



**Response to the Applicant's Deadline 6 submissions,  
The Examining Authority's Report on the Implications for  
European Sites and Deadline 7 submissions**

**Royal Society for the Protection of Birds**

**Submitted for Deadline 8**

**23 July 2025**

**Planning Act 2008 (as amended)**

**In the matter of:**

**Application by North Falls Offshore Wind Farm Limited for an Order  
Granting Development Consent for the North Falls Offshore Wind Farm**

**Planning Inspectorate Ref: EN010119**

**RSPB Registration Identification Ref: 20051053**

# Contents

1. Introduction .....	3
2. RSPB comments on the Applicant's Deadline 6 Submissions.....	4
3. RSPB responses to The Examining Authority's Report on the Implications for European Sites (RIES), PD-020 .....	8
4. RSPB comments on Deadline 7 submissions.....	11

## 1. Introduction

- 1.1. This Written Submission provides the RSPBs comments on the Applicant's Deadline 6 submissions, on questions posed to RSPB in the Examining Authority's Report on the Implications for European Sites, and brief comments on Deadline 7 submissions by the National Trust and NatureScot.

## 2. RSPB comments on the Applicant's Deadline 6 Submissions

### RSPB comments on REP6-012, Habitats Regulations Assessment Appendix 2 Lesser Black-backed Gull Compensation Document

- 2.1. At Deadline 6 the Applicant presents revisions to their calculations relating to the compensation scale for Lesser Black-backed Gulls (para 17-40). The RSPB welcomes these revisions, incorporating Natural England's Advice submitted at Deadline 4 (REP4-060), updates to Breeding Season Apportioning and revised SNCB advice on Collision Risk Modelling (SNCBs, 2024)<sup>1</sup>. The changes to outputs are minor and therefore do not alter RSPB conclusions as to significance of impacts and the requirement and scale of compensation measures.
- 2.2. The RSPB notes Natural England's concerns over the quantum of proposed compensation both if progressed as a project alone measure, or in collaboration with other proposals (as expressed in REP4-060). The RSPB supports these concerns which bring into question the likely efficacy of the Applicant's compensation measures and highlights the necessity for further clarity over both approach and ecological robustness.
- 2.3. Section 8.2 of REP6-012 presents the short-listed compensation sites discussing Lantern Marshes, Gedgrave Marshes, the proposed Five Estuaries compensation site ('VE2') and Outer Trial Bank. Since submission National Trust has withdrawn from discussions on Lantern Marshes (see Section 4 below), leaving the three alternative options. The RSPB has discussed these options in an earlier submission (REP4-089). These comments remain valid. The RSPB also met recently with the Applicant specifically to discuss the Gedgrave Marshes option.
- 2.4. The Applicant has submitted an assessment of the effects of the Lantern Marshes and Gedgrave Marshes compensation proposals on designated sites (see REP4-010, REP5-072). We have highlighted to the Applicant that further assessment is also required at Outer Trial Bank both in terms of understanding the gull colony population dynamics and the implications of the proposal on the surrounding suite of designated sites, including The Wash Special Protection Area and The Wash and North Norfolk Special Area of Conservation. This assessment remains outstanding, albeit we understand some preparatory survey/investigative work has been undertaken this summer. Section 8.3 (REP6-012) identifies the considerable further activity required in terms of final site selection, but also highlights the considerable uncertainty that exists over the essential compensation elements to address agreed adverse effects.

---

<sup>1</sup> JNCC, Natural England, Natural Resources Wales, NatureScot. 2024. Joint advice note from the Statutory Nature Conservation Bodies (SNCBs) regarding bird collision risk modelling for offshore wind developments. JNCC, Peterborough.

