UK Government

Habitats Regulations Assessment for an Application Under the Planning Act 2008

North Falls Offshore Wind Farm

Regulation 63, 64, and 68 of the Conservation of Habitats and Species Regulations 2017

Regulation 28, 29, and 36 of the Conservation of Offshore Marine Habitats and Species Regulations 2017

May 2026

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Contents

List of abbreviations

Term	Abbreviation
Adverse Effect on the Integrity	AEoI
Advice on Operations	AoO
Alde-Ore Estuary	AOE
Appropriate Assessment	AA
Artificial Nesting Structure	ANS
Cable Specification and Installation Plan	CSIP
Central Impact Value	CIV
Climate Change Committee	CCC
Compensation Implementation and Monitoring Plan	CIMP
Confidence Limits	CLs
Counterfactual Population Size	CPS
Counterfactuals of Population Growth Rate	CPGR
Deemed Marine Licence	DML
Department for Energy Security and Net Zero	DESNZ
Department for Environment, Food and Rural Affairs	DEFRA
Development Consent Order	DCO
Dose Response Curve	DRC
East Anglia Connection Node	EACN
East Anglia 1 North	EA1N
East Anglia 2	EA2
Effective Deterrent Range	EDR
Environment Agency	EA
Environmental Impact Assessment	EIA
Environmental Statement	ES
Essex County Council	ECC
Essex Wildlife Trust	EWT
European Economic Area	EEA
Examining Authority	ExA

Exclusive Economic Zone	EEZ
Five Estuaries Offshore Wind Farm	VEOWF
Flamborough and Filey Coast	FFC
Guillemot Compensation Steering Group	GCSG
Habitat Regulations Assessment	HRA
High voltage alternating current	HVAC
Highly Pathogenic Avian Influenza	HPAI
Hornsea Project 3	HP3
Hornsea Project 4	HP4
Imperative Reasons of Overriding Public Interest	IROPI
In Principle Monitoring Plan	IPMP
Interested Parties	IPs
Intergovernmental Panel on Climate Change	IPCC
International Maritime Organisation	IMO
Interim Population Consequences of Disturbance	iPCoD
Kittiwake Compensation Steering Group	KCSG
Lesser Black-Backed Gull	LBBG
LBBG Compensation Steering Group	LGCSG
Low Carbon Transition Plan	LCTP
Likely Significant Effect	LSE
Margate and Long Sands	MLS
Marine Mammal Mitigation Protocol	MMMP
Marine Management Organisation	MMO
Marine Recovery Fund	MRF
National Grid Electricity Transmission	NGET
National Policy Statement	NPS
National Site Network	NSN
Nationally Significant Infrastructure Project	NSIP
Natural England	NE
nautical mile	nm
Noise Abatement Systems	NAS

North Falls Offshore Wind Farm	NFOWF
North Sea Biologically Defined Minimum Population Scales	BDMPS
Offshore Transmission Network Review	OTNR
Offshore Converter Platform	OCP
Offshore Substation Platforms	OSPs
Offshore Wind Farms	OWFs
Offshore Wind Industry Council	OWIC
Outer Thames Estuary	OTE
Population Viability Analysis	PVA
Preliminary Environmental Information Report	PEIR
Proposed Compensation Site	PCS
Recommended DCO	rDCO
Red Throated Diver	RTD
Red Throated Diver Compensation Steering Group	RTDCSG
Report on the Implications for European Sites	RIES
Report to Inform Appropriate Assessment	RIAA
Royal Society for the Protection of Birds	RSPB
RWE Renewables UK Swindon Limited	RWE
Site Integrity Pan	SIP
Site of Special Scientific Interest	SSSI
Southern North Sea	SNS
Special Areas of Conservation	SACs
Special Protection Areas	SPAs
SSE Renewables Offshore Windfarm Holdings Limited	SSER
Statement of Common Ground	SoCG
Statutory Nature Conservation Body	SNCB
Supplementary Advice on Conservation Objectives	SACO
Tendring District Council	TDC
The Planning Inspectorate	PINS
United Kingdom	UK
Upper Confidence Limit	UCL

Wind Turbine Generators	WTGs
Zone of Influence	ZoI

1 Introduction

1.1 Background

This is a record of the Habitats Regulations Assessment ("HRA") that the Secretary of State for Energy Security and Net Zero ("the Secretary of State") has undertaken under the Conservation of Habitats and Species Regulations 2017[1] ("the Habitats Regulations") and the Conservation of Offshore Marine Habitats and Species Regulations 2017[2] ("the Offshore Habitats Regulations"), collectively referred to as the Regulations, in respect of the Development Consent Order ("DCO") and Deemed Marine Licences ("DMLs") for the North Falls Offshore Wind Farm and its associated infrastructure (the "Project"). The Examining Authority ("ExA") defines this as the "Proposed Development". Within this HRA it is defined as the "Project" for consistency with the terminology of the Regulations. The DCO application was submitted by SSE Renewables Offshore Windfarm Holdings Limited ("SSER") and RWE Renewables UK Swindon Limited ("RWE"), trading as North Falls Offshore Wind Farm Ltd (the "Applicant"). For the purposes of the Regulations, the Secretary of State is the competent authority who will carry out the HRA under the Regulations in order to decide whether to approve the Project.

The Project comprises the construction and operation of up to 57 Wind Turbine Generators ("WTG") accompanied by a network of subsea cables linking the WTGs to up to two Offshore Substation Platforms ("OSPs") and up to one Offshore Converter Platform ("OCP"). The Project will have a generating capacity of up to approximately 1 Gigawatt ("GW").

The onshore works consist of cabling to a new onshore substation west at Little Bromley, and further onshore cabling connecting the substation to a new 400 kilovolt ("kV") National Grid East Anglian Connection Node (proposed by National Grid Electricity Transmission ("NGET")) as part of their Norwich to Tilbury project.

The Project constitutes a nationally significant infrastructure project ("NSIP") as defined by s.14(1)(a) and s.15(3) of the Planning Act 2008 as it is for an offshore generating station with a capacity over 100 megawatts ("MW").

The Project was accepted by the Planning Inspectorate ("PINS") on 22 August 2024, and five Inspectors were appointed as the ExA for the Application. The Examination of the Project application began on 28 January 2025 and concluded on 28 July 2025. The ExA submitted its report of the Examination, including its recommendation ("the ExA's Report"), to the Secretary of State on 28 October 2025. Numbered references to the ExA's Report are presented in the format "[ER *.*.*]". Other documents which were submitted during Examination are referenced using the reference numbers published in PINS' Examination Library[3].

[1] https://www.legislation.gov.uk/uksi/2017/1012/contents

[2] https://www.legislation.gov.uk/uksi/2017/1013/contents

[3] EN010119-000542-6. Examination-Library-North-Falls-PUBLISH.pdf

This HRA also contains a consideration of the potential effects of the Project upon protected sites in European Economic Area ("EEA") States ("transboundary sites"). This is described in more detail in Section 10.

1.2 Relevant legislation

The Habitats Regulations aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. In the UK, the Habitats Regulations apply as far as the 12 nautical miles ("nm") limit of territorial waters.

The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation ("SACs"). The Regulations also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the UK and internationally. These sites are called Special Protection Areas ("SPAs"). SACs and SPAs together, referred to as European sites in legislation, form part of the United Kingdom ("UK") National Site Network ("NSN"). The Offshore Habitats Regulations apply beyond 12 nm and serve the same function.

The Convention on Wetlands of International Importance 1972 ("the Ramsar Convention") provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the United Kingdom the same protection as sites within the NSN (collectively referred to in this HRA as "protected sites").

Regulation 63 of the Habitats Regulations (and similarly Regulation 28 of the Offshore Habitats Regulations) provides that:

…before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

And that:

In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

This Project is not directly connected with, or necessary to, the management of a protected site. The Regulations require that, where the Project is likely to have a significant effect ("LSE") on any such site, alone or in-combination with other plans and projects ("in-combination"), an appropriate assessment ("AA") is carried out to determine whether or not the Project will have an adverse effect on the integrity ("AEoI") of the site in view of that site's conservation objectives. In this document, the following stages are collectively referred to as the HRA:

- Stage 1: Assessment of LSE;

- Stage 2: AA to determine whether there is an adverse effect on the integrity of a protected site;
- Stage 3: Assessment of Alternative Solutions;
- Stage 4: Imperative Reasons of Overriding Public Interest ("IROPI"); and
- Stage 5: Proposed Compensatory Measures.

The Secretary of State has had regard to relevant guidance on the application of the HRA including the PINS (updated 25 March 2025) advice pages [4], European Commission guidance[5], as well as joint guidance by Department for Environment, Food and Rural Affairs ("DEFRA"), Natural England ("NE"), the Welsh Government, and Natural Resources Wales (updated 6 December 2023) on 'Habitats Regulations Assessment: protecting a European site' ("2021 Joint Guidance)[6].

1.3 Site conservation objectives

Where an AA is required in respect of a protected site, Regulation 63(1) of the Habitats Regulations and Regulation 28(1) of the Offshore Habitats Regulations requires that it be an AA of the implications of the plan or project for the protected site in view of its conservation objectives. Government guidance also recommends that in carrying out the LSE screening, applicants must check if the proposal could have a significant effect on a protected site that could affect its conservation objectives.

DEFRA guidance indicates that disturbance to a species or deterioration of a protected site must be considered in relation to the integrity of that site and its conservation objectives[7]. It states that *"the integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was designated"*.

Conservation objectives have been established by NE. When met, each site will contribute to the overall favourable conservation status of the species or habitat feature across its natural range. Conservation objectives outline the desired state for a protected site, in terms of the interest features for which it has been designated. If these interest features are being managed in a way which maintains their nature conservation value, they are assessed as being in a 'favourable condition'. An AEoI of a protected site is likely to be one which prevents the site from making the same contribution to favourable conservation status for the relevant feature as it did at the time of its designation. There are no set thresholds at which effects on site integrity are considered adverse. This is a matter for interpretation on a site-by-site basis, depending on the designated feature and nature, scale, and significance of the effect.

[4] https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-habitats-regulations-assessments

[5] https://op.europa.eu/en/publication-detail/-/publication/11e4ee91-2a8a-11e9-8d04-01aa75ed71a1

[6] Habitats regulations assessments: protecting a European site - GOV.UK

[7] https://www.gov.uk/guidance/appropriate-assessment

NE has issued generic conservation objectives, which should be applied to each interest feature of the site. Supplementary advice on conservation objectives ("SACOs") for each site underpins these generic objectives to provide site-specific information and give greater clarity to what might constitute an adverse effect on a site interest feature. SACOs are subject to availability and are currently being updated on a rolling basis.

Where supplementary advice is not yet available for a site, NE advises that HRAs should use the generic objectives[8] and apply them to the site-specific situation. For SPAs, the overarching objective is to avoid the deterioration of the habitats of qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Regulations. This is achieved by, subject to natural change, maintaining and restoring:

- the extent and distribution of the habitats of the qualifying features;
- the structure and function of the habitats of the qualifying features;
- the supporting processes on which the habitats of the qualifying features rely;
- the populations of the qualifying features; and
- the distribution of the qualifying features within the site.

For SACs, the overarching objective is to avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving favourable conservation status of each of the qualifying features. This is achieved by, subject to natural change, maintaining and restoring:

- the extent and distribution of the qualifying natural habitats and habitats of qualifying species;
- the structure and function (including typical species) of qualifying natural habitats;
- the structure and function of the habitats of qualifying species;
- the supporting processes on which qualifying natural habitats and habitats of qualifying species rely;
- the populations of qualifying species; and
- the distribution of qualifying species within the site.

The conservation objectives and, where available, SACOs have been used by the Secretary of State to consider whether the Project has the potential to have an AEoI of sites, either alone or in-combination with other plans or projects.

1.4 The Report on the Implications for European Sites and statutory consultation

Under Regulation 63(3) of the Habitats Regulations and Regulation 28(4) of the Offshore Habitats Regulations the competent authority must consult the appropriate Statutory Nature

[8] http://publications.naturalengland.org.uk/publication/6734992977690624?cache=1656417868.31

Conservation Body ("SNCB") and have regard to any representation made by that body within such reasonable time as the authority specifies.

NE is the SNCB for England and for English waters within the 12nm limit. The JNCC is the SNCB beyond 12nm, but this duty has been discharged by NE following the 2013 Triennial Review of both organisations. However, JNCC retains responsibility as the statutory advisor for protected sites that are located outside the territorial sea and UK internal waters (i.e. more than 12nm offshore) and as such continues to provide advice, as required, to NE on the significance of any potential effects on interest features of such sites.

The ExA, with the support of the Planning Inspectorate's Environmental Services Team, produced a Report on the Implications for European Sites ("the RIES") [PD-020]. The purpose of the RIES was to compile, document, and signpost information submitted by the Applicant and Interested Parties ("IPs") during the Examination up to Deadline 6 (24 June 2025). It was issued to ensure that IPs, including NE as the SNCB under Regulation 5 of the Habitats Regulations, had been formally consulted on Habitats Regulations matters in respect of the Application for the Project during the Examination.

The RIES was published on the PINS NSIP website and the ExA notified IPs that it had been published. Consultation on the RIES was undertaken between 01 July 2025 and 23 July 2025. The Applicant [REP8-035] and NE [REP8-100] provided comments on the RIES.

NE advised that it did not consider consultation on the RIES alone adequately discharges the statutory requirements to consult NE on the AA [REP8-100]. Noting the Planning Inspectorate's Advice[9], the RIES was not revised following consultation, and it was the ExA's recommendation [ER C.1.1.9-10] that the RIES and the consultation on it, may be relied upon as an appropriate body of information to enable the Secretary of State to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations and Regulations 28(4) of the Offshore Habitats Regulations. Additionally, the ExA stated that given the number of outstanding issues and concerns raised by NE, the Secretary of State may wish to undertake further consultation to fulfil their duties.

