



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES  
2010

NORTH FALLS OFFSHORE WIND FARM

**Appendix M5 to the Natural England Deadline 5 Submission**  
**Natural England's comments on the Examining Authority's 2<sup>nd</sup> Written**  
**Questions on the North Falls OWF application [PD-012 & PD-013]**

For:

The construction and operation of North Falls Offshore Wind Farm, located approximately 40 km from the East Anglia Coast in the Southern North Sea.

Planning Inspectorate Reference EN010119

30 May 2025

| ExQ2   | Question to: | Question:  | Natural England's response:   |
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| <b>9.0 Development Consent Order</b>   |              |  |   |
| <b>9.1 Schedule 1 Part 3 - Requirements</b>                                  |              |  |   |
| <b>9.2 Schedules 8, 9 and 10 – Deemed Marine Licences under the 2009 Act</b> |              |  |   |
| Q9.1.2   | NE           | <p><b>Requirement 2 (3) – Offshore design parameters</b></p> <p>The NE - Risk and Issues Log [REP4-067], item A4 recommends that the applicant considers an amendment to the dDCO to include the maximum volumes of drill arisings within the requirements and both DMLs. The applicant's Response to NE's Deadline 3 submissions [REP4-028] in relation to Schedule 1 Part 3 Para 2, Schedule 8 Part 1 Condition 2, and Part 2 Condition 10 indicates that the applicant has updated the DMLs in Schedules 8, 9 and 10 of the dDCO to specify the total volume of drill arisings [REP4-004].</p> <p>NE is requested to confirm that the dDCO requirement 2 Offshore design parameters submitted included in the dDCO [REP4-004] satisfactorily addresses this point. If not, please set out any drafting changes that are sought.</p> | <p>Natural England notes and accepts the changes made within Revision 5 of the DCO and the inclusion of maximum volumes of drill arisings within the DMLs. We consider this change sufficient to address the concerns raised in A4 of our risks and issues log.</p>   |
| Q9.1.3   | NE           | <p><b>Requirement 7 – Provision of landscaping</b></p> <p>The NE - Risk and Issues Log [REP4-067], item A5 states that they expect the landscape requirement set out in the dDCO Schedule 1 Part 3 requirement 7 provision of landscaping to also cover survey methods, monitoring requirements and the requirement to maintain, including the potential for replanting due to plant failures. The applicant's Response to Natural England's Deadline 3</p>  | <p>Natural England notes the response by the Applicant. However, we note that we have not requested any specific detail be added; our request was to amend the wording of the condition to note that the final plan should include consideration and details of survey methods, monitoring, and a requirement to maintain including potential replanting. We consider this level of detail appropriate for this stage of the works. It is important to secure monitoring and maintenance of</p> |

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|        |              | <p>submissions [REP4-028] indicates that it does not propose to make further changes to the drafting of the dDCO on this point for the reasons set out in that response. The applicant considers the level of detail sought by NE to be covered in the requirements is more appropriately addressed in the final Ecological Management Plan (EMP). Given the drafting changes that have been made to requirement 7 and an updated Outline Landscape and Ecological Management Strategy (OLEMS) at Deadline 4 [REP4-006] NE is requested to provide further justification for the inclusion of the matters referred to above on the face of requirement 7 and to specifically set out any further drafting changes to this requirement that they seek.</p> | <p>the landscaping works to ensure the mitigation is monitored and maintained for the required periods.</p> <p>As an additional point Natural England notes the requirement refers to consultation with Natural England. This should be consultation with the relevant Statutory Nature Conservation Body (SNCB), as should all references to Natural England within the DCO, to ensure future proofing should there be a change to the statutory nature conservation body.</p> |
| Q9.1.4 | NE           | <p><b>Requirement 8 – Code of Construction Practice</b></p> <p>The NE - Risk and Issues Log [REP4-067], item A6 which relates to Schedule 1 Part 3 requirement 8 Code of construction practice identifies this item as partially resolved. The applicant's Response to Natural England's Deadline 3 submissions [REP4-028] points out that requirement 8(1) sets out that the code of construction practice (CoCP) must accord with the outline code of construction practice. In addition, NE has been added as a named consultee for this requirement. NE is requested to confirm whether or not this issue has now been resolved and, if not, set out any further drafting amendments that are sought.</p>   | <p>Natural England is grateful for the change. However, notes that it should state consultation with the SNCB as detailed in our response to 9.1.3 above. Once this amendment is made our issue with this condition will be resolved.</p>   |

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| Q9.1.6 | NE           | <p><b>Requirement 12 – Ecological Management Plan</b></p> <p>The NE - Risk and Issues Log [REP4-067], item A7 which relates to Schedule 1 Part 3 requirement 12 Ecological management plan identifies this item as partially resolved. The requirement provides 12(1) for consultation with NE on the ecological management plan for the relevant stage and 12(3) requires that pre-commencement works must only take place in accordance with the relevant details set out in the outline landscape and ecology management strategy as certified. For the avoidance of doubt NE is requested to indicate whether they are content with the requirement as drafted, and if not, set out any further amendments that they seek.</p>   | <p>Natural England notes that we have several outstanding issues with the current Outline Landscape and Ecological Management Strategy Subject to the resolution of these issues we consider the current drafting appropriate. (See H26, H31, NE's Risk &amp; Issues Log, Appendix K5)</p>                                 |
| Q9.1.8 | NE           | <p><b>Requirement 21 – Ecological Management Plan</b></p> <p>The NE - Risk and Issues Log [REP4-067], item A9 which relates to dDCO Schedule 1 Part 3 requirement 21 Biodiversity net gain. The applicant's Response to Natural England's Deadline 3 submissions [REP4-028] points out that requirement 21 provides that the final biodiversity net gain assessment must be in accordance with the outline biodiversity net gain strategy, which is a secured document, and which contains the information sought by NE who is a consultee on the finalisation of the BNG assessment. In addition, requirement 21(2) requires that the BNG assessment must be implemented as approved. For the avoidance of doubt NE is requested to indicate whether they are content with the requirement as</p> | <p>Natural England notes that this issue is also linked to issue H36 which is still pending further clarifications, as set out in our response to Deadline 4. We are unable to confirm that this issue is fully resolved until these clarifications have been provided. (See NE's Risk &amp; Issues Log, Appendix K5).</p> |

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|   |              | drafted, and if not, set out any further amendments that they seek.   |  |
| Q9.1.9                                  | NE           | <p><b>Requirements 25 and 26 – Offshore and Onshore decommissioning</b></p> <p>The NE - Risk and Issues Log [REP4-067], item A30 advises that an Outline Decommissioning Plan as requested for all other OWF NSIP applications is provided at the time of consent to ensure that decommissioning is achievable and environmentally sensitive. The dDCO [REP4-004] includes requirement 25 Offshore decommissioning and requirement 26 Onshore decommissioning. NE is requested to confirm that these requirements are sufficient to respond to its concerns in relation to decommissioning. If not, please set out any drafting amendments or additional requirements that they seek.</p> | Natural England notes that no Outline Decommissioning plan has been submitted and that our comment was on the lack of an outline plan. Therefore, our position remains unchanged.  |
| Q9.2.2                                  | NE<br>MMO    | <p><b>Volume of Arisings</b></p> <p>The dDCO (Rev 5) [REP4-004] has been amended at Condition 10 (8) of Schedule 8, Condition 11 (4) of Schedule 9 and Condition 11 (4) of Schedule 10 to include the total volumes. Are these amendments accepted?</p>   | Natural England accepts these amendments as appropriate and has updated our Risks and Issues Log accordingly (Appendix K5 to our Deadline 5 submission).   |
| <b>10. Ecology/Biodiversity/BNG/HRA</b> |              |   |  |
| Q10.0.1                                 | NE<br>MMO    | <p><b>Marine Mammals – Methodology/Cumulative Assessment</b></p> <p>Appendix E4 of Natural England's Deadline 4 comments on the Information Regarding Marine</p>  | Besides the iPCoD modelling, the Applicant also conducted assessments using the Effective Deterrence Range (EDR) approach and the dose-response curve (DRC) approach. In some scenarios, EDR and DRC approach showed significant effects |

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|         |                                   | Mammals [REP1-057] submitted by the applicant are noted. With regards to the interim Population Consequences of Disturbance (iPCoD) modelling and subsequent conclusions made, NE point to the applicant's over reliance on this as the main assessment tool. For clarity, what other specific assessment tools could/should be used by the applicant (if it was able to provide any other evidence) and why? Are other NSIP examples relevant? (Note: The ExA acknowledges dose assessment references made elsewhere).  | while iPCoD modelling consistently resulted in a non-significant effect. The Applicant used only the iPCoD modelling assessment outcomes to conclude the non-significant effects and justify no requirement for additional mitigation. Thus, Natural England maintains its original position that the significance of the disturbance impact must be presented for each of the approaches, and that the conclusions should not be based solely on the least precautionary outcomes. |
| Q10.0.2 | NE<br>MMO<br>The applicant<br>IPs | <b>Marine Mammals – Methodology/Cumulative Assessment/Transboundary aspects</b> <ul style="list-style-type: none"> <li>(i) Noting the comments of the Netherlands Ministry of Infrastructure and Water Management at [REP3-065] has the applicant adequately addressed cumulative effects/transboundary implications for marine mammals? As context the ExA acknowledges/highlights: ES Chapter 12 Marine Mammals [APP-026]; ES 12.1 Marine Mammal Consultation/Baseline information [APP-096 &amp; 097 &amp; [APP-160]; ES Appendix 13.3 Supplementary Information for CEA [APP-104]; Environmental Statement Appendix 12.6 Marine Mammal Cumulative Effect Assessment Screening [APP101] ; Further Information Regarding Marine Mammals (Rev 0) [REP1-057] &amp; [REP3-046]; the useful Cumulative Effects Assessment Summary [REP3-042] at</li> </ul> | Natural England notes the comments made by the Netherlands Ministry of Infrastructure and Water Management. However, it is not in Natural England's remit to provide advice on transboundary effects. Nonetheless, it seems plausible that the issues relating to the transboundary effects would be resolved with the commitment to NAS as per our advice [see Deadline 5 Appendix E5].  |