## RSPB comments on REP6-020, Habitats Regulations Assessment Derogation Appendix 4 Kittiwake Compensation Document

- 2.5. At Deadline 6 the Applicant accepted, in the light of the Secretary of State's decision on Rampion 2, that an Adverse Effect on Integrity could not be ruled out for Kittiwake at the Flamborough and Filey Coast Special Protection Area (SPA) (REP6-020, section 2.2). We agree with this conclusion. Consequently, compensation proposals for Kittiwake are presented by the Applicant without prejudice.
- 2.6. The Applicant has also submitted revisions incorporating Natural England's advice submitted at Deadline 4 and the recommendations of the British Trust for Ornithology review of methods to calculate the required scale of artificial nesting structures proposed as a compensation measure for kittiwake mortality at offshore wind farms (Rhoades et al. 2025). This review recommended the use of the "Hornsea Project 3" approach, and the Applicant has presented this. The RSPB welcome this and note the changes to outputs are minor and therefore do not alter RSPB conclusions as to significance of impacts and the requirement and scale of compensation measures. The RSPB also agrees with the Applicant that the scale of any further change if the recent revisions to SNCB advice on collision modelling were adopted would be too small to materially change the compensation quantum.
- 2.7. The Applicant's proposal remains centred on the use of an existing artificial nesting structure (ANS) known as the Kittiwakery in Gateshead. We understand that progress has been made in principle for the Applicant to have a 20% share of the nesting provision within the Kittiwakery (a four-sided purpose-built tower), which represents some 48 nests.
- 2.8. No binding agreement has been made with the owners of the Kittiwakery, but we note a Letter of Intent has been supplied (APP-187).
- 2.9. It is not clear, in the event of the use of the Kittiwakery by breeding Kittiwake precisely how active nests are to be allocated between the various parties utilising the tower as compensation. This is to be developed 'post consent' (REP6-020, section 8.1).
- 2.10. The RSPB accept that in principle ANS could provide appropriate compensation but further detail remains to be developed, including how, if the Kittiwakery fails to be colonised, how, what and when adaptive management measures would be implemented.
- 2.11. The RSPB maintains its position that artificial nests should be established four breeding seasons prior to operation of any part of the proposed wind farm. The rationale for requiring four breeding seasons is based on the breeding ecology of the seabird species concerned e.g. kittiwake. Four years is the accepted typical period of first breeding and an acknowledgement that, assuming successful colonisation in Year 1, first breeding from fledged young will be four years later. It is an acknowledgement of the need to mitigate some of the risk arising from the predicted adverse impact occurring immediately upon first operation and of there being both an inherent delay in the compensation working, and the risk of it not working or not working successfully. As such it is an important counterbalance to the considerable uncertainty around the likely successful colonisation of the nesting structure.

## RSPB comments on REP6-024, Habitats Regulations Assessment Appendix 5 Guillemot and Razorbill Compensation Document

- 2.12. At Deadline 6 the Applicant accepted, in the light of the Secretary of State's decision on Rampion 2, that an Adverse Effect on Integrity could not be ruled out for Guillemot at the Flamborough and Filey Coast Special Protection Area (SPA) and Farne Islands SPA (REP6-024, section 2.2). We agree with this conclusion. Consequently, compensation proposals for Guillemot are presented by the Applicant without prejudice.
- 2.13. We made comments on the proposals for Guillemot and Razorbill in our earlier submission (REP4-089). These comments and conclusions remain valid. We consider that there is considerable uncertainty over the factors affecting auk breeding productivity in Devon and Cornwall (the Applicant's focus area), and the relative effect (if any) of recreational disturbance on those colonies' performance. The Applicant has made commendable efforts in investigating this, but considerable uncertainty remains over the issues, together with data gaps and the likely efficacy of the proposed interventions (including signage, fencing, wardening and codes of practice, see REP6-024, section 9.2).

## RSPB comments on REP6-016, Habitats Regulations Assessment Appendix 3 Red Throated Diver Compensation Document

- 2.14. We have reviewed the Applicant's latest submission on compensation proposals for Red-throated Divers (REP6-016). This presents further information on the Applicant's investigations and now involves the identification of three potential scenarios involving two locations (Shetland and Caithness & Sutherland) and two main activities – deployment of rafts and peatland habitat management. Three scenarios are presented (REP6-16, Table 5.1):
1. Compensation entirely in Shetland at 20 lochs with habitat management to improve breeding habitat/breeding productivity
  2. Compensation in Shetland at 15 lochs with habitat management to improve breeding habitat/breeding productivity plus 5 lochs to have nesting rafts in Caithness and Sutherland
  3. Compensation entirely in Caithness and Sutherland, 20 lochs to have nesting rafts, no habitat management.
- 2.15. The scenarios remain undeveloped, and site selection remains to be detailed albeit we understand that initial site visits have commenced this year (REP6-16, 9.5.4.1). We have previously made comments made on the Applicant's proposals (REP4-089) and these remain valid.
- 2.16. Table 5.1 also indicates the Applicant's estimates of the number of additional fledglings per annum resulting from the compensatory measures, together with estimates of the additional adults entering the population. We have been unable to date to fully scrutinise the assumptions underlying these estimates but recognise the Applicant's efforts in quantifying possible outcomes.