For the avoidance of doubt, the Secretary of State considers all representations made by all IPs on HRA matters throughout the entirety of the Examination process. The Secretary of State does not rely solely on consultation on the RIES to inform his conclusions on matters relevant to the HRA, but he does consider that the RIES can formally support his duties to consult on AAs. The Secretary of State considers that the extensive consultation undertaken during the Examination, as well as the further information requests issued on 26 November 2025 and the 28 January 2026 has adequately fulfilled his duties to consult on the AA under Regulation 63(3) of the Habitats Regulations and Regulation 28(4) of the Offshore Habitats Regulations.

[9] https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-habitats-regulations-assessments

1.5 Documents referred to in this HRA

This HRA has taken account of, and should be read in conjunction with, the documents produced as part of the Application and Examination, which are available on the PINS NSIP website[10]. In particular, but not limited to:

- the ExA's Report
- the RIES [PD-020]
- RIAA Assessment Part 1 Introduction [APP-173]
- RIAA Appendix 1.1 HRA Screening [APP-174]- "Screening Report"
- RIAA Part 2 Benthic Ecology Annex I Habitat in SACs and SPA Supporting Habitat [APP-175] and updated by Report to Inform Appropriate Assessment Part 2 Benthic Ecology (Annex I habitat in SACs and SPA supporting habitat) [REP7-013]
- RIAA part 3 Marine Mammals Annex II Species [APP-176]
- RIAA Appendix 3.1 Marine Mammal Unexploded Ordnance Clearance Information and Assessment [APP-177]
- RIAA Part 4 Offshore Ornithology Birds Directive Annex 1 and Migratory Species [APP-178]
- RIAA Appendix 4.1 [APP-179]
- RIAA Appendix 4.2 Population Viability Analysis [APP-180]
- RIAA Part 5 Onshore European and Ramsar Sites [APP-181]
- RIAA Part 6 Summary [APP-182]
- HRA Annex 2B Lesser Black-backed Gull Compensation Effects on Designated Sites [REP4-010]
- Habitat Regulations Assessment Lesser Black-backed Gull Compensation - Gedgrave Marshes Impact Assessment [REP5-072]
- Updated offshore ornithology in-combination tables [REP7-050]
- Habitats Regulations Assessment Shadow Appropriate Assessment for Guillemot at the Farne Islands SPA [REP1-056]
- Habitats Regulations Derogation Provision of Evidence [APP-183] and as updated by [REP7-015]
- Appendix 1 Compensatory Measures Overview [APP-184] and as updated by [REP8-015]
- Annex 1A Habitats Regulations Assessment Compensation Consultation [APP-185]
- Annex 1B Compensation Funding Statement [APP-186] and as updated by [REP8-017]
- Annex 1C In Principle Letter of Agreement from Dogger Bank South East and West [APP-187]
- HRA Annex 1D Letter of Comfort from Cornwall Wildlife Trust West [REP3-010]
- Appendix 2 Lesser Black-backed Gull Compensation Document [APP-188] and as updated by [REP8-021]
- Annex 2A Outline Lesser Black-backed Gull Compensation Implementation and Monitoring Plan [APP-189] and as updated by [REP8-019]

[10] https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010119

- Appendix 3 Red Throated Diver Compensation Document [APP-190] and as updated by [REP6-015]
- Annex 3A Outline Red Throated Diver Compensation Implementation and Monitoring Plan [APP-191] and as updated by [REP6-017]
- Appendix 4 Kittiwake Compensation Document [APP-192] and as updated by [REP6-019]
- Annex 4A Outline Kittiwake Compensation Implementation and Monitoring Plan [APP-193] and as updated by [REP6-021]
- Appendix 5 Guillemot and Razorbill Compensation Document [APP-194] and as updated by [REP6-023]
- Annex 5A Outline Guillemot and Razorbill Compensation Implementation and Monitoring Plan [APP-195] and as updated by [REP6-025]
- NE's Risk and Issue Log [REP8-099]

Plus, all other information submitted during the Examination and during the Secretary of State's consideration of the Application.

2 Project description

A detailed description of the Project is presented in Chapter 5 of the Environmental Statement ("ES") [APP-019] and Non-Technical Summary of the ES [AS-008].

The Project comprises of the following offshore components:

- Up to 57 offshore WTGs and associated foundations;
- High voltage alternating current ("HVAC") transmission technology;
- Inter-array cables connecting the WTGs to the OSP(s) (up to two);
- Up to four undersea export cables to connect the WTGs to offshore substation(s) and from there to the landfall area at Little Bromley;
- Up to one OCP; and
- Scour protection for foundations where required and surface laid cable protection.

The Project also comprises the following onshore components:

- Onshore export cables and associated joint bays;
- An onshore substation;
- A connection from the onshore substation to the new 400kV National Grid East Anglian Connection Node (proposed by NGET as part of their Norwich to Tilbury project); and
- Bentley Road improvement works.

The Project's wind farm array area would be 95km^2 in size and located approximately 40km off the East Anglia coastline in the southern North Sea. The offshore export cables would be routed through an offshore cable corridor with landfall being made at Kirby Brook, which is between Frinston-on-Sea and Clacton-on Sea, on the Essex coastline.

The Project's onshore development would be located within Tendring District Council ("TDC") and Essex County Council ("ECC") administrative areas.

The final design for the Project may not be confirmed until after consent has been granted. Consequently, the Applicant has presented a design envelope approach whereby the maximum development scenarios are presented and assessed. The Applicant has sought flexibility in submitting a final design, in accordance with PINS Advice Note 9[11] (Rochdale Envelope), by undertaking a worst-case scenario approach in presenting and assessing the maximum adverse effects, as set out in ES Chapter 6 Environmental Impact Assessment ("EIA") Methodology [APP-020]. As part of this, three grid connection options are included in the Project's design envelope:

- Option 1: Onshore electrical connection at a National Grid connection point within the Tendring peninsula of Essex, with a Project alone onshore cable route and onshore substation infrastructure;

[11] Nationally Significant Infrastructure Projects - Advice Note Nine: Rochdale Envelope - GOV.UK

- Option 2: Onshore electrical connection at a National Grid connection point within the Tendring peninsula of Essex, sharing an onshore cable route and onshore cable duct installation (but with separate onshore export cables) and co-locating separate Project onshore substation infrastructure with Five Estuaries Offshore Wind Farm ("VEOWF"); or
- Option 3: Offshore electrical connection, supplied by a third party.

The Project shares the same proposed National Grid connection point and connection date of October 2030 with VEOWF. Both the Project and VEOWF are being developed as two distinct and separate projects but have worked together to align landfall locations for the export cables, develop a shared onshore export cable corridor and select a single site for both onshore substations to co-locate [ER 1.3.2]. As such, the Project and VEOWF have developed three possible build scenarios to develop a coordinated design onshore, and these are also described in ES Chapter 5 [ER 1.3.10].

The Rochdale envelope and the presented worst-case design parameters provide sufficient flexibility in the finalisation of the design whilst ensuring that the environmental effects of the Project eventually constructed have been properly assessed. The relevant worst-case scenario(s) are assessed and outlined by the Applicant for each impact and receptor in its Report To Inform Appropriate Assessment ("RIAA"). The Secretary of State's HRA is based upon the Project's worst-case scenarios, in accordance with PINS Advice Note 9[12].

2.1 Changes to the Application during Examination

Although no formal change requests were made by the Applicant, changes to the key Application documents, including the wording of the draft DCO and amendments to the RIAA, were submitted and updated during the Examination. The changes sought to address points raised by IPs and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the Examination.

The Applicant's changes to the Application documents up to the end of Examination, together with any additional information submitted, are detailed in the Application Guide submitted at Deadline 8 [REP8-001]. This provides a guide to all documents submitted as part of the Application and was updated at each deadline when new or revised documents were submitted. It provides a full record of all documentation submitted into the Examination by the Applicant, with submissions post Examination referenced in-line with the post Examination submissions document.

[12] Nationally Significant Infrastructure Projects - Advice Note Nine: Rochdale Envelope - GOV.UK

3 Stage 1: Screening for Likely Significant Effects ("LSEs")

Under Regulation 63 of the Habitats Regulations and Regulation 28 of the Offshore Habitats Regulations, the Secretary of State must consider whether the Project will have an LSE on a protected site, either alone or in-combination with other plans or projects. The purpose of this section is to identify any LSEs on protected sites that may result from the Project and to record the Secretary of State's conclusions on the need for an AA.

Figures 1 and 2 present the spatial relationship between the Project and nearby protected sites on and offshore (as presented in the Applicants HRA Screening Report).

The Applicant prepared a RIAA which was been separated out into six parts (plus appendices) [APP-173, APP-175, APP-176, APP-178, APP-181 and APP-182]. For the purpose of clarity this collection of documents, and any updates in Examination, will be referred to as the "HRA Report" within this HRA for ease of understanding.

Section 4 of the Applicant's RIAA Appendix 1.1 HRA Screening Report [APP-174] ("Screening Report") presents the broad approach undertaken by the Applicant for LSE screening and the process to identify relevant protected sites and qualifying features.

NE [RR-243, including ref C34 and F21] indicated that the protected sites identified by the Applicant are those relevant to the Project, noting comments in Section 3.1 below, and no additional pathways were identified by IPs for inclusion during the Examination process [ER C.1.2.11].

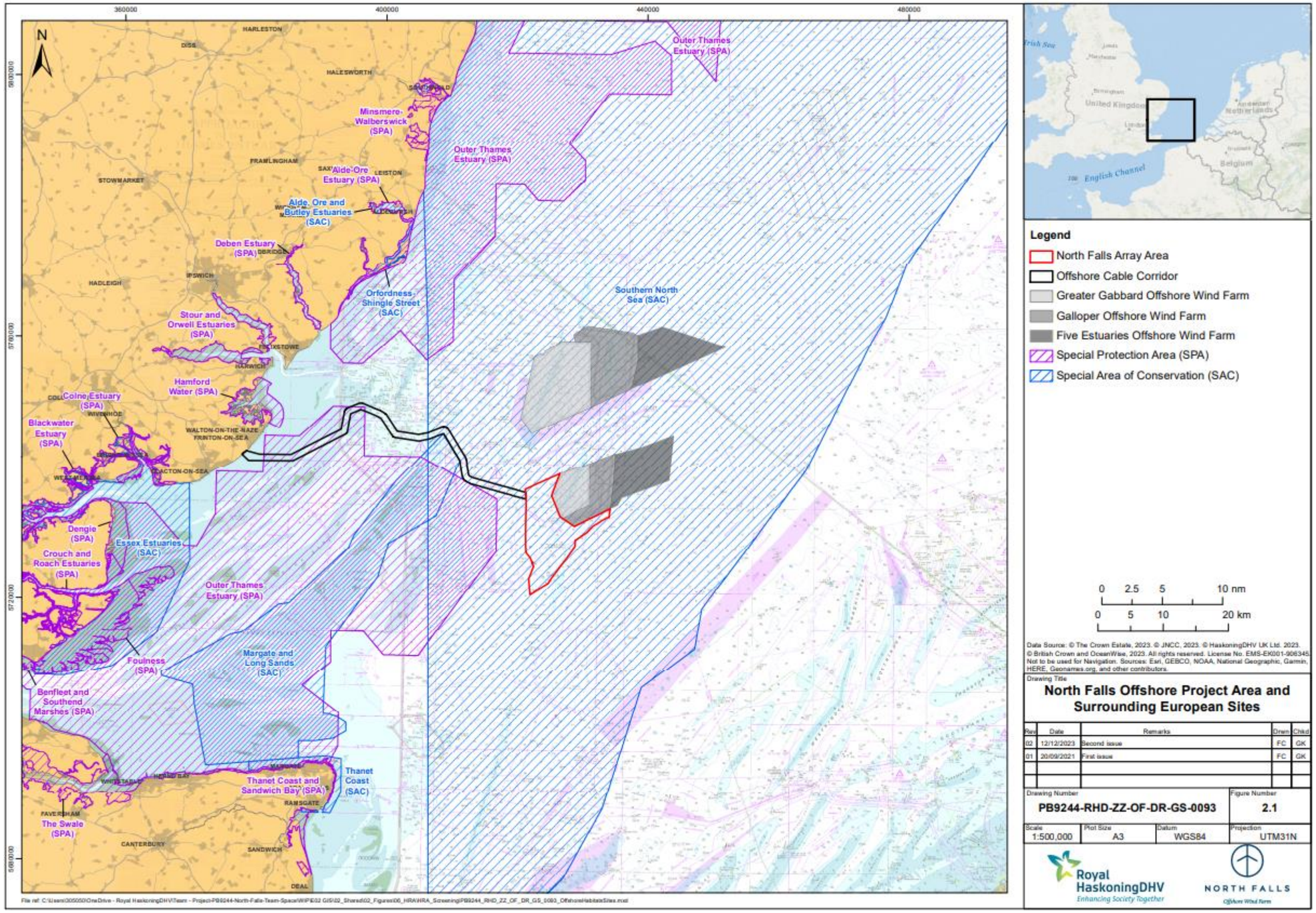

Figure 1: Spatial relationship of the Project and the offshore protected sites (as presented in the Applicants HRA Screening Report)