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|         |                            | <p>Deadline 3; and Updated Information for Offshore Ornithology Cumulative Effects Assessment (Rev 0) [REP3-040]; RIAA Part 3 Marine Mammals Annex II Species [APP-176] &amp; [APP-177]; Draft Marine Mammal Mitigation Protocol [APP-242] &amp; [REP3-013].</p> <p>(ii) Accounting for existing Issues Specific Hearing responses. The applicant is requested to give its full responses to [REP3-065] if not already done so by the next deadline.</p>   |   |
| Q10.0.3 | NE<br>MMO<br>The Applicant | <p>Marine Mammals – Cumulative Assessment / Mitigation</p> <p>(i) Applicant. NE Deadline 4 commentary regarding Cumulative Assessment [REP1-057] also implies there is cherry picking of least impactful outcomes resulting in non-significant effects for marine mammals which runs counter to the precautionary principle of EIA methodology. Overall, because of these issues NE point out that the most conservative methods for project alone, cumulative and in-combination assessments have not been utilised by the applicant. They allege there are evidence gaps in the relationship between sound, disturbance and population impacts and assumptions and uncertainties built into the model. What information can the applicant provide to address/further justify its own case more robustly?</p> | <p>(vi) Natural England notes that a final MMMP for UXO clearance will be submitted for approval under a future Marine Licence application, separate from the DCO application. Natural England will continue to engage with the Applicant and review information provided on any potential temporal restrictions. We also acknowledge that the Applicant amended the draft MMMP to make clear that if high-order clearance is required then NAS must be used.</p> |

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|      |              | <p>(ii) Can the applicant further clarify/explain its position towards NAS modelling generally (relative to national best practice) and the range of marine mammal noise mitigation it is committing to presently? And does the applicant acknowledge the benefits of Noise Abatement System (NAS) modelling if fully applied?</p> <p>(iii) The ExA note the MMO supports the commitment of noise abatement in the Draft Marine Mammal Mitigation Plan (MMMP) and Site Integrity Plan (SIP). The MMO also agrees that the effects of noise abatement systems in reducing the noise impacts should be included in the assessment at this stage including noise abatement systems (NAS) modelling. Furthermore, the MMO supports NE in recommending that the applicant revises the in combination assessment and applies the Effective Deterrent Radius (EDR) approach as per the Best Practice Guidelines Phase III and the Guidance for assessing the significance of noise disturbance against Conservation Objectives of Harbour Porpoises Special Areas of Conservation. What is the applicant's current/most up to date position on this issue?</p> <p>(iv) The ExA acknowledges that the national underwater noise policy papers have been published, by DEFRA, JNCC, NE and Cefas (documented by NE/MMO Deadline 1). These</p> |                             |



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|          |  | <p>set out the direction of travel into reducing the noise at source for piling and sets out further detail on dealing with UXO mitigation. The applicant has said it has taken such advice into account up to D4. Does the applicant intend to further adapt its existing submissions to the most recent national/technical advice? Is it satisfied it can demonstrate best practice in adequately managing impacts/effects?</p> <p>(v) The applicant's commitment to using NAS/and soft starting of piling machinery clarification is requested by the ExA alongside commitment to up to date best practices in effective deterrent radius approach within an in combination assessment. Signpost/clarify/adjust where necessary.</p> <p>(vi) Natural England/applicant. The applicant has stated that UXO cannot be scheduled to avoid winter months though it does propose an amendment to the Draft MMMP [APP-242] to make clear that 'if High-order clearance is required then NAS must be used'. When will the revised version be submitted? Is NE content with this approach/resolution?</p> |  |
| Q10.0.10 | The applicant<br>MMO<br>NE<br>Essex Wildlife Trust | <p><b>Marine environment/Benthic/Seabed matters</b></p> <p>(i) What does the applicant further propose to fill in the evidence gaps referred to by NE/MMO towards the Kentish Knock East Marine Coastal Zone?</p>  | (v) Please see Natural England's Deadline 5 responses. It is not possible to comment on the likelihood for compensation and/or MEEB requirements until Worst Case Scenarios have been identified, quantified and evaluated sufficiently within an ecological context to provide full transparency in |

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|      |              | <p>(ii) On 8 January, the Office for Environmental Protection Investigation (OEP) announced that it was launching an investigation into a suspected failure by Defra to take the necessary measures to achieve Good Environmental Status (GES) of marine waters by the statutory deadline of 31 December 2020, as mandated by regulation 4(1) of the Marine Strategy Regulations 2010. Additionally, Defra did not provide an updated report on the UK Marine Strategy by 20 December 2024, nor did it issue a formal assessment confirming whether the 2020 deadline was met. The OEP's investigation, conducted under section 33(2) of the Environment Act 2021, seeks to ensure accountability for the suspected failure and, if confirmed, secure a comprehensive plan to achieve GES as soon as possible. On 29 January, Defra published an updated Marine Strategy Part Three: 2025 UK Programme of Measures. strategy outlining the measures to achieve GES in UK seas. Several of the measures referred to are still in the process of being development, and where there are uncertainties or knowledge gaps, the strategy sets out plans to address these gaps. Is the applicant aware of this background?</p> <p>(iii) Applicant/MMO. Does the applicant need to address these context in further detail relative</p> | <p>the Applicant's assessment conclusions in relation to impacts within Margate and Long Sands SAC and Kentish Knock East Marine Conservation Zone (MCZ).</p> |

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|          |                     | <p>to the ES? Or adapt any of its mitigation provision accordingly?</p> <p>(iv) The ExA also notes that NE has updated the Margate and Long Sands SAC condition assessment (January 2025) which has determined the site to be in unfavourable condition due to existing anthropogenic pressures on the designate site feature. This is key context the ExA is drawing attention to. According to NE Risk Register Point P7 there is insufficient evidence of the potential worst case area of impact of impact on benthic communities within the MLS SAC. What is the applicant's most up to date position? The ExA acknowledges the presence of reef-forming ross worm (<i>Sabellaria spinulosa</i>) in the vicinity, which when formed as a reef qualifies as an Annex I habitat (biogenic reef). Areas of high <i>S. spinulosa</i> density support a diverse attached epifauna of bryozoans, hydroids, sponges and tunicates, and additional fauna including polychaetes, bivalves, amphipods, crabs and lobsters.</p> <p>(v) NE/MMO/applicant/Essex Wildlife Trust - Is any form of benthic/marine related compensation warranted/anticipated? If so, what should that comprise of?</p> |  |
| Q10.0.11 | NE<br>The applicant | <b>Seabed matters/Margate Long Sands &amp; Kentish Knock East MCZ &amp; NE advice</b>   | (i) Please see our detailed advice in Appendices B5 and C5 to Natural England's Deadline 5 for our detailed response on the further information on |

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|      |              | <p>(i) NE – The applicant has submitted updated hydrodynamic and dispersion modelling [REP4-040] [REP4-042] and information about additional offshore mitigation with a view to addressing your outstanding concerns regarding effects from sediment deposition and seabed level change, which have implications for habitats regulations assessment (Margate and Long Sands (MLS) SAC) and marine conservation zone assessment (Kentish Knock East (KKE) MCZ). The ExA requests a detailed response on the additional information at DL5. In doing so, confirm your advice on AEol for MLS SAC and hindrance of the conservation objectives for KKE MCZ. If you consider that AEol and/or hindrance of conservation objectives cannot be excluded, set out what specific additional information you consider is needed and indicate your view as to whether it is likely this can be resolved prior to close of examination.</p> <p>(ii) Applicant – NE's latest Risk and Issues Log [REP4-067] indicates that it is still not able to advice that AEol can be excluded for MLS SAC, or hindrance of the conservation objectives of KKE MCZ. Confirm if any consideration has been given to preparation of a without prejudice derogations case for the MLS SAC, or Stage 2 assessment for</p> | <p>sediment deposition and seabed level change provided by the Applicant at Deadline 4. With regards to our benthic ecology advice, we consider that the Worst Case Scenario for secondary impacts need to be identified, quantified and evaluated sufficiently within an ecological context to provide full transparency in the Applicant's assessment conclusions in relation to impacts within Margate and Long Sands SAC and Kentish Knock east MCZ. An AEol for MLS SAC and hindrance of the conservation objectives for KKE MCZ cannot be excluded currently, however Natural England consider it both possible and likely that this matter can be resolved by the close of examination.</p> <p>(iii) Please see Tables 2 and 3 in Appendix C5 to Natural England's Deadline 5 response.</p> <p>(iv) Please see Table 5 in Appendix C5 to Natural England's Deadline 5 Response</p> <p>(v) Please see Tables 2 and 3 in Appendix C5 to Natural England's Deadline 5 response and Table 4 in Appendix B5.</p> <p>(x) Please see Table 2 in Appendix C5 to Natural England's Deadline 5 response and Tables 4-6 in Appendix B5.</p> <p>(xi) Please see Tables 5 and 6 in Appendix C5 to Natural England's Deadline 5 response and Table 4 in Appendix B5.</p> |

