Schedule shall not apply to the extent that a contribution to the Strategic Compensation Fund has been elected in Paragraph 2 of this Schedule and paragraphs 4, 5 and 6 of this schedule shall not apply to the extent that a project alone compensation plan has been elected in paragraph 2 of this Schedule.

3. The authorised development may not be commenced until a plan for the work of the BSG has been submitted to and approved by the Secretary of State. Such plan must include:
 - (a) terms of reference of the BSG;
 - (b) the membership of the BSG;
 - (c) details of the schedule of meetings, timetable for preparation of the BIMP and reporting and review periods, or details of the schedule of meetings to agree contribution to the Strategic Compensation Fund; and
 - (d) the dispute resolution mechanism.

4. The undertaker must agree a ratio/value of contribution with the strategic compensation owner, in consultation with the Statutory Nature Conservation Body [and the BSG]. Unless agree otherwise with the Strategic compensation Owner the ratio/value must include consideration of the provision of;
 - a. The required contribution to compensate for the worst-case scenario of impact on the [site ref] SAC;
 - b. The required contribution to monitoring of the compensation undertaken under the Strategic Compensation Fund;
 - c. The required contribution to provide for any adaptive management measures for the compensation undertaken under the Strategic Compensation Fund;
 - d. The timing of any required contribution to ensure compensation is either provided ahead of construction or to a sufficiently high ratio to allow for construction prior to implementation of the compensation;
 - e. The required contribution for the ongoing maintenance of the compensation undertaken under the Strategic Compensation Fund; and

- f. The required contribution for any decommissioning of the compensation undertaken under the Strategic Compensation Fund.
5. Prior to the commencement of any works the undertaker must provide details on the contribution to the Strategic Compensation Fund agreed under paragraph 4 to the Secretary of State for approval.
6. The undertaker must provide the contribution to the Strategic Compensation Fund as per the agreement approved by the Secretary of State under paragraph 5.
7. The BSG must be consulted on the proposed BIMP prior to the submission to the Secretary of State and must be consulted further as required during the approval process.
8. The undertaker will meet with and report to the BSG at least annually throughout the establishment and implementation phases of the BIMP and document the conclusions of the meetings.
9. The BIMP must be submitted to and approved by the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body.
10. The BIMP must accord with the relevant principles contained in the [site ref] SAC compensation plan and must include in particular provide:
 - (a) details of any further survey work required to inform the compensation requirements as per the requirements of the secretary of state agreed through consultation with the BSG;
 - (b) details of the location, nature and works to be undertaken to compensate for the predicted effects of the project;
 - (c) a method statement for the compensatory works, to include the vessel type, tools used and mitigation for how impacts on the [site ref] SAC and any other relevant habitats or features
 - (d) a programme of works for the compensatory works;
 - (e) proposals for monitoring in accordance with the principles set out in the [site ref] SAC compensation plan as well as proposals for reporting of monitoring; and
 - (f) success criteria, adaptive management measures, and details of how all impacts to protected habitats and features within designated sites will be avoided.
11. The BIMP must be carried out as approved, unless otherwise agreed in writing by the Secretary of State in consultation with the MMO and the relevant statutory nature conservation body. In particular, no installation works in the [site ref] SAC may be commenced until the Secretary of State has confirmed that compensation requirements have been discharged, excluding monitoring and/or adaptive management measures.
12. Unless otherwise agreed in writing with the Secretary of State, prior to the commencement of any cable installation works in the [site ref] SAC, the undertaker must—
 - (a) provide a reasonable estimate of the cost of delivery of the compensation measures; and
 - (b) put in place either—
 - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
 - (ii) an alternative form of security for that purpose, that has been approved by the Secretary of State.

- 13.** Results from the monitoring scheme must be submitted at least annually to the Secretary of State, the MMO and the relevant statutory nature conservation body. This must include details of any finding that the measures have been ineffective in securing an improvement in the condition of the [site ref] SAC and, in such case, proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the MMO and the relevant statutory nature conservation body.
- 14.** A report which demonstrates completion of the activities required by the BIMP must be submitted to the Secretary of State within 12 months of completion of such activities and following approval of the report by the Secretary of State, in consultation with the MMO and the statutory nature conservation body, the undertaker will be discharged from any further obligations under this Part.
- 15.** The approved BIMP includes any amendments that may subsequently be agreed in writing by the Secretary of State, in consultation with the MMO and the relevant statutory nature conservation body. Any amendments to or variations of the BIMP must be in accordance with the principles set out in the [site ref] SAC compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any new or materially different environmental effects from those considered in the [site ref] SAC compensation plan.