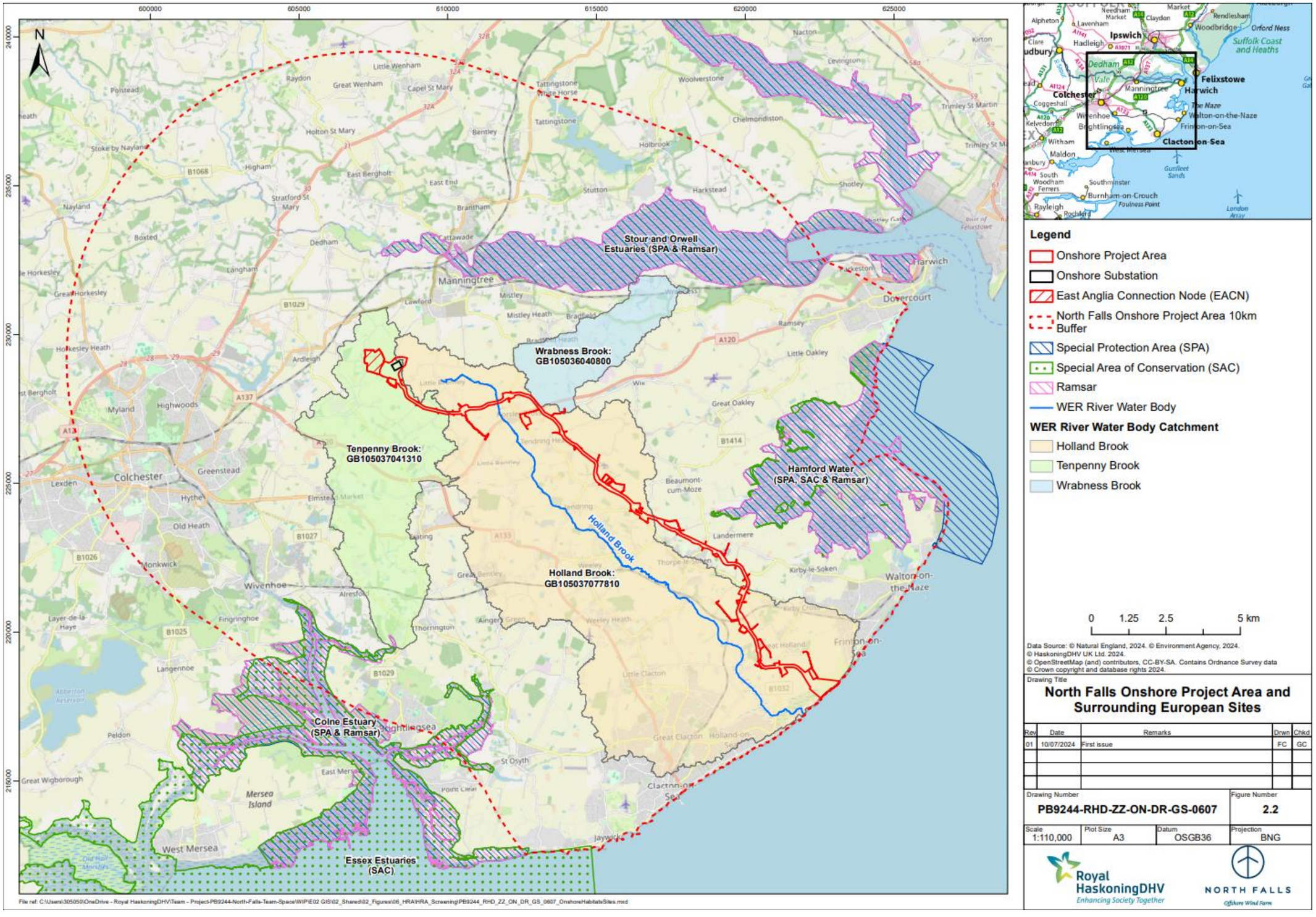

Figure 2: Spatial relationship of the Project and the onshore protected sites (as presented in the Applicants HRA Screening Report)

3.1 Likely Significant Effects alone and in-combination

The Applicant identified the impacts considered to have the potential to result in LSEs, from the Project alone and in-combination in sections 5.2, 6.2, 7.2, 8.2, 9.2 and 10.2 of the Screening Report.

The following impacts were considered by the Applicant to have the potential to result in LSEs on protected sites during construction, operation and/or decommissioning of the Project:

- Suspended sediment increases and subsequent deposition (and smothering);
- Re-mobilisation of contaminated sediments;
- Introduction of non-native species;
- Temporary habitat loss;
- Physical disturbance;
- Lasting loss of habitat;
- Underwater noise and vibration;
- Above water noise;
- Barrier to species movement;
- Electro-magnetic field impacts;
- Vessel collision risk for marine mammals;
- Changes to water quality;
- Collision risk for birds with turbines;
- Disturbance and displacement of species;
- Indirect impacts through effects on habitats and prey species;
- Indirect effects from air quality emissions;
- Changes in fishing activity; and
- Accidental pollutant release.

The protected sites affected, and potential impact pathways, are provided in sections 4-10 of the Screening Report as well as REP4-010 and REP5-072 (which assess effects from potential compensation sites). The potential for alone and in-combination LSE from the Project was identified for the following 90 protected sites:

- Abberton Reservoir Ramsar;
- Abberton Reservoir SPA;
- Alde-Ore Estuary (“AOE”) SPA;
- AOE Ramsar;
- Auskerry SPA;
- Benacre to Easton Bavents SPA;
- Benfleet and Southend Marshes Ramsar;
- Benfleet and Southend Marshes SPA;
- Blackwater Estuary Ramsar;

- Blackwater Estuary SPA;
- Breakland SPA;
- Breydon Water Ramsar;
- Breydon Water SPA;
- Broadland Ramsar;
- Broadland SPA;
- Caithness and Sutherland Peatlands SPA;
- Chichester and Langstone Harbour SPA;
- Colne Estuary (Mid-Essex Coast Phase 2) Ramsar;
- Colne Estuary (Mid-Essex Coast Phase 2) SPA;
- Coquet Island SPA;
- Cromarty Firth SPA;
- Crouch and Roach Estuaries Ramsar;
- Crouch and Roach Estuaries SPA;
- Deben Estuary Ramsar;
- Deben Estuary SPA;
- Dengie Ramsar;
- Dengie SPA;
- Dungeness, Romney Marsh and Rye Bay Ramsar;
- Dungeness, Romney Marsh and Rye Bay SPA;
- East Caithness Cliffs SPA;
- Fair Isle SPA;
- Farne Islands SPA;
- Fetlar SPA;
- Flamborough and Filey Coast (“FFC”) SPA;
- Forth Islands SPA;
- Foula SPA;
- Foulness Ramsar;
- Foulness SPA;
- Fowlsheugh SPA;
- Hamford Water Ramsar;
- Hamford Water SAC;
- Hamford Water SPA;
- Hermaness, Saxa Vord and Valla Field SPA;
- Hoy SPA;
- Humber Estuary Ramsar
- Humber Estuary SAC;
- Inner Moray Firth SPA;
- Loch of Strathbeg SPA;
- Margate and Long Sands (“MLS”) SAC;
- Marwick Head SPA;

- Medway Estuary and Marshes Ramsar;
- Medway Estuary and Marshes SPA;
- Minsmere-Walberswick Ramsar;
- Minsmere-Walberswick SPA;
- Mousa SPA;
- North Caithness Cliffs SPA;
- North Norfolk Coast Ramsar;
- North Norfolk Coast SPA;
- Northumbria Coast SPA;
- Noss SPA;
- Orfordness – Shingle Street SAC;
- Orkney Mainland Moors SPA.
- Otterswick and Graveland SPA;
- Outer Thames Estuary ("OTE") SPA;
- Papa Stour SPA;
- Papa Westray (North Hill and Holm) SPA;
- Pentland Firth Islands SPA;
- Ronas Hill- North Roe and Tingon SPA;
- Rousay SPA;
- Sandlings SPA;
- Solent and Southampton Water Ramsar;
- Solent and Southampton Water SPA;
- Sothern North Sea SAC;
- Stodmarsh Ramsar;
- Stodmarsh SPA;
- Stour and Orwell Estuaries SPA;
- Stour and Orwell Estuaries Ramsar;
- Sumburgh Head SPA;
- Teesmouth and Cleveland Coast SPA;
- Thames Estuary and Marshes Ramsar;
- Thames Estuary and Marshes SPA;
- Thanet Coast and Sandwich Bay Ramsar;
- Thanet Coast and Sandwich Bay SPA;
- The Swale Ramsar;
- The Swale SPA;
- The Wash and North Norfolk Coast SAC;
- The Wash SPA;
- Troup, Pennan and Lion's Heads SPA;
- West Westray SPA; and
- Ythan Estuary, Sands of Forvie and Meikle Loch SPA.

The Applicant also identified the impacts considered to have the potential to result in LSEs from the Project, in-combination with other plans and projects, as detailed in sections 5.2.1-10.3.4 of the Screening Report. The screening outcomes for each site are presented in Tables 10.4, 11.1 and 11.2 of the Screening Report. The Applicant considered that where an LSE alone had been identified, there would also be the potential for an in-combination effect and therefore screened it in for both.

In line with PINS Guidance[13] on assessing cumulative effects, the Applicant applied a 'tiered' approach to the in-combination assessment to reflect the different levels of uncertainty associated with the project design and timeframes for the projects screened into assessment [APP-174]. The allocated 'tiers' reflect the current stage of relevant projects within the planning and development process. This allowed the in-combination impacts assessment to consider several future development scenarios, each with a different potential for being built out. As described in section 4.1 of the Screening Report, the tiers consisted of the following:

- **Tier 1-** Built and operational Projects
- **Tier 2-** Projects currently under construction
- **Tier 3-** Projects that have been consented, but construction has not yet commenced
- **Tier 4-** Projects that have an application submitted to the appropriate regulatory body but have yet to be determined

The projects and plans considered for the in-combination assessment are set out in sections 5.2.1, 6.2.1, 7.2.1, 8.2.1, 9.3.4 and 10.3.4 of the Screening Report.

No additional plans or projects were identified by the IPs during the Examination [ER C.1.2.24].

3.2 Likely Significant Effects conclusion

The Secretary of State has carefully considered the potential effects of the Project on all qualifying features of the protected sites, including those raised during the Examination, taking into account their conservation objectives, to determine whether there will be LSEs in the context of the Regulations. The Secretary of State considers that sufficient information has been provided to inform an assessment in line with his duties under the Habitats Regulations.

In response to the ExA's RIES consultation, NE [REP8-100] in response to RIES Q1, stated that the RIAA part 2 had not considered ecological implications for predicted sediment deposition within the MLS SAC and the potential for impacts to Annex I sandbanks. The Applicant provided additional submissions [REP7-013, AS-056] to justify the consideration of this impact pathway. No other matters were raised by any IPs in the Examination in relation to the Applicant's Screening Report for LSE and NE [RR-243] did not identify additional protected sites and impact pathways beyond that identified in the Applicant's Screening Report.

The ExA also considered that the correct protected sites and impact pathways had been identified in the Applicant's Screening Report and was satisfied with the approach to undertaking

[13] https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-cumulative-effects-assessment#stage-1-establishing-the-long-list-of-other-existing-and-or-approved-development

the assessment of alone and in-combination LSE [ER C.1.2.30]. The ExA agreed that the Project is likely to have a significant effect on the qualifying features of all the protected sites identified by the Applicant when considered alone, or in-combination with other plans or projects [ER C.1.2.31].

Based on the information before him, the views of IPs and NE, as well as the recommendations of the ExA, the Secretary of State concludes that LSE from the Project, alone and in-combination with other plans or projects, could occur during construction, operation, and decommissioning of the Project. Annex A of this document presents the protected sites for which the Secretary of State considers that significant effects cannot be excluded, either alone or in-combination, alongside the qualifying features and relevant impact pathways. The LSE are therefore taken forward to AA for the Secretary of State to consider whether the Project would result in an AEoI of the identified protected sites.

4 Appropriate Assessment methodology

The requirement to undertake an AA is triggered when a competent authority, in this case the Secretary of State, determines that a plan or project is likely to have a significant effect on a protected site either alone or in-combination with other plans or projects. Guidance issued by DEFRA[14] states that the purpose of an AA is to assess the implications of the plan or project in respect of the site's conservation objectives, either individually or in-combination with other plans and projects, and that the conclusions should enable the competent authority to ascertain whether the plan or project will adversely affect the integrity of the site concerned. The focus is therefore specifically on the species and/or habitats for which the protected site is designated.

In line with the requirements of Regulation 63 of the Habitats Regulations and Regulation 28 of the Offshore Habitats Regulations:

"*In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given*."

The purpose of this AA is to determine whether an AEoI of the protected sites and features identified in Annex A of this HRA, as a result of the Project alone or in-combination with other plans or projects, can be excluded in view of the site's conservation objectives and using the best scientific evidence available.

In accordance with the precautionary principle embedded in the integrity test and established through case law[15], the Secretary of State as the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the protected site, and this must be demonstrated beyond all reasonable scientific doubt. If the Secretary of State cannot exclude AEoI of the affected protected sites beyond all reasonable scientific doubt, then he can only agree to a plan or project if it complies with the requirements of Regulation 64 of the Habitats Regulations and Regulation 29 of the Offshore Habitats Regulations. Regulation 64 and Regulation 29 provides that the Secretary of State may agree to the plan or project only if satisfied that there are no alternative solutions, and that the plan or project must be carried out for imperative reasons of overriding public interest ("IROPI"). In addition, Regulation 68 of the Habitats Regulations and Regulation 36 of the Offshore Habitats Regulations requires compensatory measures to be secured which maintain the overall coherence of the NSN.

[14] https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site

[15] Case C-127/02 Waddenzee ECLI:EU:C:2004:482

5 Stage 2: Appropriate Assessment

The Secretary of State has undertaken an objective scientific assessment of the implications of the Project on the qualifying features of the protected sites identified in his screening assessment, using the best scientific evidence available. The assessment has been made in light of the site's conservation objectives, as detailed in Section 1.3 and set out in Annex A of this HRA.

5.1 Applicant's AA conclusions

The Applicant's HRA Report [refer to APP-178] concluded an in-combination AEoI of the AOE SPA and Ramsar site on the lesser black-backed gull ("LBBG") qualifying feature due to the risk of collision during the operational phase of the Project. NE [RR-243], the Royal Society for the Protection of Birds ("RSPB") [RR-294], and the ExA [ER C.1.4.219] agreed that an in-combination AEoI of the AOE SPA and Ramsar site on the LBBG qualifying feature could not be excluded.

For all other protected sites, the Applicants HRA Report, HRA Annex [REP4-010] and LBBG HRA - Gedgrave Marshes Impact Assessment [REP5-072] concluded that the Project, including compensation measures, would not adversely affect the integrity of any of the protected sites and features for which a LSE pathway was identified, either alone or in-combination. However, it is noted that at Deadline 6 of the Examination [REP6-007], the Applicant accepted that based on the Secretary of State's decision in the Rampion 2 DCO, it was likely that an AEoI could not be excluded by the Secretary of State from the Project in-combination with other projects for the guillemot feature of FFC SPA and the Farne Islands SPA, and the kittiwake feature of FFC SPA. The Applicant updated the Habitats Regulations Derogation Provision of Evidence [REP6-007] and the draft DCO so that the proposed compensation measures for these features were no longer on a 'without prejudice' basis. The conclusions that AEoI could be excluded however were not updated in the HRA Report [refer to APP-178].