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|      |              | <p>KKE MCZ, in the event that NE's advice remains unchanged. If not, explain why not, noting the requirement in paragraph 5.4.27 of Overarching National Policy Statement for Energy (NPS EN-1).</p> <p>(iii) NE – The applicant has submitted an outline Sediment Disposal Management Plan (SDMP) [REP4-038] and Cable Specification and Installation Plan [CSIP] [REP4-039] for the export cable. The ExA requests comments on the outline plans at DL5. In your response, please set out your view as to whether the measures proposed are sufficient to manage construction effects to avoid AEoI and/ or hindrance of the conservation objectives of the MLS SAC and KKE MCZ respectively from relevant construction phase impact pathways.</p> <p>(iv) NE –The ExA noted at ISH2 that NE published an updated condition assessment for MLS SAC in January 2025. The applicant has set out its position on the implications of this for its HRA in [EV6-007] and [REP4-042]. NE is requested to provide its view on the implications of the updated condition assessment for the HRA, and the response provided by the applicant. In doing so, confirm any additional information that you consider would be required by the SoS to carry out the HRA.</p> |                             |

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|      |              | <p>(v) NE – It is proposed that material from the export cable corridor can be disposed of anywhere in the disposal site (as shown on Figure 2-1 of the Outline Sediment Disposal Management Plan [REP4-038] subject to constraints listed in section 3 of [REP4-038]. Comment on whether you consider this an appropriate approach given the proximity of the export cable corridor to the MLS SAC. Please identify any concerns and, if so, how you consider these could be addressed.</p> <p>(vi) Applicant – In the Outline Cable Specification and Installation Plan (CSIP) [REP4-039] it is stated that a separate CSIP for seabed preparation works may be prepared dependent on timing of works. Explain how this would separate CSIP is proposed to be secured and who would be consulted on this plan.</p> <p>(vii) Applicant – The Outline CSIP [REP4-039] states that it does not cover the array cables and these would be covered by separate construction management plans. The ExA notes that Condition 21(h) of Schedule 8 DML for Generation Assets of the draft DCO [REP4-004] provides for a CSIP to submitted but is unclear if any outline principles with which the final plan will accord have been submitted to examination. The applicant is requested to explain its approach, including</p> |                             |

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|      |              | <p>how the ExA can have confidence in the measures proposed if an outline has not been provided.</p> <p>(viii) Applicant - The sediment dispersion modelling in [REP4-040] considers different construction phase activities separately. Confirm if there is potential for some or all activities to occur simultaneously, and if so explain why it does not also consider cumulative effects.</p> <p>(ix) Applicant - Sediment disposal has been modelled for the array area (Simulations 11 and 12) in [REP4-040] but does not appear to have been modelled for activities related to the export cable. Explain why disposal from the export cable has not been modelled.</p> <p>(x) NE – You sought further information from the applicant about how the buffer zone of 50m to KKE MCZ was determined. The applicant states in its Supporting Information on Offshore Additional Mitigation [REP4-041] that a standard buffer of 50m for Sabellaria reef is advised by NE, and therefore the same distance for coarse sediment, sand and mixed features of KKE MCZ is considered conservative. Confirm if you are satisfied with this explanation and/ or if the applicant's additional modelling provided in [REP4-040] [REP4-042] is sufficient to support the use of a 50m buffer to avoid hindrance of the</p> |                             |

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|          |                     | <p>conservation objectives. If not, please set out in detail what further information is needed.</p> <p>(xi) NE – You sought further information from the applicant about how the buffer zone of 150m to MLS SAC was determined. Confirm if you are satisfied that the applicant's additional modelling provided in [REP4-040] [REP4-042] is sufficient to support the use of a 150m buffer to avoid AEol. If not, please set out in detail what further information is needed.</p> <p>(xii) Applicant - Supporting Information on Offshore Additional Mitigation [REP4-041] includes further assessment of relevance to the RIAA Part 2 Benthic Ecology [APP-175] and MCZA Report [APP-237]. Provide updated versions of the RIAA and MCZA Report incorporating this information by the close of examination.</p> |  |
| Q10.0.12 | NE<br>The applicant | <p><b>Outstanding matters in NE's Risk and Issues Log [REP4-067]:</b></p> <p>(i) Applicant – NE [REP4-067] has indicated that item P5 of its Principal Areas of Disagreement Summary Statement (PADSS) (which also relates to several items of its advice for marine processes and benthic ecology) could be partially addressed with a commitment to pre- and post-construction bedform migration analysis, secured through updates to the In Principle Monitoring Plan (IPMP) [APP-245]. Comment on NE's</p>   | <p>(ii) Please see Table 4 NE Ref 1 in Appendix C5 to Natural England's Deadline 5 response. and Tables 4-6 in Appendix B5 to Natural England's Deadline 5 Response.</p> <p>(iv) As per Natural England's advice within our Deadline 5 response (Appendices B5 and C5), further interpretation of the hydrodynamic modelling is required to demonstrate that cable protection near Margate and Long Sands SAC will not modify sediment transport pathways/processes operating on/near the SAC.</p> |



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|      |              | <p>request. If such a commitment can be made, provide an updated IPMP by DL6. If not, explain why.</p> <p>(ii) NE – You indicate in P5 in [REP4-067] that information about the worst-case scenario parameters for sediment deposition due to construction is still required for you to finalise advice for the MLS SAC and KKE MCZ. Confirm what specific information is required and why this is necessary.</p> <p>(iii) Applicant – Item P12 of NE's PADSS [REP4-067] advised that use of readily removeable cable protection options is considered, which could reduce or mitigate impacts. The ExA notes your responses in [REP1-044] and at ISH2 [EV6-007] on this point, and that cable protection is not expected to be needed as burial is the preferred approach. However, noting that the draft DCO [REP4-004] allows for installation of cable protection, the ExA requests a fuller response to NE's advice, including an explanation of the predicted impacts of each cable protection option over the lifetime of the proposed development (and beyond if there is no commitment to removal) and consideration of the options against the mitigation hierarchy.</p> <p>(iv) NE – Clarify if your advice about readily removable cable protection has a bearing on your advice regarding AEoI and/ or hindrance</p> | <p>Natural England advises that where such potential pathways of effect exist, any placement of scour prevention/cable protection constitutes a lasting impact over the lifetime of the project which is potentially irreversible. Natural England advises that the modification of sediment transport pathways/processes operating on/near the SAC could lead to morphological changes that could alter the extent, distribution, and composition of benthic communities within the SAC. Unless relevant commitments are made by the Applicant and sufficient certainty in successful removal of cable protection demonstrated; we advise the scale of these impacts have the potential to hinder the SAC conservation objectives.</p> <p>Given the proximity of cable protection from KKE MCZ, Natural England does not believe that the conservation objectives for the site will be hindered as a result of ECC cable protection.</p> <p>v) Natural England acknowledges that there is an assessment of prey availability in the Ornithology ES chapter, and that the potential for adverse effects for OTE SPA red-throated diver through impacts on prey availability has been ruled out. Having reflected on our position, we consider that for this project any further assessment of impacts to supporting benthic habitat to Outer Thames SPA within the benthic ES</p> |