- 2.17. We would at this point like to raise some additional comments. Our experience to date of deploying rafts in Shetland is that conditions are generally unfavourable, especially due to wind/wave action. Fully understanding local site conditions is critical.
- 2.18. With respect to the proposed habitat management, we support this ambition and agree that it may provide improved conditions for breeding divers. Again, the choice of location is critical in terms of understanding direct and indirect environmental implications, both before, during and post-implementation of site works. As will be noted from other submissions, divers are a species highly susceptible to disturbance.
- 2.19. We would highlight that there may be other habitat interventions, as well as local hydrological/habitat management, that would be worthy of examination. This includes the construction of islands (for example by excavating an existing promontory), targeted vegetation clearance and other loch-side works. The RSPB is keen to continue discussions with the Applicant and other interested parties on the options for compensation post Examination.

### 3. RSPB responses to The Examining Authority's Report on the Implications for European Sites (RIES), PD-020

RIES Q22: to the RSPB: The applicant has responded to concerns relating to the consideration of impacts resulting from HPAI in its assessment [REP1-045]. Please provide comments on any outstanding concerns further to the justification provided in [REP1-045].

- 3.1. The RSPB highlight three key points to consider with respect to how HPAI could affect the assessment of the ornithological impacts of offshore wind farm developments. These are:
1. Consideration of how the HPAI outbreak will influence the representativeness of the baseline characterisation. This should include the direct influence of population size and through changes in space use;
  2. Alterations of the extent of interactions with wind farms, potentially related to physiological changes, and in the lethal and sub-lethal consequences of those interactions; and
  3. Consequences in changes in the robustness of protected population to additional mortality arising through the presence of wind farms.
- 3.2. The Applicant has detailed in REP1-045, line RSPB-10, where in the assessment they have considered the impacts of HPAI. However, while these do include population size under point 1, they do not include behavioural change, either as a function of changes in intra-specific competition, or through physiological changes, or on the robustness of protected populations. While there are some signs of potential recovery of population, this is in early stages and there remains the possibility of further mutation of the virus outbreaks.
- 3.3. The RSPB have highlighted the additional need for precaution in the assessment due to the recent outbreak of Highly Pathogenic Avian Influenza (HPAI). We would also like to draw the Examining Authority's to the recent Appropriate Assessment carried out by the Marine Directorate for the Scottish Government for the West of Orkney Offshore Wind Farm<sup>2</sup>, where the influence of HPAI is also discussed as follows (paragraph 9.11.4): *"The Scottish Ministers conclude that HPAI outbreaks necessitate greater precaution for the above sites and species. This is because, whilst population numbers may be reduced, the life history of seabirds (slow maturing, low reproduction) means that colonies impacted by pressures such as HPAI may be more sensitive to additional mortality from offshore wind development, exacerbating declines or preventing recovery"*.

RIES Q23: Given the information provided by the applicant in [REP1-045] can the RSPB explain if it has outstanding concerns regarding the DAS methodology?

- 3.4. The RSPB are content that digital aerial surveys provide useful data in order to provide baseline characterisation of an offshore wind farm footprint. However we do have

---

<sup>2</sup> <https://marine.gov.scot/?q=data/appropriate-assessment-west-orkney-windfarm-offshore-generating-station-and-offshore>



concerns with regard to how the results of the surveys are presented, the methodological details provided and how potential biases, throughout the process, are accounted for. Our position has been informed by the recent review carried out by a sub-group of the NatureScot Scientific Advisory Committee<sup>3</sup> which made specific recommendations with regard to the presentation of results, including the full methodological detail that needs to be provided alongside the outputs. The Applicant's DAS provider, HiDef, provided input into this review, and so was fully aware of it and the subsequent recommendations

3.5. As highlighted in our Written Representations (REP4-089) we had a number of concerns with the Applicant's presentation of the DAS results. These were:

- Insufficient consideration had been given of potential biases in the survey and analysis methods.
- No consideration of potential response of birds to disturbance arising from the survey activity itself, such as flight take off rate or diving rate, that would have implications for the accuracy of the assessment.
- Insufficient detail provided as to how spatial autocorrelation has been evaluated and if necessary accounted for. The assessment should explicitly demonstrate an analysis of the data showing whether spatial autocorrelation is present or not. (Spatial autocorrelation in this instance is the correlation among values of a count variable strictly attributable to their relatively close locational positions, introducing a deviation from the assumption of independent observation.)
- No rationale provided as to why a transect rather than grid survey design has been used.
- No detail given of any independent validation of identification and detection rates. This validation is carried out as part of the internal quality assurance procedures, but no independent external quality assurance appears to have been carried out.