The Applicant's conclusion that AEoI could be excluded was not disputed at the close of the Examination in respect of the following protected sites (or for some qualifying features only):

- Abberton Reservoir SPA and Ramsar site;
- AOE SPA and Ramsar site (sandwich tern, avocet, marsh harrier, redshank, ruff);
- Auskerry SPA;
- Benacre to Easton Bavents SPA;
- Benfleet and Southend Marshes SPA and Ramsar site;
- Blackwater Estuary SPA and Ramsar site;
- Breckland SPA;
- Breydon Water SPA and Ramsar site;
- Broadland SPA and Ramsar site;
- Caithness and Sutherland Peatlands SPA;

- Chichester and Langstone Harbours SPA;
- Colne Estuary (Mid-Essex Coast Phase 2) Ramsar site;
- Colne Estuary (Mid-Essex Coast Phase 2) SPA;
- Coquet Island SPA;
- Cromarty Firth SPA;
- Crouch and Roach Estuaries SPA and Ramsar site;
- Deben Estuary SPA and Ramsar site;
- Dengie SPA and Ramsar site;
- Dungeness, Romney Marsh and Rye Bay SPA and Ramsar site;
- East Caithness Cliffs SPA;
- Fair Isle SPA;
- Farne Islands SPA (Arctic tern, Common tern, Sandwich tern);
- Fetlar SPA;
- Forth Islands SPA;
- Foula SPA;
- Foulness SPA and Ramsar site;
- Fowlsheugh SPA;
- Hamford Water Ramsar site;
- Hamford Water SAC;
- Hamford Water SPA;
- Hermaness, Saxa Vord and Valla Field SPA;
- Hoy SPA;
- Humber Estuary SAC and Ramsar site;
- Inner Moray Firth SPA;
- Loch of Strathbeg SPA;
- Marwick Head SPA;
- Medway Estuary and Marshes SPA and Ramsar site;
- Minsmere-Walberswick SPA and Ramsar site;
- Mousa SPA;
- North Caithness Cliffs SPA;
- North Norfolk Coast SPA and Ramsar;
- Northumbria Coast SPA;
- Noss SPA;
- Orkney Mainland Moors SPA;
- OTE SPA (common tern);
- Otterswick and Graveland SPA;
- Papa Stour SPA;
- Papa Westray (North Hill and Holm) SPA;
- Pentland Firth Islands SPA;
- Ronas Hill - North Roe and Tingon SPA;
- Rousay SPA;

- Sandlings SPA;
- Solent and Southampton Water SPA and Ramsar site;
- Stodmarsh SPA and Ramsar site;
- Sumburgh Head SPA;
- Teesmouth and Cleveland Coast SPA
- Thames Estuary and Marshes SPA and Ramsar site;
- Thanet Coast and Sandwich Bay SPA and Ramsar;
- The Swale SPA and Ramsar site;
- The Wash and North Norfolk Coast SAC;
- The Wash SPA;
- Troup, Pennan and Lion's Heads SPA;
- West Westray SPA; and
- Ythan Estuary, Sands of Forvie and Meikle Loch SPA.

5.2 Secretary of State's AA

The ExA was satisfied that, on the basis of the information provided in the Applicant's HRA Report and during Examination, as well as agreement received by NE, an AEoI of the above listed (Section 5.1) protected sites (and where noted for specific listed qualifying features) could be excluded [ER C.1.4.11].

Based on the information before him, and subject to the mitigation measures as secured in the Order, the Secretary of State is satisfied that the Project, either alone or in-combination, will not adversely affect the integrity of the protected sites listed above (Section 5.1), and where noted specific qualifying features.

The Applicant, in its HRA Report, also excluded AEoI for the Project alone or in-combination for the following protected sites and respective qualifying features:

- Alde-Ore Estuary SPA and Ramsar site (wetland invertebrate assemblage and wetland plant assemblage);
- Flamborough and Filey Coast SPA (seabird assemblage, razorbill, gannet, kittiwake, guillemot);
- Farne Islands SPA (guillemot);
- Margate and Longsands SAC (sandbanks which are slightly covered by seawater all the time);
- Orfordness – Shingle Street SAC (coastal lagoons and perennial vegetation of stony banks);
- Outer Thames Estuary SPA (Red-Throated Diver ("RTD"));
- Southern North Sea SAC (harbour porpoise); and
- Stour and Orwell Estuaries SPA and Ramsar site (avocet, black-tailed godwit, dark-bellied brent goose, dunlin, grey plover, knot, pintail, redshank and waterbird assemblage).

However, the Applicant's conclusions that AEoI could be excluded in relation to these protected sites and their qualifying features were disputed by NE and or other Interested Parties (IPs) and for some protected sites, outstanding disagreements remained at the close of the Examination. The Secretary of State's HRA discusses each below, in addition to the LBBG qualifying feature of the AOE SPA and Ramsar site where an AEoI was identified and agreed by all relevant IPs. It is noted (as described in Section 5.1) that for the guillemot feature of FFC SPA and the Farne Islands SPA, and the kittiwake feature of FFC SPA, the Applicant accepted in Examination that the Secretary of State may not be able to rule out an AEoI.

5.3 Alde-Ore Estuary SPA – LBBG

The Project is 39.1km from the AOE SPA as noted in the HRA Report [refer to APP-178]. Screened into the AA is LBBG, sandwich tern, avocet, marsh harrier, redshank, ruff and the assemblage of breeding and wintering wetland birds. The Applicant's assessment included consideration of the Project within the HRA Report [refer to APP-178] and potential compensation measures within REP4-010 and REP5-072. The Applicant concluded that AEoI could be excluded for all features (and this is agreed by the Secretary of State) except for LBBG for collision effects from the Project's array, which is considered below in regard to operational collision mortality. For the AOE Ramsar site, it is also agreed there is an AEoI for LBBG (which reflects commentary made on the SPA below), and for this site comment relating to wetland invertebrate assemblage and wetland plant assemblage is also provided in Section 5.4.

5.3.1 Project alone

The HRA Report [refer to APP-178] presents a mean predicted annual adult collision mortality apportioned to the AOE SPA of 3.1 birds, representing a 0.7% increase in the baseline mortality rate of the AOE SPA population. The Applicant noted that the 95% Upper Confidence Limit ("UCL") of the collision risk estimates (10.6 collision per year) represents increases of >1% in population mortality rates, while stating that these collision predictions are extremely unlikely to occur. Given the potential population effects, Population Viability Analysis ("PVA") was undertaken in the HRA Report.

For the Project alone (as presented in the HRA Report), considering the mean predicted collision mortality apportioned to the SPA of 3.1 breeding adults per year, the associated median predicted reduction in the population growth rate of LBBG at the AOE SPA after 30 years is 0.1% (on the basis of a Counterfactuals of Population Growth Rate ("CPGR") of 0.999) compared with the unimpacted population, and the predicted reduction in population size after 30 years compared to the unimpacted population is 1.9% (Counterfactual Population Size ("CPS") = 0.981). At the 95% UCL of 10.6 collisions per year, the median predicted reduction in the population growth rate is 0.2% (CPGR = 0.988) compared with the unimpacted population, and the predicted reduction in population size after 30 years compared to the unimpacted population is 4.9% (CPS = 0.951). It is considered by the Applicant that the predicted Project alone collision mortality would not compromise the conservation objectives of the AOE SPA as the PVA predicted an extremely small reduction in the annual population growth rate.

Updated apportioning of LBBG at AOE SPA [REP1-058] was provided by the Applicant at Deadline 1, in response to feedback from NE [RR-243, F25]. This showed a reduced collision risk for the Project from 3.1 (95%CL 0.0-10.6) to 2.3 (95%CL 0.0-8.0), based on an avoidance rate of 99.39%. NE in REP4-060 confirmed that this matter had been resolved. The Secretary of State agrees with the assessment provided by the Applicant and considers the Project impact is 2.3 breeding adults per annum.

Based on the information before him the Secretary of State concludes that an AEoI of the AOE SPA on the LBBG feature from collision mortality during the operational phase can be excluded from the Project alone.

5.3.2 Project in-combination

The Applicant presented the in-combination assessment in the HRA Report [refer to APP-178] and updated the in-combination totals during Examination [REP7-050] following comments provided by NE [REP5-107 and REP5-109]. The predicted in-combination collision mortality was reported to potentially increase the baseline mortality rate of the AOE SPA breeding population by 15.2-16.5% (based on a population size of 3498 breeding adults). The Project is noted by the Applicant as contributing 3.5-3.8% to the updated in-combination totals.

Given the potential population effects, PVA was undertaken by the Applicant. The PVA showed at an in-combination annual mortality of 64.1 breeding adults a potential 1.2% reduction in annual population growth with a predicted 30% reduction in population size after 30 years. It is noted by the Secretary of State that the PVA does not include the updates made in REP5-109 but that this is not considered to change the conclusions of the HRA Report.

The Applicant highlighted the considered levels of precaution built into the assessment but concluded that given the LBBG population is subject to a restore target, the scale of this potential reduction in population size means that there is potential for adverse effects on the AOE SPA population of breeding LBBG.

NE [RR-243] agreed with the Applicant's conclusion that AEoI could not be excluded for the LBBG feature of the AOE SPA (and Ramsar site) as a result of in-combination collision mortality during operation and that compensation measures should be provided by the Applicant.

In light of the conservation objectives and the target to restore the size of the breeding population whilst avoiding deterioration from its current level, the ExA agreed the Proposed Development in-combination with other Offshore Wind Farm ("OWF") projects would give rise to an AEoI of the AOE SPA and Ramsar site on the LBBG feature [ER C.1.4.219].

Based on the information before him, considering the level of potential impact, the conservation objectives and the breeding population abundance target, the Secretary of State considers that an AEoI of the AOE SPA (and Ramsar site) on the LBBG feature from the Project, in-combination, cannot be ruled out beyond reasonable scientific doubt.

5.4 Alde-Ore Estuary Ramsar - wetland invertebrate assemblage and wetland plant assemblage

As with the AOE SPA, the Ramsar site is located 39.1km away from the Project at its nearest point. The Applicant assessed the potential for an AEoI for this Ramsar site in relation to the Project impacts as well as impacts from LBBG compensation measures (as it was concluded that there was an in-combination AEoI). The Secretary of State agrees that an AEoI cannot be excluded for LBBG at AOE Ramsar (in line with the SPA) due to in-combination collision impacts, and as such this section of the HRA will instead consider the remaining features of the site where there was a disagreement over the Applicant's conclusions with NE.

In its relevant representation, NE [RR-243] raised concerns over the wetland invertebrate and wetland plant assemblage as qualifying features for the AOE Ramsar site. NE [REP2-054], in response to ExAQ1 (first questions [PD-009]) stated that the coastal lagoon and unique lichen communities could be impacted by the predator fencing and management of the Proposed Compensation Site ("PCS") that could be located within the Ramsar site. In particular, this was in relation to the proposed PCS Lantern Marshes. NE stated that additional evidence would be required by the Applicant to ensure these features were considered fully in their RIAA.

The Applicant noted in its LBBG HRA annex [REP4-010] that it assessed the potential for impacts to these qualifying features and provided justification for the conclusion that AEoI could be excluded. The Applicant also provided in Examination at Deadline 5 a further assessment, noting an additional PCS for LBBG (HRA Lesser Black-backed Gull Compensation - Gedgrave Marshes Impact Assessment [REP5-072]).

The ExA asked NE during the RIES consultation if they had sufficient information to resolve its concerns, but in response to this, NE [REP8-100] stated that it was still unable to agree with the Applicant's conclusions with respect to impacts on invertebrate assemblage and plan assemblages. However, NE did acknowledge that the Applicant had committed in the Outline LBBG Compensation Implementation and Monitoring Plan ("CIMP") [REP6-014] to undertake pre-construction habitat and species surveys which would address the current evidence gaps, inform the impact assessment, mitigation measures, and address any impacts on designated site(s), if relevant.

In addition to this, the Applicant clarified that the potential impacts to these features arose through the use of Lantern Marshes as a PCS for LBBG, rather than works related to the Project's construction or operation. The Applicant noted that as Lantern Marshes was removed from the potential sites for compensation, and noting comments from the National Trust [REP7-084], there would be no impacts to this protected site.

The ExA concluded that since the Lantern Marshes site has been removed as a potential option for compensation, there is no longer a pathway for effect from compensation sites on the qualifying features of the AOE Ramsar site [ER C.1.4.205]. No other PCS's were identified within the AOE Ramsar that could provide a pathway to impact these features or an AEoI.

Based on the information before him and the amended Outline LBBG CIMP, the Secretary of State is satisfied that the Project, either alone or in-combination with other plans or projects, will not adversely affect the integrity of the wetland invertebrate assemblage and wetland plant assemblage features of the AOE Ramsar site.

5.5 Flamborough and Filey Coast SPA

As stated in the HRA Report [refer to APP-178], the Project's array is located approximately 288km south of FFC SPA at its closest point. The qualifying species screened into the AA, are breeding gannet, breeding kittiwake, breeding guillemot, and breeding razorbill. The breeding seabird assemblage is also a qualifying feature screened in and assessed. Impacts to these features consist of collision risk and/or displacement during the operational phase of the of the Project. NE viewed the impacts from the Project, taken together with in-combination projects, mean further reductions to the population size of kittiwake, guillemot and razorbill are likely. As such NE [REP8-100] were not able to rule out AEoI for the in-combination impacts to kittiwake, guillemot, razorbill and the seabird assemblage at FFC SPA.

5.5.1 Flamborough and Filey Coast - Gannet

In section 4.4.4.4 of the HRA Report [refer to APP-178], the Applicant assessed the potential for an AEoI of the FFC SPA on the gannet qualifying feature from the Project alone and in-combination as a result of disturbance/displacement and collision mortality. In-combination assessments were updated [REP7-050] during Examination. The HRA Report concluded that AEoI could be excluded for the gannet qualifying feature of the FFC SPA from the Project alone and in-combination.