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|      |              | <p>of conservation objectives for the MLS SAC and KKE MCZ respectively. Do you consider that if cable protection is installed, and not removed, this could result in an impact pathway for AEol and hindrance of conservation objectives? If so, explain why.</p> <p>(v) NE – In P8 of your PADDS [REP4-067] you request full consideration of the likely nature of impacts upon SPA supporting habitats and prey availability. The applicant [REP1-044] set out where impacts on benthic supporting habitats in the Outer Thames Estuary SPA were assessed in its RIAA [APP-175] and ES Chapter 13 [APP-027]. Confirm what further assessment you consider is needed beyond this information.</p> <p>(vi) Applicant – Item A27 of NE's PADDS [REP4-067] provides advice on the use of caveats such as "where practicable" in the Schedule of Mitigation [APP-262]. The ExA notes your response in [REP1-044] but seeks assurance that any mitigation proposed to avoid AEol and/or hindrance of conservation objectives is adequately secured and there is no flexibility retained that could result in the mitigation being reduced to a level that would render it ineffective in this regard. Explain how the discharging authority can have confidence in the mitigation and final effect level can have if such caveats are used.</p> | <p>chapter is unlikely to materially change this assessment. Accordingly, we confirm that no further action on this issue by the Applicant is required.</p> <p>We also highlight that the WCS in relation to impacts to benthic MPAs is not yet agreed and therefore we are unable to agree with the Applicant's rationale provided at [REP1-044].</p> |

| ExQ2     | Question to:  | Question:   | Natural England's response:  |
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| Q10.0.13 | MMO<br>NE<br>The applicant<br>Essex Wildlife Trust<br>Essex CC/Tendring<br>DC | <b>Marine Environment/ Deemed Marine Licensing/dDCO</b> <ul style="list-style-type: none"> <li>(vii) Essex Wildlife Trust (EWT)/Councils - the "Working in Proximity to Wildlife Plan" (is referred to by EWT's Relevant Representation). Firstly, the ExA request this document is submitted to the examination and secondly, can EWT/relevant Essex Council's indicate the status/weight of this document/role in local decision making?</li> <li>(i) EWT/NE advise that the applicant should commit to specific mitigation measures, particularly NAS, in the MMMP. The MMO acknowledges that EWT consider that this should sit alongside a Working in Proximity to Wildlife Plan to reduce the risk of disturbance from ships, boats and other vessels and the risk of them colliding with marine mammals. Can EWT clarify why the inclusion of the document is an important? Secondly, what is the applicant's most up to date position to these points?</li> <li>(ii) MMO/NE's concerns regarding overlap with the dDCO requirements/Deemed Marine Licences are relevant in that it is alleged they are not accurately capturing all the required maximum parameters of the proposed works and submits that the applicant should update the DCO and DMLs to ensure maximum parameters of all important metrics are</li> </ul> | <ul style="list-style-type: none"> <li>(i) Natural England maintains its position that the Applicant needs to commit to reducing the noise at the source i.e. NAS. At this point, the Applicant is referring to NAS as an 'additional mitigation' which is not in line with either our advice or the Defra Noise Policy (2025).</li> <li>(ii) Natural England has not received further information in regard to our comment on the worst-case scenario for the multiple piling locations.</li> <li>(vii) Natural England has not received further information regarding the Monitoring Plan. We acknowledge that the Applicant plans to conduct additional monitoring besides the standard requirement for noise measurements for the first four piled and engage with us post-consent.</li> </ul> |

| ExQ2 | Question to: | Question:  | Natural England's response: |
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|      |              | <p>appropriately secured. Can the applicant guarantee/signpost/update/provide further evidence maximum parameters “are” addressed or “can be” addressed?</p> <p>(iii) Applicant. The Site Integrity Plan Condition is advised to be no sooner than 9 months and no later than 6 months owing to in-combination impacts. – Is the applicant in agreement to ensure that formally? If so, signpost the alteration(s).</p> <p>(iv) MMO. In relation to requirements to cease works should noise impacts be exceeded, how is this achieved/regulated? NB:- The MMO agreed that a key mitigation for marine mammals should be included in the condition wording for the DML is that piling activity must cease in the event that the monitoring highlights that noise impacts are in excess of the predicted impacts. The MMO was said to be reviewing the Condition. Are the MMO now content dDCO/DML wise? Please clarify.</p> <p>(v) Applicant/MMO. Would the MMO be notified formally over which piling method is to be up taken in advance of any commencement independent of DML provision? And by which mechanism dDCO/DML would that be achieved?</p> <p>(vi) MMO/applicant. In relation to the technical requirements/conditions for species specific “monitoring” of benthic ecology/fish and</p> |                             |

| ExQ2 | Question to: | Question:   | Natural England's response: |
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|      |              | <p>shellfish/marine mammals &amp; birds overall and other related matters. Briefly explain if they would/should be independent/interdependent of dDCO requirements/articles covered in the content of any DML or other Licensing mechanisms or vice versa? The applicant is asked to review the approach in the recent Rampion 2 SoS Decision in relation to the administration of the dDCO/DMLs that was secured toward ecology on a species specific level and amend its approach where necessary.</p> <p>(vii) Applicant/MMO/NE. With respect to monitoring. Does the monitoring strategy need to be further tailored given piling methodology changes or any other interests/technicalities at this stage? Can the applicant explain what is intended/options are available and via Adaptive Monitoring with respect to marine wildlife and signpost where it is presently secured? Adjust where necessary. (NB: the ExA acknowledges IPMP [APP-245] outlines the monitoring which would inform mitigation requirements. The detailed methodology for the monitoring presently states it would be developed post consent, in consultation with NE and agreed with the MMO).</p> |                             |

| ExQ2     | Question to:        | Question:   | Natural England's response:   |
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| Q10.0.15 | The applicant<br>NE | <p><b>Overall ornithological/ecological harm avoidance</b></p> <p>AEol cannot be ruled out for lesser black-backed gull from the Alde Ore Estuary because of predicted mortality owing to collision risk, when considered in-combination with other OWFs. In terms of further improving avoidance or existing mitigation available.</p> <p>(i) Has painting the rotor blades or single blade another colour (such as Black) ever been considered by the applicant's assessments before seeking derogations/compensatory arrangements? (ii) Would such action reduce bird deaths? (iii) Is there flexibility/scope to do that ES assessment wise/dDCO wise and commit to it if it is beneficial to ecology? (iv) Could the applicant give evidence on this matter and clarify why it has been ruled out where necessary. The ExA is requesting to know why novel avoidance measures can/cannot be pursued.</p> | <p>i) Natural England considers that this question is for the Applicant to respond to.</p> <p>ii) Natural England consider blade painting to be a potentially viable mitigation technique for reducing bird collision mortality. However, we would highlight that at present both the manufacture and deployment of painted blades or turbine components <u>and</u> measure efficacy remains untested in the offshore environment. It is not yet proven that blade painting can reduce lesser black-backed gull collisions offshore, and if so, the scale of reduction possible.</p> <p>Following a Natural England commissioned research report (Martin, 2022), field trials under the OWEC programme are planned to assess both the efficacy of the method and any unintended consequences (e.g. increased displacement impacts). Other trials are also planned (e.g., at the Ijmuiden Ver Alpha OWF in the Netherlands).</p> <p>However, it is not clear if these trials will report results in time for the Applicant to be able to consider the potential to custom paint turbine components when ordering turbines. We further note that some concerns have been raised around technical considerations and potential limitations when undertaking such modifications.</p> <p>iii) Natural England are supportive in principle of the mitigation measure being applied in appropriate</p> |

| ExQ2     | Question to: | Question:  | Natural England's response:   |
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|          |              |  | locations, if it is ultimately deemed effective, fully supported by evidence, and proves to be deliverable from a supply chain perspective. However, if desired, the dDCO could be amended to allow for the potential inclusion of this mitigation in the future should evidence emerge regarding its effectiveness. We note, however, that the use of this mitigation may increase the impact on seascape and visual impacts and that this would need to be assessed in advance of Natural England confirming its appropriateness or otherwise. We reserve the right to re-consider our advice on Seascape impacts should this mitigation option be progressed.              |
| Q10.0.16 | NE<br>RSPB   | <b>Overall Ornithological Compensation (without prejudice or otherwise)</b> <ol style="list-style-type: none"> <li>i. Can NE/RSPB clarify to the ExA why collaborative measures would be preferable for any form of compensation sought as necessary? Is this purely policy/best practice based rationale?</li> <li>ii. Are greater ecological benefits possible via collaborative approach if so what are they and why? If the reasons are species specific/case by case specific, if so, why? Are there any other project specific reasons for the stated preference?</li> </ol> | i) Natural England consider that compensatory measures are best delivered strategically and at scale to optimise the chances of delivering sufficient ecological benefits to impacted seabirds. Ultimately, the MRF should facilitate the effective delivery of strategic measures. In-lieu of a MRF delivery mechanism and if deemed appropriate and possible, we have advised collaborative approaches to compensatory measures would be preferable to piecemeal simultaneous delivery across several projects. This is especially the case when those projects have relatively small contributions to in-combination impact totals that nonetheless contribute to an AEOL. |

| ExQ2 | Question to: | Question: | Natural England's response:  |
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|      |              |           | <p>ii) Briefly, we consider a range of benefits are possible, many of which arise by sharing the burden of design, delivery and monitoring over long time periods.</p> <ul style="list-style-type: none"> <li>• Significant efficiency gains can be made across several areas, e.g. securing land agreements, evidencing measures, contracting specialist suppliers and practitioners.</li> <li>• Monitoring can be deployed more strategically, with more prospect of delivering or testing more challenging aspects (e.g. colour ringing, novel techniques, and technology).</li> <li>• Standardised approaches are more easily agreed and delivered. Divergent approaches can be more readily investigated and compared or even designed to test ideas and methods.</li> <li>• Aggregation of relatively small project alone impacts can enable the delivery of a more meaningful compensatory measure, potentially increasing the prospect of success.</li> </ul> <p>Collaborative approaches do not inherently deliver greater ecological benefit, but we do consider that this is certainly a possible outcome.</p> <p>We also recognise that from the project perspective there is a level of risk involved in any collaborative measure due to the reliance on other projects which may, for example, have conflicting timescales or requirements.</p> |