3.6. The Applicant has addressed some of these concerns in REP1-045 line RSPB-06. However, the RSPB has concerns with regard to this response, as follows:

- The Applicant has not addressed potential biases in the survey methods, for example resolution or image quality are insufficient for high detection rates for small or more cryptic species.
- The Applicant has not addressed the questions around all the biases in the survey methods. For example, these could be biases arising from both the camera system, such as imperfect detection of smaller species, or from the imperfect identification by the surveyor of the digital images.

---

<sup>3</sup> <https://www.nature.scot/doc/offshore-wind-ornithological-impact-assessment-review-digital-aerial-survey-methods>

- In consideration of potential disturbance, the Applicant refers to a COWRIE report from 2009<sup>4</sup>, but does not refer to the concerns about the lack of evidence around disturbance due to surveys as expressed in the much more recent NatureScot review.
- Autocorrelation appears not to have fully not evaluated, rather an “internal review” has been carried out, although no detail of the statistical methods or results has been given. This is contrary to the recommendations of the NatureScot review, that DAS providers must “explicitly provide the analysis of the data showing whether spatial auto-correlation is present or not”.
- The Applicant has addressed the question around the use of transect vs grid-based survey methods by highlighting that transect-based is more efficient. However no detail as to the means that statistical confidence has been generated to support these conclusions has been provided.
- The Applicant concedes that no external quality assurance (QA) of the species identification has been carried out, and that an independent external QA would not be currently possible. While the RSPB understands the difficulty in establishing this process, we highlight the comments from the NatureScot review, “An independent validation to verify and quantify detection and identification rates would add confidence to the survey methods and outputs.” We also note the following from Natural England’s guidance (Parker et al. 2022<sup>5</sup>): “Increasing clarity on the validation of data and results would increase overall confidence in the dataset and provide assurance in the interpretation, which could reduce the need for precaution during examination.”

---

<sup>4</sup> Thaxter, C. B., & Burton, N. H. (2009). High definition imagery for surveying seabirds and marine mammals: a review of recent trials and development of protocols. British Trust for Ornithology Report Commissioned by COWRIE Ltd.

<sup>5</sup> Parker, J., Banks, A., Fawcett, A., Axelsson, M., Rowell, H., Allen, S., Ludgate, C., Humphrey, O., Baker, A. & Copley, V. (2022). Offshore Wind Marine Environmental Assessments: Best Practice Advice for Evidence and Data Standards. Phase I: Expectations for pre-application baseline data for designated nature conservation and landscape receptors to support offshore wind applications. Natural England. Version 1.1. 79 pp.

## 4. RSPB comments on Deadline 7 submissions

### REP7-084, National Trust

- 4.1. We note National Trust are withdrawing from negotiations over Lantern Marshes (REP7-084), the Applicant's preferred proposed compensation location for Lesser Black-backed Gulls.
- 4.2. This necessarily requires the Applicant to refocus on its other existing options, namely Outer Trial Bank, Gedgrave Marshes and a collaborative option with the developers of the Five Estuaries Offshore Wind Farm proposal 'VE2'.
- 4.3. We note the Trust's suggestion that Lantern Marshes may re-enter discussions via a strategic opportunity linked to the forthcoming Marine Recovery Fund. We made comments on the suitability of Lantern Marshes in earlier submissions (see REP4-089).
- 4.4. The RSPB intends to continue discussions with the Applicant over its remaining options for compensatory proposals for Lesser Black-backed Gulls, post Examination.

### REP7-097, NatureScot

- 4.5. We note the submission of NatureScot (REP7-097) regarding the Applicant's Red-throated Diver compensation proposals.
- 4.6. The submission very usefully highlights several practical challenges and other contextual matters in terms of the Applicant's proposals for Red-throated Divers, and the need for considerable further discussion over the deliverability of the proposals and the implications for both existing protected Red-throated Diver populations and ongoing peatland restoration programmes. We support these comments.