At the close of Examination, there was an outstanding disagreement between the Applicant and the RSPB around the application of additional macro-avoidance to predicted gannet collision mortalities. The RSPB [RR-292, REP4-089] disagreed with the Applicant's approach in applying macro-avoidance, and considered that an AEoI could not be excluded, alone or in-combination. However, the RSPB recognised [REP8-070] that the approach taken by the Applicant followed the scoping advice of NE, but noted the approach is not recommended by NatureScot or the RSPB.

NE commented in REP2-054 (Q10.3.2) that the Applicant had demonstrated that the level of Project alone impact (increase in the existing mortality of the SPA breeding population by 0.05% (95% CLs 0 – 0.12%) is considered undetectable against natural variation. NE also concluded that any contribution to an in-combination AEoI would be immaterial, and noted that is has not yet advised any Examinations that there is a potential for AEoI for gannet at FFC SPA [REP2-054].

Based on the evidence provided by the Applicant and the agreement received from NE, the ExA was satisfied that the Proposed Development would not result in AEoI either alone or in-combination of the northern gannet qualifying feature of FFC SPA [ER C.1.4.39].

Based on the information before him, and the views of NE and the ExA, the Secretary of State considers that the Applicant has followed NE's scoping advice and agrees that an AEoI of the FFC SPA on the gannet feature can be excluded from the Project alone and in-combination.

5.5.2 Flamborough and Filey Coast SPA – Kittiwake

The Applicant assessed the potential for an AEoI of the FFC SPA on the kittiwake qualifying feature from the Project alone and in-combination resulting from collision mortality during the operational phase of the Project. The HRA Report [refer to APP-178] concluded that AEoI could

be excluded for the kittiwake qualifying feature of the FFC SPA from the Project alone and in-combination, but the Applicant in Examination accepted that the Secretary of State may be unable to exclude an in-combination AEoI.

5.5.2.1 Project alone

The Applicant presented a mean of 0.76 (and an 95% UCL of 2.72) collisions per year, apportioned to the FFC SPA which is equivalent respectively to a 0.01% and 0.02% increase in the baseline mortality rate of the SPA population. The Applicant stated that there would be no detectable effects on the SPA population and that this increase in the baseline mortality rate of the SPA population is well below the nominal 1% change threshold considered appropriate for triggering additional assessment analysis such as PVA. NE have not disputed the conclusions that AEoI could be excluded for the Project alone and agree with the Applicant's impact calculations [REP4-062]. It is considered by the Secretary of State that the Project alone impact is 0.76 collisions per annum.

Based on the information before him, the Secretary of State concludes that an AEoI of the FFC SPA on the kittiwake feature from collision mortality during the operational phase can be excluded from the Project alone.

5.5.2.2 Project in-combination

The Applicant considers that the Project would make no material contribution (mean annual collisions of 0.76 adult birds) to the in-combination mortality total but provided an in-combination assessment of the collision mortality, including PVA, for context in the HRA Report [refer to APP-178]. The Applicant also updated the in-combination totals during Examination [REP7-050] following comments provided by NE. NE noted that none of the reported collisions are during the breeding season and therefore the contribution of the Project to the in-combination total is small, but consider that an AEoI in-combination cannot be ruled out, and note the SACO attribute target to restore the breeding population [RR-243].

The Applicant reported that the potential contribution from the Project is 0.1% of the in-combination mortality total. Noting the updated values in [REP7-050] (based on respective annual totals of 599 and 451[16]) the predicted in-combination mortality was reported to increase the baseline adult mortality rate of the FFC SPA breeding adult kittiwake population by 4.6% and 3.5% respectively.

Given the potential for effects to be detectable at a population level, PVA was undertaken by the Applicant in the HRA Report [refer to APP-178], however it is noted this does not reflect the updated values in the in-combination totals in [REP7-050] noted above. The updated values (that are not included in the PVA) are not considered to materially impact the positions reached by either NE or the Applicant, nor prevent a decision being made by the Secretary of State. At an in-combination annual mortality of 443 breeding adults (not accounting for compensation measures for existing projects), the median predicted reduction in the annual population growth rate of kittiwakes at the FFC SPA is 0.3% (CPGR = 0.997) compared with the unimpacted population, and the predicted reduction in population size compared to the unimpacted

[16] Excluding the contribution of other OWF projects consented with compensation measures

population after 30 years is 10.2% (CPS = 0.898). At an in-combination annual mortality of 305 breeding adults (accounting for compensation measures for existing projects), the median predicted reduction in the annual population growth rate is 0.2% (CPGR = 0.998) compared with an unimpacted population, and the predicted reduction in population size compared to the unimpacted population after 30 years is 7.1% (CPS = 0.929).

The Applicant, in addition to its position that there is no material contribution made by the Project, highlighted that there is uncertainty over the long-term trend in the SPA population, as well as various precautionary assumptions incorporated within the assessment. The ExA considered the combined advice from NE and the RSPB as well as the position taken by the Secretary of State in the Rampion 2 OWF decision are material. Bringing all these considerations together, the ExA found that an in-combination AEoI of kittiwake of FFC SPA and kittiwake as part of the FFC SPA seabird assemblage cannot be ruled out [ER C.1.4.245]. Based on the Secretary of State's decision in the Rampion 2 DCO the Applicant updated its Habitats Regulations Derogation Provision of Evidence [REP6-007] so the proposed compensation measure for this feature was no longer on a 'without prejudice' basis.

Based on the information before him, the Secretary of State agrees with the ExA that an AEoI of the FFC SPA on the kittiwake feature from the Project, in-combination with other plans or projects, cannot be ruled out beyond reasonable scientific doubt. The Secretary of State acknowledges the decline in the kittiwake population between 2017 and 2022, the conservation objectives and that SACO attribute target for FFC SPA kittiwake is to restore the size of the breeding population at a level which is above 83,700 breeding pairs, whilst avoiding deterioration from its current level. Whilst the Secretary of State recognises the individual contribution of the Project to the overall in-combination total is small, the current impact is considered by NE to already be over the threshold considered to have an AEoI of the FFC on the kittiwake feature SPA, which the effects from the Project will contribute to.

5.5.3 Flamborough and Filey Coast SPA – Guillemot

The Applicant assessed the potential for an AEoI of the FFC SPA on the guillemot qualifying feature from the Project alone and in-combination resulting from disturbance/displacement. The HRA Report [refer to APP-178] concluded that AEoI could be excluded for the guillemot qualifying feature of the FFC SPA from the Project alone and in-combination, but the Applicant in Examination accepted that the Secretary of State may be unable to exclude an in-combination AEoI.

5.5.3.1 Project alone

The Applicant reported (in APP-178 to the nearest integer) that using a displacement rate of 50% and a 1% mortality rate for displaced birds, the annual mortality in the FFC SPA breeding guillemot population would increase by 1 bird (95% Confidence Limits (CLs) 0-3 birds). This would be equivalent to no increase in population mortality rate due to impacts from the Project alone. At a displacement rate of 70% and mortality of 2%, as advocated by NE, annual mortality would increase by 3 birds (95% CLs 1-9 birds), equivalent to an increase in mortality rate of zero to 0.1% (95% CLs). The Applicant highlighted that increases in the existing mortality rate of less than 1% are unlikely to be detectable against natural variation. The Applicant finds no detectable changes in mortality rates would occur and NE have not disputed the conclusion that AEoI could be excluded for the Project alone. It is considered by the Secretary of State that the Project

impact is 3 birds per annum to the nearest integer (and 3.3 as stated in REP6-023), with the application of a displacement rate of 70% and mortality of 2% to be appropriate in this instance.

Based on the information before him the Secretary of State concludes that an AEoI can be excluded from the Project alone in regard to the FFC SPA guillemot feature from disturbance/displacement mortality during the operational phase.

5.5.3.2 Project in-combination

The Applicant considered that the Project would make no material contribution to the in-combination mortality total but provided an in-combination assessment of the displacement mortality, including PVA, for context in the HRA Report [refer to APP-178]. The Applicant also updated the in-combination totals during Examination following comments provided by NE. The updated estimated annual total of breeding adult guillemots from FFC SPA at risk of displacement from all OWFs within the UK North Sea Biologically Defined Minimum Population Scales ("BDMPS") combined is 111,836 including compensated projects (and using NE's bespoke assessment approach for Hornsea Project 4 ("HP4")) and 78,571 excluding compensated projects. Of this total, the Project (as reported by the Applicant) contributes 237 birds that would be at risk of displacement [REP7-050].

Based on the Applicant's approach of 50% displacement and 1% mortality of displaced birds, the predicted in-combination increase in baseline mortality rate ranges from 3.5% to 6.1%. Based on the NE approach of 70% displacement and 2% mortality, the predicted increases in baseline mortality range from 9.9% to 17.1%. These values reflect updates made in [REP7-050] during Examination in response to comments from NE.

Given the potential for effects to be detectable at a population level, PVA was undertaken by the Applicant. The PVA does not reflect the updated in-combination mortality totals noted above as presented in [REP7-050]. However, the updates are not considered to materially alter the position reached by either NE or the Applicant, or prevent a decision to be made by the Secretary of State. The limitations of the PVA and considered level of assessment precaution are also factored into the weight of evidence, noting that the in-combination annual reduction in population growth reported for the VEOWF and Outer Dowsing OWF projects (which encompasses the Project in their in-combination assessments) and the Secretary of State's HRA for these projects are also available.

The Applicant predicted that, including all identified projects, at 50% displacement and 1% mortality, a reduction in population growth rate of 0.2% and a reduction in population size of the impacted compared to unimpacted population over 30 years of 5.6%. Under the scenario of 70% displacement and 2% mortality, the predicted reduction in population growth rate was presented as 0.5%, and the reduction in population size of the impacted compared to unimpacted population over 30 years as 15%.

NE agreed that the Project-alone impacts arising for guillemot are relatively small, but consider that AEoI in-combination cannot be ruled out [RR-243]. The ExA found that an AEoI could not be excluded for impact on guillemot in accordance with NE's advice [ER 7.5.9]. Based on the Secretary of State's decision in the Rampion 2 DCO the Applicant updated its Habitats Regulations Derogation Provision of Evidence [REP6-007] so the proposed compensation measure for this feature was no longer on a 'without prejudice' basis.

As adopted in decisions on previous OWFs, the Secretary of State considers that values of displacement and mortality for the assessment of displacement impacts on guillemot of 70% and 2% are, at the current time and based on current evidence, suitably precautionary for an assessment to be made. The Secretary of State, however, notes that this does not preclude him from accepting alternative parameters in future decisions.

Based on the information before him, the Secretary of State agrees with NE and the ExA that an AEoI of the FFC SPA on the guillemot feature from the Project, in-combination, cannot be ruled out beyond reasonable scientific doubt. Whilst the Secretary of State recognises the individual contribution of the Project to the overall in-combination total is small, the current in-combination impact is already viewed by NE to be over the threshold considered to be an AEoI of the FFC SPA on the guillemot feature, which the effects from the Project will contribute to.

5.5.4 Flamborough and Filey Coast SPA – Razorbill

The Applicant assessed the potential for an AEoI of the FFC SPA on the razorbill qualifying feature from the Project alone and in-combination resulting from disturbance/displacement. The HRA Report [refer to APP-178] concluded that that AEoI could be excluded for the razorbill qualifying feature of the FFC SPA from the Project alone and in-combination.

5.5.4.1 Project alone

In relation to disturbance and displacement during operation and maintenance, the Applicant's position was that the effect on razorbill would equate to a mean of 0.6 (0.2 – 1.3 95% CLs) annual mortalities based on 50% displacement and 1% mortality. The Applicant presented, based on NE's position of applying a 70% displacement and 2% mortality, the effect on razorbill would be a mean of 1.6 (0.7 – 3.6 95% CL) annual mortalities [REP8-036]. This is reflected in Table 4.1 of [REP6-023] and in Table 4.52 of the RIAA Part 4 [APP-178] to the whole integer. As stated by the Applicant in its closing statement and as reflected in Table 4.53 of the HRA Report [refer to APP-178], in either displacement and mortality scenario the predicted increase in the baseline mortality of the FFC SPA razorbill population would be 0.1% or less. The Applicant considered increases in the existing mortality rate of less than 1% are unlikely to be detectable against natural variation. It is considered that the Project impact is 1.6 birds per annum, with the Secretary of State applying a displacement rate of 70% and mortality of 2%. NE have not disputed the conclusions that AEoI could be excluded for the Project alone.

Based on the information before him the Secretary of State concludes that an AEoI of the FFC SPA on the razorbill feature from disturbance/displacement mortality during the operational phase can be excluded for the Project alone.

5.5.4.2 Project in-combination

The Applicant considers that the Project would make no material contribution to the in-combination mortality total (reported as 0.7% of the total in-combination impact) but provided an assessment of the in-combination displacement mortality, including PVA, for context in the HRA Report (refer to APP-178). The Applicant also updated the in-combination totals during Examination [REP7-050] following comments provided by NE. NE agreed that the Project-alone impacts arising for razorbill are relatively small, but consider that AEoI in-combination cannot be ruled out [RR-243]. NE did not agree that the Project will make no material contribution but did acknowledge the small contribution and lack of a pre-existing AEoI judgement [REP8-099]. It is

also noted that the RSPB (and NatureScot) do not advocate the same displacement and mortality rates [REP4-089] as NE.

As adopted in previous decisions on consented OWFs, and in line with the ExA [ER 7.5.19] the Secretary of State considers that the values for displacement and mortality used in assessing displacement impacts on razorbill – 70% and 2%, respectively - are, at the current time and based on current evidence, suitably precautionary for such an assessment. In line with the Applicant's updated ornithology in-combination tables [REP7-050], the predicted increase in baseline mortality rate of the FFC SPA breeding population using these rates (and NE's preferred apportioning method for the Outer Dowsing OWF Project and HP4), is 5.6%.

The ExA noted this level of impact and considered that there is compelling evidence to support that an AEoI for Razorbill of FFC SPA cannot be excluded, in line with the NE and RSPB submissions [RE 7.5.20].