| ExQ2     | Question to:  | Question:   | Natural England's response:   |
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| Q10.0.17 | The applicant<br>NE<br>MMO<br>Essex CC<br>Tendring DC<br>RSPB/NT<br>IPs | <p><b>Overall HRA derogation/Ecological Compensation/Schedule 15 Wording</b></p> <p>The ExA notes the applicant's point that in the Secretary of State's decision letter (DESNZ, 2024) for the Sheringham Shoal Extension Project and Dudgeon Extension Project (SEP &amp; DEP), it is stated that "The Secretary of State agrees with the applicant and NE that strategic compensation represents the best option for delivering compensation for impacts of OWFs. Given all relevant technical disputes with Natural England/MMO (as statutory consultees) as well as other representations such as from the National Trust and the RSPB combined -mixed with the risks/uncertainty of other scheme outcomes the ExA acknowledge these are important examination factors.</p> <ul style="list-style-type: none"> <li>i. NE/MMO – a) Does any further HRA related derogation case (without prejudice or otherwise) above what is already provided in the examination material need to be addressed by the applicant? b) Secondly, does any other designated site/species specific compensation measure need to be requested from the applicant? For the avoidance of any doubt please confirm if there is any omission presently or not having regard to all marine life and related protected sites.</li> <li>ii. Applicant. How can the ExA be satisfied compensation measures can be in place before any negative effect on a European site or sites</li> </ul> | <p>i) Natural England are content that the derogation cases the Applicant has prepared are sufficient to account for all HRA issues relating to marine ornithology [Deadline 4 responses Appendices G4.1 [REP4-060], G4.2 [REP4-061], G4.3 [REP4-062], G4.4 [REP4-063]. and H4.1 [REP4-064].</p> <p>iv) Natural England refers to our Relevant Representations [RR-243] and subsequent responses provided at Deadlines 1-5 and have no further comments to add at this stage regarding the sufficiency of the compensation proposals.</p> |

| ExQ2 | Question to: | Question:  | Natural England's response: |
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|      |              | <p>begins given there is no control over when MRF funding systems will become functional nationally?</p> <p>iii. Applicant. Expanded Schedule 15 compensation wording was requested from the applicant by the ExA during the recent Issue Specific Hearings for the proposal. Please provide that if not already undertaken. For without prejudice Schedule 15 wordings dealing with compensation purposes to be provided, the ExA notes that the definition of 'relevant planning authority' (which could be taken as meaning Tendring District Council, or any successor planning authority) may not be adequate to ensure the inclusion of any existing strategic nature board or all relevant Councils. Does the applicant intend to cover this issue?</p> <p>iv. IPs. The UK Government 29 January issued interim guidance for the Marine Recovery Fund (MRF), a mechanism designed to support strategic compensation measures for offshore wind activities that impact marine habitats. The guidance provides information on ornithological and benthic compensation measures available in the Library of Strategic Compensation Measures. It serves as a resource for offshore wind developers to reference appropriate compensatory strategies prior to the MRF becoming fully operational. Do NE/RSPB/MMO</p> |                             |

| ExQ2     | Question to:        | Question:  | Natural England's response:  |
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|          |                     | Local Councils/IPs have any other views on the potential adequacy compensatory measures overall? Is there anything else that should be included to ensure effectiveness/the most suitable delivery outcomes?   |  |
| Q10.0.18 | The applicant<br>NE | <p><b>Lesser Black Backed Gull (LBBG) – Compensation/HRA</b></p> <p>(i) NE. [REP4-010] regarding LBBG compensation having Likely Significant Effect/Adverse Effect on Integrity (AEol) on Orfordness Shingle Street SAC. The applicant states the compensation works will not have AEol and provide justifications for this at section 3.2.3.1. of [REP4-010]. What is the response from NE on this matter?</p> <p>(ii) NE and applicant. There is some discussion regarding effects from use of Lantern Marshes for LBBG compensation, but what about Gedgrave Marshes or VE2 are you content?</p> <p>(iii) Has the applicant assessed whether compensation for LBBG at Gedgrave Marshes may have LSE/AEol on: • Alde-Ore Estuary Special Protection Area (SPA); • Alde-Ore Estuary Ramsar site; • Alde-Ore Estuary Site of Special Scientific Interest (SSSI); • Orfordness-Havergate National Nature Reserve (NNR); • Orfordness-Shingle Street Special Area of Conservation (SAC); and • Suffolk and Essex Coast and</p> | <p>(i) The section 3.2.3.1 outlines the designated features of the SAC, the conditions of the coastal lagoons when they were last surveyed in 2021 and an assumption of the quality of shingle habitat present. As no baseline or up to date (within last 3 years max) surveys have been undertaken, it does not identify what species are present and the value of those in the context of the SAC. In 3.2.3.2 the conservation objectives are listed but not how Lantern Marshes contributes to the ability of the SAC to achieve Favourable Conservation Status. Without understanding what species are present and evidencing the quality of the habitats it is not possible for Natural England to rule out an AEol.</p> <p>(ii) If Gedgrave Marshes becomes the preferred option, then there are potential impacts on SPA overwintering wader and wildfowl features using the site. Evidence is needed to ascertain to what degree the site is functionally linked to the wider SPA. The project could potentially enhance conditions for SPA features dependent on what species are using the area and for what functional purpose.</p> |

| ExQ2 | Question to: | Question:  | Natural England's response:   |
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|      |              | <p>Heaths National Landscape. Please confirm/evidence/clarify.</p> <p>(iv) Whilst NE are broadly supportive of the updated LBBG compensatory details with respect to apportioning and general approach there appears potential for stronger measures to be delivered collaboratively with respect to scale and benefits. In particular –a contribution to a share measure 0.2ha is likely to be deemed insufficient as an alternative to a project alone 4ha site proposal. The ExA is highlighting that a shared measure may not be compliant with HRA legislation and is seeking a stronger alternative in collaboration with other operators. Please update the examination record accordingly.</p> <p>(v) In terms of scaling compensatory measures for LBBG. There still appears some shortcomings with using the Hornsea 3 Part 2 ('H3pt2') method for calculating breeding pairs required to generate sufficient recruits to compensate for the project. In light of submissions, the issue remains contentious in the submissions, plus there is British Trust for Ornithology information yet to be formalised. Therefore, case specific NE advice will need to be factored by the ExA (as indicated by NE) until it closes. The ExA requests the applicant to apply flexibility in</p> | <p>VE2 also lacks baseline evidence and bases conclusions of no LSE/AEoI on assumptions, so baseline evidence is required for that project [REP7-104, REP7-107, REP8-051].</p> <p>(iii) In the documents reviewed for LBBG compensation Gedgrave Marshes has not had an HRA Screening for impacts on N2K sites.</p> <p>(iv) Natural England welcome the ExA comments on ensuring appropriate contribution to a collaborative measure of sufficient scale.</p> <p>(v) Natural England do not anticipate updating our advice on the calculation of breeding pairs with respect to scaling and judging success of the compensatory measure (REP4-060)</p> <p>(vi) Natural England notes this question is for the Applicant.</p> <p>(vii) Natural England notes this question is for the Applicant to respond to.</p> <p>(viii) Natural England is not aware of existing evidence but camera trapping in areas where birds are already nesting could help in evidence gathering. The National Trust may have evidence for Orfordness site.</p> <p>(ix) Natural England is unaware of other eradication approaches being defined as culling . However, work has been undertaken elsewhere and there is a paper on predator control that might be helpful (Baines, 2025).</p> |

| ExQ2 | Question to: | Question:   | Natural England's response:   |
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|      |              | <p>this regard and to seek updated responses from NE until the close of examination which will help finalise compensation details.</p> <p>(vi) NE advises that the scale of implementation of seabird compensatory measures should be sufficient to address the 95% Upper Confidence Limit (UCL) predicted impact value. And the mean or central impact value (CIV) should be used to inform and define success criteria. NE advise that the measures under consideration should demonstrate:- 1. They could compensate for the UCI value should the impacts of the project be greater than the CIV; 2. Are scaled using a ratio to increase confidence that sufficient benefits will still arise, should the measure underperform; 3. Takes account of 'philopatry' if necessary, to increase the prospect of a significant contribution to National Site Network (NSN) coherence; and 4. That the target for the compensatory measure should be set with respect to the CIV. They advise the application of the Hornsea 4 (H4) method, with additional consideration being made for philopatry if necessary. NE advise that for the proposed sites within or immediately adjacent to the AOE SPA, no account needs to be made for natal dispersal. This is because they are content that measures here will directly and demonstrably</p> | <p>(x) For the case of Lantern Marshes, awareness campaigns are unlikely to reduce disturbance as disturbance is already low. However, raised awareness would help to explain why the area is excluded from general access. Evidence of its success for breeding and overwintering birds could also be used to highlight the benefit of minimising disturbance for species subject to recreational pressures elsewhere in the SPA/Ramsar site.</p> <p>(xi) Natural England would not support the use of planting/hedgerow creation to screen the predator exclusion fencing, as this is likely to reduce the attractiveness of the fenced area for LBBG and indeed adjacent areas for SPA/Ramsar site waterbirds.</p> |

| ExQ2 | Question to: | Question:  | Natural England's response: |
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|      |              | <p>contribute to the coherence of the NSN. However, if a measure is implemented at a location outside of, and remote from the NSN (e.g. Outer Trial Bank) NE advise that the calculation of scale and targets should relate to birds expected to disperse, and thus potentially recruit back into the NSN. NE do continue to consider that Outer Trial Bank offers significant benefits, by restoring an important colony that will export additional LBBG into NSN sites. Moreover, the compensatory measure should be scaled using the UCI impact value, applying the H4 method with additional consideration of philopatry (if required) to derive the quantum, and finally applying a 3:1 ratio to generate the number of pairs the measure should, theoretically, be able to accommodate. In addition, likely nesting densities should be considered to define a minimum area. Can the applicant further clarify and update its compensation package to ensure points 1-4?</p> <p>(vii) Tables 2 and 3 of NE's Deadline 4 comments highlight a series of resolution steps and further refinements for the applicant to make. The applicant is requested by the ExA to undertake due adjustment to its proposals in light of all of those suggestions – this includes the need</p> |                             |

| ExQ2 | Question to: | Question:  | Natural England's response: |
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|      |              | <p>for caution over the applicant relying on a 0.2ha collaborative measure compared to a 4ha project alone measure, as well as more rigorous monitoring overall. Presently it is questionable if the collaborative measure is sufficiently evidenced or robust for providing adequate compensation. The applicant is invited to address this issue in full.</p> <p>(viii) Compensation measures envisaged are stated to include: predator exclusion via fencing around a pre-selected area to aid colonisation efforts by LBBG into a 'safe' area; predator control e.g. by lethal means/eradication of rats; disturbance management - awareness campaigns, warden use during the breeding season and/or signage; and Habitat management - planting, grassland cutting and/or scrub clearance to create optimal ground cover and sward height. Yet, the information regarding specific predator frequency and the effects on existing bird populations is light. It is asserted foxes and possibly rats are the main LBBG predators but what indication of local fox /rat numbers can be evidenced?</p> <p>(ix) Other predator eradication approaches are mentioned as potentially falling under adaptive management? Would this equate to predator culling for both foxes and rats? Any other predatory bird species?</p> |                             |

| ExQ2     | Question to: | Question:  | Natural England's response:   |
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|          |              | <p>(x) Lantern Marshes are already isolated areas with no public footpaths (seemingly recreational visits are not allowed by the landowner) – so how would awareness campaigns/disturbance discouragement prove effective relative to existing circumstances?</p> <p>(xi) What would the predator fencing most likely look like? Please provide height, extent/examples. Plus, would natural plantings be able to be established to disguise fencing. Say hedges?</p>  |   |
| Q10.0.20 | NE           | <p><b>Guillemot and Razorbill in combination assessment/population analysis for the Flamborough and Filey Coast Special Protection Area (FFC SPA)/Stour and Orwell Estuary SPA/Ramsar</b></p> <p>i. Is NE content with the response provided by the applicant in Table 2.1 [REP3-039] regarding differences in the in-combination assessment and Population Viability Analysis for guillemot and razorbill at FFC SPA?</p> <p>ii. NE are requested provide clarification to the applicant regarding figures for guillemot and razorbill. The reduction in growth rate quoted by NE appears therefore not to be based on a specific PVA run, but the nearest equivalent mortality total in Table 9-122 in the SADEP RIAA (Royal Haskoning DHV, 2022).</p> | <p><u>i, ii and iii</u> - Please see Appendix C5 to our Deadline 5 response.</p> <p><u>iv</u><br/>If the measure also needs to compensate for the annual mortality of guillemots apportioned to the Farne Islands SPA, the scale of implementation should account for that new level of total mortality impact across the two colonies, rather than from FFC SPA alone. Any success criteria should also consider the measures efficacy in light of the need to compensate a greater level of mortality. It might be necessary to implement the measure at additional sites on their long/shortlists if impacts to birds from Farne Islands SPA are also to be compensated.</p> |



| ExQ2     | Question to:                            | Question:  | Natural England's response:   |
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|          |   | <p>iii. At D2, NE stated that the applicant is yet to assess impacts from the proposed development on the Stour and Orwell Estuary. Yet, these sites are assessed in the applicant's RIAA. At D3, the applicant maintains its position that there will be no AEoI to either the Stour Estuary SPA or Stour Estuary Ramsar. Can NE confirm if you agree with the conclusions of the applicant as set out in the RIAA [APP-181]?<br/>NE: Please clarify (i) to (iii) by Deadline 5.</p> <p>iv. NE in its D4 submission [REP4-063] states that the proposed development would lead to mortality of 3 adult guillemot due to displacement. NE further state that the applicant's compensatory measure for guillemot at FFC SPA can be sufficiently scaled to also compensate for the Farne Islands SPA impact. As such, a separate derogations case for the Farne Islands is not necessary. Can NE explain how it considers the applicant's compensation measures can be scaled to compensate?</p> |   |
| Q10.0.23 | The applicant<br>NE<br>RSPB<br>Essex WT | <p><b>Kittiwake – Compensation (without prejudice)</b></p> <p>i. Scale vs Target compensation arrangements. NE cite Hornsea 3 Part 2 ('H3pt2') methodology to be the most ecologically complete for compensatory measures where it is necessary to calculate the number of breeding pairs required to compensate for a specified mortality impact. H3pt2 method is</p>   | Natural England has no comments further to those submitted in our Relevant Representations [RR-243] and Deadline 1-5 responses. |

| ExQ2 | Question to: | Question:   | Natural England's response: |
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|      |              | <p>referred to as conceived to inform the design parameters of artificial nesting structures (ANS) for kittiwake. Additionally, NE advise the scale of implementation of compensatory measures for seabirds should be sufficient to address the 95% Upper Confidence Limit (UCL) predicted impact value. This is highlighted by NE as different to a 'target' figure to achieve set by the central impact value (CIV) which HRA have generally utilised. Thus, for case by case pragmatism a 1:1 ratio would only likely to be appropriate where there is a high confidence in the likelihood of success. Therefore, the scale of without prejudice compensation offered remains contentious as an examination theme the ExA is conscious of. The ExA requests that a cautious updated non-prejudicial approach is applied by the applicant – i.e. it should be prepared based on its own preferred calculations if no other approach is to be applied to deliberately overcompensate rather than to undercompensate given the HRA risks to the likelihood of effectiveness and success for unproven and untested measures. What are the applicant's views on this? Can a buffer/safeguard be provided?</p> <p>ii. The applicant indicates, "between seven and ten breeding pairs are required to produce sufficient fledglings per year that survive to breeding age to compensate for the predicted</p> |                             |

| ExQ2     | Question to:     | Question:  | Natural England's response: |
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|          |                  | <p>annual collision mortality for breeding adult kittiwakes from the Flamborough and Filey Coast Special Protection Area (FFC SPA)."</p> <p>The ExA requests further clarification how this is to be achieved at a shared artificial nest structure (ANS) at the Gateshead Kittiwakery with an undocumented/limited capacity?</p> <p>iii. What (if any) apportioning benefits arise at the ANS?</p> <p>iv. If Five Estuaries OWF share an ANS equivalent to 48 nesting spaces (Five Estuaries examination document REP5-018) how would the scale of compensation be possible for North Falls impacts (broadly similar)?</p> <p>v. Clarify if there would be sufficient breeding pairs present to compensate the CIV? And the reasons why given NE advice. (CIV value of 0.76 results in a target of 5 pairs per a 1:1 ratio).</p> <p>vi. The applicant is required by the ExA to demonstrate they could compensate for the UCL value should the impacts of the proposal be greater than the CIV, and the measure is scaled using a ratio to increase confidence that sufficient benefits will still arise, should the measure underperform. Note: A UCL impact value of 2.72 results in a requirement for 17</p> |                             |
| Q10.0.24 | The applicant NE | <b>Red Throated Diver (RTD) – Compensation (without prejudice)</b>   | <u>i &amp; ii</u>           |

| ExQ2 | Question to:       | Question:   | Natural England's response:  |
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|      | RSPB<br>NatureScot | <ul style="list-style-type: none"> <li>i. In terms of breeding enhancement. Artificial nesting rafts/and or habitat measures for “up to 20” RTD breeding lochs” are mentioned. The applicant/NE are asked to clarify how many lochs/artificial rafts would be required as minimum/maximum commitments.</li> <li>ii. The applicant’s response to NE D3 submissions [REP4-028] states that options are habitat management of peatland in Shetland which could increase from 0 to 0.77 chick per loch occupied by a pair of RTD. Compensation at 20 lochs would produce additional 4.3 adults per annum. Clarify when will the applicant decide which option to use?</li> <li>iii. The ExA requests indicative raft design/loch information to inform the examination and regard to all innovations/best practice post 2013 as per the information in the CIMP.</li> <li>iv. Habitat Management is referred to reduce peat erosion. What land areas would be involved? Is plan information available? Would this solely be bog restoration? And who would be the potential delivery body? Would it likely be via the land owner/a public body?</li> <li>v. Applicant/NE. Why would the compensation measure (if required) be needed to be set up only one breeding season prior to the construction of the North Falls array area? With precautionary interests in mind clarify further, if this is adequate?</li> </ul> | <p>Natural England continue to agree with the Applicants position that it is not possible to directly quantify the scale of the measure with respect to the scale of the impact. This represents a significant challenge both for the Applicant in terms of scaling and justifying their compensatory measure, and for us in evaluating the measure and providing advice.</p> <p>We continue to advise that the project will exert a significant disturbance/displacement impact on the RTD feature of the OTE SPA, resulting in adverse effects on site integrity (AEOI). Therefore, we advise that a significant ecological benefit must arise as a result of any compensatory measure that seeks to offset that impact. In that light we continue to question if the measure proposed, at the suggested scale, can be deemed sufficient. The Applicant’s position that their impact is not significant, reiterated in REP4-028, appears to be a factor in their assertion that the measure would be sufficient to compensate.</p> <p>We believe that benefits to breeding RTD could accrue, in support of NSN coherence, as a result of raft installation and/or habitat management actions. We maintain that the ecological benefit of the measure must be evaluated, accepting that this cannot be directly related to the ecological damage that is to be compensated. We advise that this can be undertaken by assessing the measures benefit in terms of its aims. From a conservation perspective</p> |