Given the potential scale of the in-combination displacement mortality noted above, PVA was provided by the Applicant for each in-combination scenario to assess the potential population level impact. The Applicant considered the 50% displacement and 1% mortality the most realistic precautionary scenario based on a review of evidence relating to the effects of displacement on razorbill mortality. The respective predicted reduction in population growth rate was reported as 0.1% and the reduction in population size of the impacted compared to unimpacted population over 30 years as 2.9%. Based on these very small, predicted changes, and considering sources of precaution, notably the use of a density independent model, the Applicant argued that these scenarios do not indicate a change in population size that would be significant in the context of the target to maintain the size of the breeding population above the citation level, whilst avoiding deterioration from its current level (as set out within the SACOs for FFC SPA).

The Secretary of State notes that PVA results predict, with a 70% displacement rate and 2% mortality rate, an annual reduction in population growth rate of 0.3%, and a reduction in population size of the impacted compared to unimpacted population over 30 years of 8.1%. However, these figures do not reflect the updated ornithology in-combination tables [REP7-050] and the impact estimates for in-combination projects, as outlined by NE in [REP5-107]. The value of 235 adult mortalities results in a 0.3% reduction in growth rate, while the equivalent and updated adult mortality value from REP7-050 is 362. Had this value been used in the PVA there would have been a greater reduction in growth rate than 0.3%. Table 4.58 of the HRA Report [refer to APP-178] allows some interpretation of how variables in adult mortality is reflected in the reduction in growth rate and reduction in population size.

Also available to the Secretary of State are the PVA results for the recently determined projects including VEOWF and Outer Dowsing, where in-combination assessments have been made for the same feature. The Secretary of State considers that the Applicant had an opportunity to update the PVA during Examination which was missed; however the updates are not considered to materially impact the position reached by either NE or the Applicant, or prevent a decision being made by the Secretary of State. The limitations of the PVA and considered level of assessment precaution are also factored into the weight of evidence.

The RSPB considered for FFC SPA there would be an AEoI [REP4-089]. For all relevant species the RSPB also raised points on perceived inadequacies in aerial survey methodology and a lack of consideration of impacts compounded by Highly Pathogenic Avian Influenza ("HPAI") [RR-

294]. The ExA did not find that these matters invalidated the Applicant's assessment [ER C.1.4.21, ER C.1.4.27].

The Secretary of State acknowledges the uncertainty surrounding the adverse impact of future climatic and anthropogenic pressures on UK seabird populations but considers that it would not be appropriate to conclude AEoI solely on this basis, and without substantive evidence. As identified by the Applicant in paragraphs 459 and 502 of the HRA Report [refer to APP-178], the context for the assessment is that "the razorbill breeding population at FFC SPA has increased on average 6% per annum since 1987, by 52% between 2017 and 2022", and shown "a 230% increase since 2000 (Clarkson *et al*. 2022)". The Applicant further noted that "despite the HPAI outbreak, the razorbill population in 2022 had doubled compared with the previous whole colony count in 2017(Clarkson *et al*. 2022), and, while a whole colony count was not carried out in 2023, the number of birds counted in sample areas of the breeding colony (study plots) was the highest recorded since annual counts of study plots began in 2009 (Butcher *et al*., 2023)."

Based on the information before him, the Secretary of State does not find there is compelling evidence of the adverse impact on the population and considers the predicted in-combination disturbance/displacement mortality, and the Project's contribution, would not result in an AEoI nor hinder the achievement of the conservation objectives and targets presented in the SACOs for the razorbill feature of the FFC SPA.

While the Secretary of State acknowledges the conclusions of NE and the ExA, that the in-combination impacts on the FFC SPA razorbill population have reached a level where an AEoI cannot be ruled out, he disagrees and concludes that an AEoI of the FFC SPA on the razorbill feature from the Project, in-combination, can be ruled out beyond reasonable scientific doubt. The Secretary of State notes the evidence of the long-term population trends and the site's population target; and that this is consistent with his conclusions on other recently consented OWFs. In doing so, however, he notes that this decision does not preclude him from adopting an alternative conclusion in future decisions.

5.5.5 Flamborough and Filey Coast – Seabird assemblage

The seabird assemblage consists of nine species, namely gannet, kittiwake, guillemot, razorbill, fulmar, puffin, herring gull, cormorant and shag. Four of these species (gannet, kittiwake, guillemot and razorbill) are considered separately above. It was argued by the Applicant that there would be no measurable contribution to in-combination effects, with the effects on all species inconsequential in the context of the total SPA assemblage and below a threshold that would be detectable against background variation.

As summarised by the ExA's RIES, NE were asked if it agreed with the conclusion of the Applicant that AEoI could be excluded for the seabird assemblage of FFC SPA. NE [REP8-100] highlighted its conclusions for both HP4 and Sheringham and Dudgeon Extensions, where NE could not rule out AEoI in-combination impacts for the FFC SPA seabird assemblage. NE noted additional impacts from the Proposed Development, taken together with those of other proposed North Sea OWFs, would mean further reductions to the population size of kittiwake, guillemot and razorbill are likely. As these species are key components of the assemblage feature, NE was unable to rule out a conclusion of AEoI for the in-combination impacts to the seabird assemblage at FFC SPA [ER.C.1.4.246].

In consideration of the evidence before him, and in line with the views of the ExA [ER 1.4.248] and NE, and considering the separate conclusions for both kittiwake and guillemot (where the Secretary of State has not been able to exclude an AEoI of the FFC SPA on these features), the Secretary of State concludes that the Project would result in an in-combination AEoI to the seabird assemblage (kittiwake and guillemot components of the assemblage) qualifying feature of FFC SPA.

NE noted that species-specific compensation (if agreed), would also meet the required compensation for the seabird assemblage as a whole. Also considering the compensation provided for kittiwake and guillemot (Sections 9.2 and 9.3 of this HRA), the Secretary of State considers that no stand-alone compensation proposal for the seabird assemblage would be required. He is content that the species-specific measures set out by the Applicant for the relevant impacted features of the seabird assemblage is sufficient to compensate for the adverse effect, and no further compensation beyond what is agreed for these features (kittiwake and guillemot) is required.

5.5.6 Conclusion

In conclusion, based on the information before him, the Secretary of State considers that an AEoI of the FFC SPA from the Project in-combination can not be excluded beyond reasonable scientific doubt for the effects on the kittiwake, guillemot and seabird assemblage features of the FFC SPA. AEoI has been excluded for both the Project alone and in-combination for the gannet and razorbill features of the FFC SPA.

5.6 Farne Islands SPA – Guillemot

As presented in the assessment for guillemot at the Farne Islands SPA [REP1-056], the Project is 485.6km from the Farne Islands SPA (nearest distance from the array boundary to the SPA boundary). The breeding population of guillemot at the Farne Islands SPA has been screened in for AA due to the potential operational displacement/barrier effects during the non-breeding season. The Applicant briefly presented the Project alone effects within the HRA Report, and subsequently updated the assessment in Examination and to include a detailed in-combination assessment, as presented in [REP1-056], in response to comments provided by NE in its relevant representation [RR-243]. The Applicant concluded that AEoI could be excluded for the guillemot qualifying feature of the Farne Island SPA from the Project alone and in-combination, but the Applicant in Examination accepted that the Secretary of State may be unable to exclude an in-combination AEoI.

5.6.1 Project alone

The Applicant reported [REP1-056] to the nearest integer (updating the HRA Report APP-178) at 50% displacement and 1% mortality as advocated by the Applicant, mortality of 1 adult guillemot per year due to displacement (95% CLs 0-3). This is equivalent to a 0.0% (95% CLs 0.0-0.1%) increase in the baseline mortality of the Farne Islands SPA population. At 70% displacement and 2% mortality, as advocated by NE, 3 (95% CLs 0-8) adult guillemot mortalities are predicted per year due to displacement. This is equivalent to a 0.1% (95% CLs 0.0-0.2%) increase in the baseline mortality of the Farne Islands SPA population.

Under both scenarios of displacement and mortality the Applicant highlighted in the HRA Report (refer to [APP-178] and [REP1-056]) that the predicted increases in the baseline mortality rate are less than 1% and unlikely to be detectable against natural variation.

NE did not dispute [REP4-063] the conclusion that AEoI could be excluded and the ExA was satisfied (using either the Applicant's or NE's preferred methodology) that an AEoI of the Farne Islands SPA on the guillemot feature from disturbance/displacement mortality during the operational phase can be excluded from the Project alone. It is considered by the Secretary of State that the Project impact is 3 birds per annum to the nearest integer (and 2.8 as stated in REP6-023), with the application of a displacement rate of 70% and mortality of 2% to be appropriate.

Based on the information before him, the Secretary of State concludes that an AEoI of the Farne Islands SPA on the guillemot feature from displacement/barrier effects during the operational phase can be excluded for the Project alone.

5.6.2 Project in-combination

The Applicant submitted an additional HRA Shadow Appropriate Assessment for the guillemot feature of the Farne Islands SPA [REP1-056] during Examination. This included an in-combination assessment with displacement matrices as well as consideration of displacement and mortality rates of 50%: 1% and 70%: 2%, the latter being advocated by NE. The Applicant's in-combination assessment predicted, applying a 70% displacement and 2% mortality rate, 240 adult guillemot mortalities per year from the Project in-combination including all identified in-combination projects. By applying the Applicant's advocated scenario of 50% displacement and 1% mortality, 86 adult guillemot mortalities per year are predicted as a result of displacement from the Project in-combination including all identified in-combination projects. These mortalities equate to an increase in the baseline mortality rate of 5.4% and 1.9%.

PVA was undertaken by the Applicant to investigate the increase in baseline mortality at a population level. At 50% displacement and 1% mortality, the predicted reduction in population growth rate for the scenario excluding the Berwick Bank OWF[17] is 0.1%, and the reduction in population size of the impacted compared to unimpacted population over 30 years is 2.8%. Including the Berwick Bank OWF, the predicted reduction in population growth rate is also 0.1%, and the predicted reduction in population size after 30 years is 3.8%. Under the scenario of 70% displacement and 2% mortality, the predicted reduction in population growth rate as assessed by the Applicant without the Berwick Bank OWF is 0.2%, and the reduction in population size of the impacted compared to unimpacted population over 30 years is 7.5%. Including the Berwick Bank OWF, the predicted reduction in population growth rate is 0.3%, and the predicted reduction in population size after 30 years is 10.2%.

During Examination matters around the assessment methodology were further discussed, including the population used for assessment and application of correction factors, however NE

[17] It is understood that for Scotwind Projects, NatureScot requests that cumulative and in combination displacement numbers are presented with and without Berwick Bank, which has the largest total number of guillemots at risk of displacement of all OWFs within the UK North Sea and channel BDMPS. The same approach has been taken here by the Applicant.

confirmed that it would not expect to draw different conclusions on account of the position on these matters regardless.

The ExA agreed there would be AEoI from guillemot impacts in-combination, noting the additional impact above that already determined for Rampion 2 DCO [ER 7.5.28].

At Deadline 6 [REP6-007], the Applicant accepted that based on the Secretary of State's decision in the Rampion 2 DCO, it was likely that an AEoI could not be excluded from the Project in-combination for the guillemot feature of the Farne Islands SPA. It updated its Habitats Regulations Derogation Provision of Evidence [REP6-007] so the proposed compensation measure for this feature was no longer on a 'without prejudice' basis.

As adopted in decisions on previous OWFs, the Secretary of State considers that values of displacement and mortality for the assessment of displacement impacts on guillemot of 70% and 2% are, at the current time and based on current evidence, suitably precautionary for an assessment to be made. The Secretary of State, however, notes that this does not preclude him from accepting alternative parameters in future decisions.

Based on the information before him, the Secretary of State agrees with NE and the ExA that an AEoI of the Farne Islands SPA on the guillemot feature, from the Project in-combination, cannot be ruled out beyond reasonable scientific doubt. Whilst the Secretary of State recognises the individual contribution of the Project to the overall in-combination total is small, the current in-combination impact is already considered by NE to be over the threshold considered to be an AEoI of the Farne Islands SPA on the guillemot feature, which the effects from the Project will contribute to (the Project contributes 1.6% of the in-combination total). The Secretary of State notes that this is consistent with his conclusions on other recently determined OWFs.

5.7 Margate and Longsands SAC

The Project offshore export cable corridor lies adjacent to the MLS SAC along a length of 4.8km (section 10.5.7 of Chapter 10 of the ES [APP-024]). MLS SAC is designated for Annex I habitat: Sandbanks which are slightly covered by seawater at all times. Since 2024 MLS SAC is assessed to be in an unfavourable condition, and has a restore target for a number of attributes.

Given that there is no direct overlap of the offshore export cable corridor and MLS SAC, the following indirect impacts have been assessed for all phases of the Project as set out in section 2.4 of the HRA Report (refer to [REP7-013], updated from [APP-175]):

- Changes to suspended sediment concentrations, sediment deposition and bedload transport;
- Smothering; and
- Re-mobilisation of contaminated sediments.

In line with the ExA findings [ER 7.5.45], the Secretary of State, owing to the physical separation, is satisfied that there are no LSE pathways to the MLS SAC from activities associated with the array area during construction, operation and decommissioning, with discussion below only concerning the indirect effects associated with the offshore export cable route.

The Applicant concluded that due to the localised nature and/or small magnitude of effects, the low sensitivity of benthic communities to smothering and the absence of contaminants at levels of concern, AEoI of the MLS SAC for any of the assessed impacts during any stage of the Project could be excluded.

During Examination, discussions focused on the definition of the worst-case scenario assessed and the impacts from sandwave levelling (construction) and the placement of cable protection (operation). The associated indirect effects disputed during Examination were increased suspended sediment concentrations and subsequent deposition (smothering), as well as changes to bedload transport. These effects are discussed in the below sections for both the Project alone and in-combination.

5.7.1 Project alone

The Applicant undertook an assessment of disturbance (including sandwave levelling) during construction; concluding that there would be a negligible change to the seabed level from sediment deposition within the MLS SAC [REP7-013]. As identified in the REIS, NE [RR-243, P5] stated there was uncertainty in the assessment of sediment deposition during construction, seabed mobility and erosion and sandwave recovery, which meant NE could not exclude AEoI at the MLS SAC from indirect effects.