| ExQ2 | Question to: | Question:  | Natural England's response:  |
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|      |              | <p>vi. In terms of both routine management/maintenance and monitoring who would be the likely undertaker of those tasks and what would their expected professional qualification be? How could the monitoring information be reliably independently verified/logged? And is digital recording possible for remote areas given disturbance problems? Could the outline plan give further evidence of the effectiveness of such measures?</p> <p>vii. In the event of nest failure (RTDs can take up to 3 years to use a raft) – adaptive management is referred following reporting to the RTD Steering Group. Could some rafts with protection roofs not be utilised in the first instance to reduce prospect of predators taking eggs?</p> <p>viii. In the hearings, the applicant explained that after the three year monitoring period for RTD, adaptive management would be undertaken if the compensation measures employed hadn't been successful. Can the applicant explain what these adaptive management measures would consist of and have these been discussed/agreed with NE/NatureScot?</p> <p>ix. RTD breeding success is highlighted it may decline as predation may become more frequent due to recovery of the great skua population. If this does occur, productivity at</p> | <p>the measure aims to add more RTDs to the population. If that can be achieved, this would be worthwhile, relevant, and achievable. Those extra birds have the potential to contribute to ensuring network coherence. However, we continue to question if the scale of the measure is sufficient as the proposed benefits are small.</p> <p>We note the Applicant's ongoing challenge to our assessment of the measure's sufficiency to date. However, no evidence or alternative process to justify the scale of measure implementation proposed has been supplied. It appears that 20 rafts represent an approximation of the minimum deployment that could potentially yield any level of benefit to the population in terms of additional RTD production.</p> <p>On reflection, Natural England cannot advise on the minimum number of rafts that would be required to adequately compensate the projects impact. We continue to support the measure as potentially the only project-led option for the project to pursue, but it is not clear if delivery at a greater scale is feasible, or even desirable. We reiterate our advice regarding the need for the Applicant to discuss what might be achievable and appropriate with NatureScot.</p> <p>Any further information on (or commitment to) the proposed habitat management options would be</p> |

| ExQ2 | Question to: | Question:   | Natural England's response:   |
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|      |              | <p>the control nests would be expected to decrease, i.e. monitoring of control nests would be important. Would predator control itself be applied in the compensation arrangement?</p> <p>x. NE seek a longer term commitment to monitoring if rafts are successful - for the lifetime of the project. The ExA seeks applicant's reasoned response.</p> <p>xi. Confirm the frequency of anticipated monitoring. Adjust documentation where necessary.</p> <p>xii. Confirm who is likely to be the independent chair of the RTD Steering Group (as well as any other Steering Group for any other without prejudice compensated bird species) to ensure future Governance is fit for purpose.</p> <p>xiii. What collaborative opportunities are presently available for existing undetermined NSIPs or consented NSIPs? Is Five Estuaries collaboration likely?</p> <p>xiv. Would the Marine Recovery Fund (MRF) be used to pay for a different type of compensation if it was up taken; or would it be the same breeding enhancement/habitat management approach settled via the MRF mechanism?</p> <p>xv. NE. Is NE content with adaptive management measures proposed by the applicant if compensation measures for RDT are not</p> | <p>welcomed. Landscape restoration and/or peatland management works (even if in conjunction with rafts) for RTD may represent a more compelling compensatory measure, even if the benefits felt at the population level are broadly comparable. It is not clear if other options to deliver a package of measures are viable, such as contributions to pre-existing mink control efforts alongside habitat management or nest raft provision.</p> <p>We believe that this situation highlights the absolute necessity for strategic measures to deliver meaningful and preferably 'like-for-like' compensation for disturbance and displacement impacts to RTD features at English SPAs. We reiterate our advice that the Applicant should explore the potential to collaborate with East Anglia One North/Two regarding their compensatory measures, and also highlight the importance of the DCO securing the ability of the Applicant to 'switch' their RTD compensation over to the MRF should the Library of Strategic Compensation Measures ('LoSCM') hold a relevant measure in due course.</p> <p>√</p> <p>The success of the measure, as proposed by the Applicant, relates to the increased productivity of breeding RTD on rafts, or in habitat subject to other management actions.</p> |

| ExQ2 | Question to: | Question:   | Natural England's response:  |
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|      |              | <p>successful -as referred to in the Hearings and accounting for Deadline 4 submissions from the applicant?</p> <p>xvi. Overall are Natural England/RSPB satisfied compensation delivery for LBBG; Guillemot and Razorbill; Kittiwake; RTD would be effective in principle?</p> | <p>Thus, a benefit is (potentially) accruing as soon as a pair is breeding on a raft or at improved habitat. There is no mortality debt concern due to the nature of the impact. Therefore, and in the absence of any evidence regarding how quickly rafts or improved habitat will be occupied and/or result in improved productivity, Natural England consider implementation of the measure one breeding season in advance of construction commencing to be adequate.</p> <p>Natural England highlight that the success of the measure should be judged at agreed intervals by an expert panel with the benefit of monitoring data.</p> <p><u>xiv</u></p> <p>The MRF can only utilise measures from the LoSCM. Habitat management measures are not currently in the library. The only measure in the library at present that could benefit RTD is predator reduction, albeit this was accepted into the library based on it providing benefits for breeding seabirds, rather than waterbirds such as RTD. Natural England consider that a strategic approach to managing vessel-related disturbance and displacement impacts within RTD SPAs would be the most appropriate compensatory measure to develop further in this space, and consider that it could be deliverable via the MRF, but recognising there are significant challenges to evidencing and implementing the measure.</p> |

| ExQ2     | Question to: | Question:   | Natural England's response:   |
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|          |              |   | <p><u>xv</u></p> <p>Natural England notes that no new information was submitted at D4 by the Applicant, and the Applicant deferred their response to the relevant question in the ISH. Therefore, we anticipate responding to this question at Deadline 6 after review of their response.</p> <p><u>xvi</u></p> <p>Natural England is content the proposed compensation delivery would be effective in principle. However, there remains a significant need for further information and/or security regarding the proposed locations of the measures and greater refinement of options (other than for kittiwake). We recommend the Applicant revisit the Natural England checklist for compensatory measures to inform any subsequent versions the compensation documentation, to ensure that all relevant updates to the checklist points are included.</p> |
| Q10.0.26 | NE           | <p><b>Seasonal Restrictions</b></p> <p>NE. The applicant does not propose seasonal restrictions for birds during construction. Do NE have remaining concerns over this point, considering the information provided by the applicant in paragraphs section 4.4.1.4.3.2.1 of Part 4 of the RIAA [APP-178]? Presumably this is why compensation is asked for/proposed? Please clarify.</p> | <p>Compensation for RTD is to address the disturbance and displacement impact arising from the turbine array, accepting that this impact has been mitigated as far as possible. However, compensation is not appropriate when earlier steps of the mitigation hierarchy (avoid, reduce, mitigate) are available. In this regard, Natural England maintain our position that temporary impacts arising from vessel movements and cable laying can, and should, be mitigated by seasonal restrictions on cable installation, as is the case with other similar proposals (e.g. East Anglia</p>  |



| ExQ2     | Question to:     | Question:  | Natural England's response:   |
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|          |                  |  | One North/East Anglia Two OWF). Natural England's general advice is that seasonal restrictions for RTD SPAs should be applied along any part of the ECC within the SPA boundary and a 2km buffer between 1 <sup>st</sup> November and 31 <sup>st</sup> March inclusive. Please also see our advice to the Five Estuaries examination, <a href="#">REP8A-050</a> .   |
| Q10.0.27 | The applicant NE | <p><b>Bats</b></p> <ul style="list-style-type: none"> <li>i. Applicant. Noting the comments of the Netherlands Ministry of Infrastructure and Water Management at [REP3-065] has the applicant considered a zone of influence for European sites in the UK designated for bat features that could be affected by off-shore pathways? If so, can the applicant confirm the zone of influence used, and reasons why, and if any bat features of sites within the zone are migratory. If this assessment has not been performed, can the applicant explain why that is the case? Update the CEA where necessary.</li> <li>ii. NE/applicant. The effects on migratory bats is noted in the submission from the Netherlands [REP3-065] can Natural England confirm whether or not it considers that the proposed development would result in any adverse effects on migratory bats. If not, why not? If so, what mitigation would be required (if any)?</li> <li>iii. The LIR's from Essex County Council and Suffolk County Council cite likely harm to</li> </ul> | <p>(ii) Natural England can confirm that it considers that North Falls OWF is likely to have adverse effects on migratory bats. There is some evidence (see Five Estuaries Examination document [RR-035]) that the array sits within an 'at risk' area for bats crossing between Great Britain and mainland Europe. However, there is currently a lack of baseline data associated with migratory bats, as well as their interactions with turbines offshore, leading to considerable uncertainty regarding the exact nature of impacts. Monitoring which provides useful and relevant additional data (e.g. presence/absence, bat flight height, bat behaviour around existing wind turbines) would therefore be beneficial. Natural England suggests that appropriate onshore and offshore monitoring (at both this site and existing adjacent others) is essential, along with a comprehensive literature review on the topic.</p> <p>There is now some research which could help with both appropriate survey and subject to the findings of monitoring, the development of an offshore bat mitigation strategy (e.g. Brabant <i>et al.</i>, 2021).</p> |

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|      |              | <p>migratory bats – in particular Nathusius' pipistrelle, caused by the wind turbine rotor blades. It appears that migratory bats and especially juveniles, could potentially be vulnerable to death from collision with, or proximity to, moving wind turbine blades based on the assertions made. Considering the LIR's does the applicant think that its surveys and current evidence base are adequate to respond to and address this issue? What is its response concerning the successful protection of bats including migratory bats? Please detail in full.</p> <p>iv. Suffolk County Council have suggested that due adjustment to wind cut-in speeds secured through addition of parameters in the DCO or a suitable control document as a requirement. Is the applicant able to confirm the suitability such a potential requirement and its preferred wording if it is required by the SoS at any stage?</p> <p>v. NE. As a migratory species, the ExA notes that Nathusius' pipistrelle is protected by the Convention on the Conservation of Migratory Species, to which the UK is a signatory state. What obligations under these treaties in relation to Nathusius' pipistrelle are relevant to the proposal? Are they met or capable of being met through requirements if they were deemed necessary? NE advise by Deadline 5.</p> | <p>Additionally, it is worth exploring whether access can be obtained for relevant bat data held by Motus: <a href="#">Motus Wildlife Tracking System</a>. Notable documents include Eurobats wind turbine advice (Rodrigues <i>et al</i>, 2015) as well as onshore wind turbine advice (NatureScot, 2021). There are also a number of notable environmental impact assessments including (but not limited to) the North Irish Sea Array Offshore Wind Farm (North Irish Sea Array,), the Oriel offshore wind farm (Oriel Windfarm Limited, 2023), the Codling wind park (Codling Wind Park, 2024) and the Arklow Bank wind park (Sure Partners Ltd., 2021).</p> <p>A combination of approaches have been used for these environmental impact assessments, including attaching bat detectors to: floating buoys, boats doing geotechnical surveys, and existing wind turbines in the near vicinity (CIEEM, 2025). Additionally, use of night vision aids should be considered to look at bat behaviour around nearby existing offshore turbines. It is likely to be appropriate to do a similar combination of approaches here.</p> <p>The monitoring approach should be designed to provide sufficient information to inform a robust mitigation strategy should the monitoring data indicate it is warranted, including setting out how the information will be used to identify whether mitigation is needed and explore potential options. A draft monitoring plan should be submitted into the Examination or/and an updated Offshore In-Principle</p> |

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|      |              |           | <p>Monitoring Plan. The potential for collaboration between the Applicant and the Five Estuaries project should be explored, as well as with the 'parent' windfarms of Galloper and Greater Gabbard, given that mitigation through e.g. curtailment would only be effective if adopted across these projects.</p> <p>(v) Article 2(3) of the 'Convention on the Conservation of Migratory Species of Wild Animals' states that the parties:</p> <ul style="list-style-type: none"> <li>(a) Should promote, cooperate in and support research relating to migratory species;</li> <li>(b) Shall endeavour to provide immediate protection for migratory species included in Appendix I; and</li> <li>(c) Shall endeavour to conclude agreements covering the conservation and management of migratory species included in Appendix II.</li> </ul> <p>Appendix II of the convention includes European populations of Rhinolophidae and Vespertilionidae (i.e. all UK bat species).</p> <p>Nathusius pipistrelle is a priority species under the <a href="#">EUROBATS</a> Agreement.</p> <p>With regard to point (a), all monitoring data needs to be made available for studying cumulative effects of other windfarms.</p> |

| ExQ2    | Question to:   | Question:  | Natural England's response:  |
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|         |  |  | <p>With regard to point (c), to help prevent bat mortality and therefore fulfil national protection laws (the UN Convention on the Protection of Migrating Species and the EUROBATS Agreement), there are potential mitigation options that could be instigated such as; stopping wind turbine operation during the main bat migration nights at windspeeds at and below 6 m/s.</p> <p>Most offshore bat activity takes place at windspeeds of and below 6-7 m/s (Ahlén et al. 2009, Brabant et al. 2021, Lagerveld et al. 2021, Seebens-Hoyer et al. 2022). However, this mitigation would only be required should sufficient evidence be gathered that demonstrated the potential for significant impacts to migratory bats, and therefore that further mitigation was deemed necessary (and could be targeted at the identified risks).</p> |
| Q14.0.1 | The applicant<br>Additionally, SECHP, Natural England and SCC, or other IPs may optionally respond | <p><b>Whether or not the applicant is a Statutory Undertaker for the purpose of CROWA 2000</b></p> <p>s.85(A1) CROWA 2000 applies when a “<i>relevant authority</i>” (which includes “<i>any statutory undertaker</i>” as defined by s.85(3) CROWA 2000) is “<i>exercising or performing any function</i>” relating to or affecting an Area of Outstanding Natural Beauty (“AONB”). There is no requirement for the “<i>relevant authority</i>” to be exercising a <i>statutory</i> function.</p> <p>The definition of “<i>relevant authority</i>” includes “<i>any Minister of the Crown</i>”. Because some ministerial functions are undertaken by virtue of prerogative</p> | <p>Statutory undertakers are defined in CROWA 2000 section 85 (3) via a reference to Part 11 of the Town and Country Planning Act 1990, which in turn refers onto Section 262 of the same Act. As this is a potentially complex area of the law Natural England recommends that the ExA seeks independent legal advice on this matter.</p>   |

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|      |              | <p>powers rather than statutory provisions, the exercise of prerogative powers could just as much impact on an AONB as could the exercise of statutory powers. Is s.85(A1) CROWA 2000 limited only to the exercise or performance of <i>statutory</i> functions by the relevant authority?</p> <p>SCC has noted that no limitation appears in the legislative provision itself and nor, in this context, should such a limitation be implied. SCC's view is that the applicant is a statutory undertaker, and so a relevant authority. It contends that this is a sufficient basis to bring it within the scope of s.85(A1) CROWA 2000 when it exercises or performs "<i>any function</i>" which relates to or affects an AONB, irrespective of whether that function flows from or involves the discharge of a statutory power or duty.</p> <p>In response to submissions made by SCC at ISH2, the applicant said that it would confirm the applicant's position on whether it is a statutory undertaker for the purposes of the duty and set these out at applicant's Response to Actions List for ISH2 [REP4-036]. It does not appear to be set out within this document, although it is noted that at ISH2 the applicant's view was that it is a special purpose vehicle set up solely for the Project and does not have wider statutory undertaker functions.</p> <p>i. Please set out whether or not the applicant considers itself as a "statutory undertaker" and,</p> |                             |

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|         |                  | <p>ii. whether or not the applicant is therefore a relevant authority.</p> <p>The implications of being subject to the new duty in s.85(A1) CROWA 2000, if what it was proposing would "affect" any land within an AONB.</p>   |   |
| Q14.0.6 | The applicant NE | <p><b>Natural England – Risk and Issues Log (Deadline 4 Submission)</b></p> <p>Following the submission of the Natural England – Risk and Issues Log [REP4-067] submitted at Deadline 4, it appears that no changes have been made to issues I1 to I12, with a similar number of red and amber risks. Please can Natural England and the applicant set out precise steps which they consider would reduce the risk, and therefore RAG rating, of each issue.</p> | <p>The Applicant's assessment finds significant effects for three assessment viewpoints and the users of the Suffolk Coast Path; moderate-minor (not significant) effects on selected special qualities; moderate-minor (not significant) effects on the special character of the Suffolk Heritage Coast (SHC); and that the "<i>total cumulative effects on the special qualities of the SECHNL and the special character of the SHC may be significant</i>" (REP3-044).</p> <p>Natural England's assessment finds that the project has the potential to significantly (in EIA terms) impact the special qualities of the Suffolk and Essex Coast and Heaths National Landscape (SECHNL) and SHC, in particular when acting cumulatively with other existing, consented, and proposed OWF projects.</p> <p>Natural England has not seen evidence that would cause us to change our advice on the impacts to landscape and visual receptors that we have submitted into examination, and we continue to consider that impacts to the SECHNL and SHC are underestimated in the Applicant's assessment.</p> |

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|      |              |           | Recognising that this difference in opinion is unlikely to be resolved, and in line with our Relevant Representations advice [REP1-071], we recommend that the Applicant should clearly set out how the Project proposes to enable the decision-maker to further the purposes of the national landscape as set out in the Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023, whilst also seeking opportunities for enhancement in line with the Protected Landscapes Management Plan. |

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