The Applicant [REP3-045] provided further information on seabed and bedform mobility based on analysis of its bathymetric surveys and interpretation of bedform geology. Following this, to further support the assessment associated with sediment disturbance effects (suspended sediment concentrations and subsequent deposition) during construction, the Applicant undertook sediment dispersion modelling of sandwave levelling [REP4-040] and interpretation [REP4- 042], and also clarified commitments to additional mitigation [REP4-041]. The modelling was updated at Deadline 6 [REP6-053] and Deadline 7 [REP7-041] in response to comments from NE and because of additional mitigation commitments made for shipping and navigation and cable burial depths. The results of the updated modelling by the Applicant concluded that due to sandwave levelling adjacent to the MLS SAC, there could be a sediment deposition area of approximately 0.5km by 1.5km that overlaps the MLS SAC (with deposition depths between 5cm and 15cm). NE [REP8-096] agreed that this assessment demonstrated that the worst-case scenario deposition at MLS SAC due to construction related (including concurrent) activities to be a 0.15m thickness over an area of 1.5km^2 which is likely to represent a negligible change to seabed level and seabed morphology.

The Applicant updated the HRA Report [refer to REP7-013] to incorporate the results from the Hydrodynamic and Dispersion Modelling Report [REP7-041] (including sediment dispersion from activities along the export cable corridor, inclusive of the 150m buffer commitment made to secure separation between the installation of the offshore export cables and any associated cable protection and the MLS SAC boundary). Regarding suspended sediment concentrations, NE agreed that the Project would not result in an AEoI [REP8-100]. However, regarding sediment deposition, NE was concerned that there was contradictory information presented by the Applicant between the modelling report [REP7-041] and the HRA Report [refer to REP7-013] due to the reported deposition thickness in the MLS SAC. In an additional submission [AS-056] the Applicant addressed this concern, highlighting that the reported worst case 15cm sediment depth was based on the worst case scenario for seabed preparation (including sandwave levelling) and that sediment a depth of >5cm reported in paragraph 58 of the RIAA reflected the

separate cable trenching activity which is more spatially restricted and as such does not interact with the MLS SAC.

NE had outstanding concerns about the potential ecological implications of smothering from sediment deposition to benthic communities but ultimately considered the risk of AEoI was low [ER 7.5.53]. NE also still advised at the end of Examination that the conclusions that AEoI could be excluded had not been supported with consideration of the ecological implications or sensitivity of the species present. The Applicant responded [AS-056] that the HRA Report notes in paragraph 34 [REP7-013] that the relevant biotopes used to characterise subtidal mixed sediments and subtidal sand in NE's Advice on Operations ("AoO") have been defined as being not sensitive or having low sensitivity to changes in suspended sediment concentrations.

The Secretary of State in his first information request on 26 November 2025 invited NE to respond to the additional submission made by the Applicant and clarify its position whether AEoI could be ruled out for all impacts.

NE welcomed [C1-008] the Applicant's clarification in [AS-056] on the potential worst-case scenario for sediment deposition on MLS SAC due to seabed preparation and trenching by the Project alone. NE considered the issues resolved but requested that where required all named plans should be updated accordingly to avoid ambiguity. The Applicant responded to state that the assessment is sufficiently clear and no updates to plans are deemed to be required [C2-010]. The Secretary of State is content with the Applicant's response on this matter. The Secretary of State agrees with the ExA [ER 7.5.46], that the parameters used in the modelling represents a reasonable and realistic basis for the assessment of AEoI.

The Secretary of State notes final comments made by the Applicant and NE following his first and second information requests (on the 26 November 2025 and 28 January 2026) and considers deposition of suspended sediment concentrations arising from seabed preparations could result in sediment deposition of 5cm to 15cm over an area of c.1.5km^2 (0.23% of the SAC) overlapping the MLS SAC.

Regarding mitigations, for the impact of sediment disturbance during construction the Secretary of State is satisfied that mitigations are suitably secured and where they could only be used 'where practicable' the impact is suitably defined and assessed in the HRA Report following the Applicant's responses [C1-012] to his first and second information request.

Based on the information before him, and considering the scale and duration of effects, as well as the receiving habitat, the Secretary of State agrees with the ExA [ER 7.5.50, ER 7.5.54] that an AEoI of the MLS SAC on the sandbanks which are slightly covered by seawater all the time qualifying feature from the Project alone, during construction, can be ruled out beyond reasonable scientific doubt.

During operation, effects of disturbance activities were assessed but considered by the Applicant to be at a lower scale than during construction. The assessment thus focused on indirect effects from cable protection potentially required along the cable route adjacent to the MLS SAC that would persist during operation. As noted by the Applicant, cable protection may be required along 10% of the cable route and may include the section of the cable corridor that is adjacent to the MLS SAC. The Applicant concluded that given the localised area of effects the gross patterns of bedload transport would not be significantly affected [REP7-013].

To further support the assessment, and in responses to NE's concerns during Examination around the worst-case scenario parameters for cable protection, the Applicant undertook modelling [REP7-041] to identify potential effects of associated sediment transport as a result of the placement of cable protection.

NE was satisfied by the end of Examination, that in relation to cable protection adjacent to MLS SAC, the additional modelling assessment provided by the Applicant considered the worst-case scenario [REP8-100]. NE also [REP8-096, REP8-098] noted that the assessment demonstrated that (with a buffer of 150m between the MLS SAC and cable protection) the changes to current speed and bed shear stress due to the presence of cable protection adjacent to the MLS SAC do not extend beyond the cable corridor and effects are localised to the cable corridor i.e. they do not extend to the MLS SAC. NE was satisfied that an AEoI of MLS SAC from operational impacts could be ruled out [REP8-097]. The demonstration of the locality of effects also enabled NE to agree that ecological halo effects would not extend beyond the 150m buffer and into the MLS SAC [REP8-097].

The key embedded mitigation secured in the Order in Schedule 9, Part 2 as noted above, is the 150m buffer between the MLS SAC and the installation of cable protection. NE also advised that every effort should be made at the time of construction to minimise the amount of cable protection deployed in the marine environment. The ExA considered that the provisions in the Outline Cable Specification and Installation Plan ("CSIP") [REP8-047, section 4.3] provide a commitment that burial is the primary method of cable protection [ER C.1.4.153].

Based on the evidence before him, the Secretary of State is satisfied that appropriate mitigation is secured in respect to operational indirect effects from cable protection. With the application of mitigation measures, the Secretary of State concludes that an AEoI of the MLS SAC on the sandbanks which are slightly covered by seawater all the time qualifying feature from the Project alone, during operation, can be ruled out.

NE considered its concerns regarding indirect effects on MLS SAC due to Project-related changes to marine physical processes, have been sufficiently addressed by the Applicant. However, NE advised that the monitoring proposed in [REP8-009] should validate the conclusions of the ES and RIAA with regards to significance of effects on the SAC. Furthermore, NE stated that an appropriate threshold should be established to determine if 'significant' changes have occurred to the physical processes and physical environment within the SAC. This would, in turn, inform the benthic monitoring requirements in regard to changes in sediment depth and extent any deposition above 5cm within the MLS SAC and duration of recovery. NE further confirmed the need for monitoring in their response [C1-008] to the first information request.

It is noted that the Applicant proposed monitoring within the Offshore In Principle Monitoring Plan ("IPMP") [REP8-009] to validate its conclusion in the RIAA. Monitoring is outlined in the Offshore IPMP, noting the link between the monitoring of physical processes. It was proposed by the Applicant that if monitoring related within the Order limits in proximity to MLS SAC shows significant changes to the physical processes and physical environment then monitoring of the SAC and benthic community would be undertaken.

The Secretary of State in his second information request on 28 January 2026 invited the Applicant to further comment and detail the monitoring requirements with a focus on

understanding how construction effects would be validated, requesting an update to the Offshore IPMP, as required, in response to the points made by NE on monitoring.

Following the Applicant's updates to the Offshore IPMP [C3-013] in their response to the second information request, and the detail and clarity that this provides, as well as confirming the area of the cable route adjacent to MLS SAC will be monitored in view of sediment deposition pre and post-construction, the Secretary of State agrees with the Offshore IPMP monitoring provision, including the process for triggering further monitoring and adaptive management.

The Secretary of State agrees with NE that monitoring indirect effects on MLS SAC from construction and operational activities need to be appropriately secured to validate the conclusions of the assessment. The Secretary of State notes final comments made by the Applicant and NE following the first and second information requests and notes there is suitable monitoring provision in the Offshore IPMP (as updated [C3-013]).

Noting the information before him, and in line with the ExA, the Secretary of State is content that monitoring is suitably secured, and the details could be successfully agreed in the finalisation of the Monitoring Plan post-consent. It is considered that this will include monitoring of areas where cable protection is deployed in proximity to MLS SAC and pre and post construction monitoring to enable the detection of effects associated with sandwave levelling, cable protection and sediment deposition (as provided for in the Offshore IPMP) to validate the conclusions of the Project-alone assessment.

5.7.2 Project in-combination

The Applicant identified the following key projects with the potential for temporal and spatial interaction with the Project and the MLS SAC:

- NeuConnect;
- Sea Link Interconnectors; and
- VEOWF export cables.

The assessment undertaken by the Applicant focused on the in-combination indirect effects due to increased suspended sediment concentrations (and subsequent deposition) during the construction of all projects. The in-combination assessment updated during examination [REP7-013] was supported by numerical modelling [REP7-041]. While the Applicant considered it unlikely that all projects would install cables within the Zone of Influence ("ZoI") of the MLS SAC simultaneously, the assessment considered that even in this event effects would be indistinguishable and that AEoI could be excluded.

By the end of examination owing to a considered lack of quantification and evaluation, NE [REP8-098] was unable to agree that sediment deposition/smothering in-combination would not result in the potential for an AEoI. NE accepted that sediment plumes from the installation of cables for other plans or projects would not interact with the Project due to health and safety restrictions prohibiting the launch of vessels to work simultaneously in the same geographic location, but NE considered the assessment did not consider the in-combination effects of deposition which will persist beyond the working period of vessels and could result in depositional depths significantly greater than those predicted by the Project alone.

The ExA [ER C.1.4.138] did not consider any evidence was presented to suggest that there would be in-combination effects if sediment deposition continues beyond vessel working periods.

The Secretary of State notes that the updated HRA Report [REP7-013] provided quantification of the peak level of suspended sediment predicted in the MLS SAC (3,800 mg/l) from the Project alone and timescales for this returning to ambient conditions (2.5hrs). Interpretation of the modelling by the Applicant in [REP4-042] demonstrated, as noted by the ExA [ER C.1.4.77], that the worst-case disturbance along the export cable corridor would persist for up to 17 hours before depositing to form a layer on the seabed but under existing conditions sediment would be readily re-mobilised and reduce thickness to zero.

The Secretary of State, in his first information request on 26 November 2025, required that the Applicant clarified/provided a figure to spatially present the cumulative projects including the VEOWF cable route to allow further understanding of spatial overlap. The Applicant provided this Figure [C1-012], to allow full consideration of the spatial orientation of projects included in the in-combination assessment.

The Secretary of State has considered the evidence available and is satisfied that the Applicant has provided a detailed and quantified assessment of Project alone effects as well as a reasonable basis for the assessment of in-combination effects.

Based on the evidence before him, the Secretary of State concludes that AEoI can be excluded for the Project in-combination during operation, noting that indirect effects from the Project's cable protection in the operational phase are not predicted to overlap with the MLS SAC. For construction effects the Secretary of State concludes that AEoI can be excluded for the Project in-combination, noting the area and thickness of deposition within the SAC predicted for the Project alone, alongside the temporary nature of increased suspended sediment concentrations and the expected re-working of sediments via natural processes as well as the interaction with other plans and projects.

5.7.3 Conclusion

In conclusion, based on the information before him, the advice of NE and the ExA, as well as the mitigation and monitoring secured in the Order and Offshore IPMP [C3-013] the Secretary of State considers that an AEoI of the MLS SAC from the Project alone or in-combination can be excluded beyond reasonable scientific doubt for the sandbanks which are slightly covered by seawater all the time qualifying feature of the MLS SAC from all effect pathways.

5.8 Orfordness – Shingle Street SAC

While Orfordness – Shingle Street SAC was screened out of AA in the Screening Report, during Examination the ExA considered the potential for AEoI from LBBG compensation measures (predator fencing sites). However, the Applicant confirmed that the potential site being considered for fencing with a potential pathway to Orfordness – Shingle Street SAC was no longer being considered (and as reflected in the Outline LBBG CIMP [REP8-019]) and there was no pathway for effects.

Based on the information before him the Secretary of State, in agreement with the ExA is satisfied that the Project, either alone or in-combination will not adversely affect the integrity of the Orfordness – Shingle Street SAC.

5.9 Outer Thames Estuary SPA – RTD

As stated in the HRA Report [refer to APP-178], the Project array area is located 4.5km from the OTE SPA at the nearest point and the offshore export cable corridor also overlaps with the SPA (for a length of 19km). As such there is the potential for displacement/barrier effects to RTD in both the construction (and decommissioning) and operation and maintenance phases of the Project.

In addition to noting that it is agreed by IPs that AEoI could be excluded for common tern, the ExA [ER C.1.4.61] agreed with the conclusion of the Applicant that an AEoI can be excluded for the five benthic habitat types that support the OTE SPA from all LSE pathways, both alone and in-combination.

Following progress made during Examination, NE [REP5-110, Q10.0.12] stated that it acknowledged that there is an assessment of prey availability in the Ornithology ES chapter, and that the potential for adverse effects for OTE SPA RTD through impacts on prey availability has been ruled out. Having reflected on its position for the Project, NE noted that any further assessment of impacts to supporting benthic habitat for qualifying features of the OTE SPA were not required. As such this section deals only with RTD, where a dispute remained at the end of Examination.

5.9.1 Project alone

5.9.1.1 Applicant

The Applicant calculated the area of potential RTD displacement effects within the OTE SPA, applying a 12km buffer (as advised by NE) from the Project array area, as 108.7km^2 which represents 2.8% of the OTE SPA. The Applicant highlighted that this area also overlaps with the 12km buffer of Greater Gabbard Offshore Wind Farm (GGOW) (of which the Project is an extension), London Array OWF, and an international shipping lane. The Applicant thus also calculated the area of the SPA where displacement effects would be predicted for the Project alone (i.e. excluding those areas already within the 12km buffers of other OWFs) as 54.5km^2, equivalent to 1.4% of the whole SPA.

During Examination, NE highlighted that within the 108.7km^2 area there is an area of 33.91 km^2 where the Project is the closest OWF, which is 0.9% of the whole SPA, which the Applicant agreed in [REP6-059]. This, added to the 54.5 km^2 area is 88.41km^2 and approximately 2.3% of the total area of the SPA.

Across the 12km buffer, the Applicant used NE's advised gradient to estimate the number of RTDs likely to be displaced in the SPA and the associated mortality. An alternative gradient of displacement rates was also applied by the Applicant for comparative purposes, based on the proportions of birds estimated to be displaced within the array area and at increasing distances as reported in the post-construction monitoring at the London Array OWF. However, given that

the key differences in these methods are within 6km, and the Project array is 4.5km from the OTE SPA, there are minimal differences in the results of the RTD displacement and predicted mortality as shown in Table 4.9 of the HRA Report [APP-178] (2021 survey average is 107 RTD are predicted to be displaced with the NE gradient and 104 with the London Array gradient). Regardless of the method, the Applicant concluded that the magnitude of increased mortality would not materially alter the background mortality of the SPA population and would be undetectable; thus, the Project would not undermine the SACO target to maintain the size of the non-breeding population. It is noted that the maximum increase in population baseline mortality rates presented by the Applicant is 0.03% using a 1% mortality of displaced birds and 0.25% using a 10% mortality of displaced birds (which the Applicant argued as unrealistic); the Applicant claimed both results would not be detectable.

The Applicant considered that the impact of displacement from the Project array would be very small and represent no meaningful change to the existing situation; thus, would not undermine the conservation objective in regards to the extent and distribution of qualifying species. Throughout pre-application and Examination, the Applicant advocated for the use of the Effective Displacement Area ("EDA") approach; this is the area of overlap between an OWF and (in this case) a 12km buffer of the SPA weighted by the predicted proportion of birds displaced within the array area and at different distances from the array area. The Applicant considered that given studies show that RTD displacement from OWFs decreases with distance and not all birds are displaced from a given area, it is considered that presenting only the area of the SPA subject to some extent of displacement from an OWF overestimates the extent of displacement and effect. As such, while noting the EDA method alone would be misleading, the Applicant provided in the HRA Report [APP-178, Table 4.10] the total area of overlap of the SPA (2.8% of the SPA) as well as the EDA (0.9% of the SPA, for both NE's advised gradient and the London Array gradient).

The Applicant highlighted the relevance of the influence of the GGOW and London Array projects as well as the presence of shipping. The Applicant (quoting evidence that RTDs are known to be displaced by ships) presented that it is valid to consider to what extent birds in the area of the SPA closest to the shipping lanes would also be affected by a more distant source of displacement in the form of the Project array. The Applicant summarised that no part of the 12km buffer of Project array overlaps with an area of the SPA which is not already subject to another potential source of displacement for RTDs. It is accepted by the Applicant that RTDs occupying these areas (i.e. birds which have not been displaced from existing OWFs or shipping lanes) may be subject to additional displacement effects from the Project array, however it is considered likely by the Applicant that any further changes in density would be very small and represent no meaningful change to the existing situation.

Within its response to the first information request on 26 November 2025 the Applicant provided [C1-012] more granular details of the existing shipping activity, both spatially and temporally. The Applicant also provided further reasoning in response to the first all IP consultation[18] [C2-010] that there are likely to be relatively few RTDs using the area where the 12km Project buffer overlaps with the SPA and that individuals using this area may be relatively tolerant of

[18] The Secretary of State on the 18 December 2025 invited all interested parties to comment on the consultation responses to the consultation issued on 26 November 2025

disturbance. The Applicant also provided information regarding the OTE SPA boundary and views on why the need to simplify the boundary in designation has led to the inclusion of (within the 12km buffer) some areas where RTD densities were lower than the threshold value identified for inclusion in the SPA.

The Applicant's assessment focused on operational effects but provided analysis for construction effects from the array based on a 50% reduction of operational effects as noted below from the HRA Report [APP-178].

"Considering a 50% reduction in the effects of displacement during construction, which would equate to maximum mortalities of 0.5 RTDs at 1% mortality of displaced birds, and 3 - 5.5 birds at 10% mortality; respectively equivalent to 0.01% and a maximum of 0.13% increase in baseline mortality rate. These potential changes in population mortality rate would be so small as to be undetectable and would not result in an adverse effect on the population size of RTDs within the OTE SPA."

Noting the offshore export cable corridor crosses the SPA (although c.66% of the length of the offshore cable corridor is outside the SPA boundary), the Applicant also assessed the potential for disturbance and displacement of RTDs in the construction phase during the six months when the cable is proposed to be installed, particularly where the cable corridor passes through the OTE SPA. On a precautionary basis it is assumed by the Applicant that there would be 100% displacement of all RTDs from a 2km buffer of cable laying activities. The Applicant's assessment considered the density of RTD, a 2km disturbance radius and the indicative rate of installation alongside the tidal flow rate (and influence of birds on the water surface).

The Applicant reported that assuming 92 birds are displaced and a 1-10% mortality of displaced birds, 1-9 birds would suffer mortality each year due to displacement within the offshore export cable corridor. The Applicant presented, assuming on a precautionary basis that all these birds are associated with the SPA population of 18,079 individuals and an average annual mortality rate (across age classes) of 0.233, this would represent an increase in baseline mortality rate of 0.02 – 0.21%.

During pre-application and Examination, NE, as noted in Section 5.9.1.2 below, considered that a seasonal restriction for cable installation should be imposed to reduce disturbance to RTD in the winter period, and also noted uncertainty on the number of vessels associated with cable laying activities (reported as two cable laying vessels and associated vessels by the Applicant). The Applicant considered that a seasonal restriction on the installation of the export cable within the OTE SPA and a 2km buffer was not merited, and referred to the level of effect identified in the HRA Report.

The Applicant concluded for the OTE SPA that for all phases, and in consideration of all conservation objectives an AEoI can be excluded for the Project alone.

Further, the Applicant highlighted [REP6-007] that the Project array area has been significantly reduced during the pre-application stage from 150km^2 to 95km^2, increasing the distance between the array area and the OTE SPA from c.2.3km to 4.5km at the closest point. The Applicant considered that a further reduction in the array area would lead to a reduced energy yield and impact on the commercial viability of the Project.

5.9.1.2 Natural England's advice

NE considered [REP8-099] the Project is in clear contravention of the SACO targets to "reduce the frequency, duration and/or intensity of disturbance affecting roosting, foraging, feeding, moulting and/or loafing birds" and to "maintain the extent, distribution and availability of suitable habitat (either within or outside the site boundary) which supports the feature for all necessary stages of the non-breeding/wintering period (moulting, roosting, loafing, feeding)." NE noted that the turbines would be a permanent structure adding significant ongoing additional displacement pressure over a substantial area of the SPA, further constraining the overall availability of habitat.

NE welcomed the Applicant's clarification in [REP6-059] that the area of overlap between the 12km buffer of Project array and the OTE SPA where the Project is the closest OWF is 33.91 km^2, which is 0.9% of the OTE SPA area. Thus, NE considered the area over which displacement impacts should be attributed to the Project is the sum of this area and the 'novel' area where the Project might cause displacement impacts (i.e. 33.91 + 54.5 = 88.41km^2). This is approximately 2.3% of the total area of the OTE SPA.

NE agreed that some consideration of the diminishing displacement effect with distance from an array is appropriate. However, NE did not believe the EDA is an appropriate way to quantify this. As such NE confirmed that it based advice on the scale of impact according to the total area over which displacement impacts are expected and did not consider the EDA when drawing conclusions or making integrity judgements. NE did not agree that using the total area to assess potential displacement impacts in any way overstates the scale of the impact. Ultimately, NE considered the conservation objective is contravened wherever displacement impacts may occur, regardless of the proportion of birds displaced.

NE highlighted the particular importance of the OTE SPA to over-wintering RTD in England. NE stated that at the time of classification, 38% of the Great Britain RTD population could be found within the site. NE added that the OTE SPA is unique in supporting a very high abundance of birds at much higher densities relative to other SPAs where RTD is a feature and that this species is essentially absent in most English coastal waters.

NE maintained the position that an AEoI of the SPA cannot be ruled out from the Project alone, due to the proximity of the array to the SPA, noting the extent of displacement effects recorded from other OWFs from post-construction studies.

NE did agree that two major shipping lanes run through the 12km buffer area that overlaps the SPA and will impact RTD distribution. However, NE noted that the 'vessels per day' presented refer to a 10nm buffer around the entire Project area and do not appear directly relevant to this specific characterisation of shipping traffic. This point was further considered by the Secretary of State as discussed in Section 5.7.1.4, but it is noted here that despite the additional information provided by the Applicant the view of NE, as stated below, did not change.

NE acknowledged that the impacted area from the Project is also subject to disturbance and displacement impacts from high levels of vessel movements, as indeed, it noted is much of the SPA. Nonetheless, NE considered it highly likely that birds (as the Applicant's baseline survey data confirms, RTDs are present in the area) would be subject to further displacement by a turbine array. Furthermore, NE highlighted that displacement may be permanent whereas, at present, there may be temporally limited displacement impacts with resettlement of habitat

between vessel movements. NE [C1-008] maintained that the impact arising from the Project array was novel and entirely additional.

NE welcomed the partial mitigation of impact by updates to the proposed location of the array area since the PEIR submission and considered that the Applicant should demonstrate that no further reduction in impact by increasing the distance between the SPA and the array is possible whilst retaining a viable Project.

In response the second information request NE [C2-006] did not consider the additional information provided by the Applicant to materially affect its overall position that an AEoI cannot be ruled out in respect of the RTD feature of the OTE SPA. NE stated that

"We advise that unless a qualifying feature is simply not present in a given part of the SPA, or is only present at a level so low or infrequent as to be negligible, the conservation objectives for the SPA are salient and need to be applied as part of the impact assessment process. This holds true regardless of the relative density of red-throated divers across the site, or artefacts of the methods used to delineate the boundary which, by necessity for practical management reasons, must be simplified. We note that post-classification surveys of the site have continued to register red-throated diver in the impacted areas. Furthermore, we continue to highlight that the influence of existing displacement causing pressures cannot be used to justify, or diminish, the impact of an additional pressure. We also continue to strongly challenge the Applicant's speculative assertions that red-throated divers in the area of concern may be habituated to, or tolerant of disturbance".

NE also highlighted the need for a seasonal restriction for cable installation that has been consistent advice for all relevant projects in the Extensions and Round 4 leasing rounds. NE also viewed the need to mitigate the Project's impact on the RTD feature during the offshore export cable installation is heightened by its inability to rule out an AEoI due to the turbine array. In its response to the information requests NE confirmed its position that it strongly recommended that construction and decommissioning of the offshore export cable should not take place within the OTE SPA +2km buffer during the sensitive over wintering period for RTDs of November to March inclusive and that all vessels should follow NE best practice guidelines on vessel movements during all other phases of the development for both the cable route and array.

It is also noted that the RSPB [RR-294] concurred with NE and could not rule out an AEoI of the OTE SPA, arising through the Project alone and in-combination.

5.9.1.3 ExA

The ExA acknowledged that the Applicant has reduced the size of the array area during pre-application stages and that action directly sought to reduce potential for displacement effects to the species. The ExA accepted that this provides a clear example of avoidance measures in designing the development. Subsequently, there is now some 4.5km between the OTE SPA and North Falls at the closest point [ER 7.5.30].

The ExA noted that all of the 2.8% SPA area figure quoted by the Applicant is either already within 12 km of an existing offshore wind farm (such as London Array and GGOW) "and/or" overlaps with existing IMO "shipping measures" (the ExA highlights the term "shipping measures" involves shipping routes). The ExA accepted these are well used shipping lanes running through the SPA and to the east of the SPA boundary [ER 7.5.32].

The ExA highlighted that the RTD feature of the OTE SPA is assessed by NE as being in an unfavourable condition. Nevertheless, the ExA stated that whilst NE's 2025 condition assessment does suggest non-breeding abundance of red-throated diver is meeting targets, it is supporting habitat attributes that are failing. Thus, the ExA stated as the precautionary 12km buffer around North Falls is already subject to sources of displacement for RTD, North Falls would not result in further material displacement of RTD over and above the existing sources of displacement [ER 7.5.35].

The ExA concluded that in accordance with the Applicant's assessments and technical information that an AEoI of RTD within the SPA can be ruled out beyond reasonable scientific doubt for the Project alone.

Regarding cable installation and seasonal restrictions, the ExA noted that such mitigation measure according to NE has been used by other developers affecting the OTE SPA e.g. East Anglia 1N ("EA1N") and East Anglia 2 ("EA2"), and more recently VEOWF have put a seasonal restriction in place for the SPA. These commitments reflect broader practice elsewhere in the UK, with Outer Dowsing OWF, Mona OWF and the Morgan & Morecambe Transmission Assets proposals all committing to seasonal restrictions to avoid adverse effects on other RTD SPAs [ER 7.5.39]. The ExA also noted the seasonal restriction might make the construction phases more difficult to implement. The ExA did not conclude a seasonal restriction was required but noted the Secretary of State could further consider applying such a restriction if an AEoI is found in any decision contrary to the ExA's assessment [ER 7.5.40].

5.9.1.4 Secretary of State

The Secretary of State, in his first information request on 26 November 2025, required the Applicant to provide more granularity of the existing shipping disturbance, including spatial representation and temporal analysis. NE was also asked to further justify its view of the level of impact from the Project array area. The Secretary of State considers that the information provided further evidence of the level of existing disturbance from shipping activity. Further, the Applicant was also asked to provide without prejudice wording for a DCO condition that secures a seasonal restriction within the OTE SPA and a mitigation strategy to reduce disturbance within a 2km buffer of the SPA along the offshore export cable route during construction. In his second information request on 28 January 2026, the Secretary of State further requested the detail of the strategy to reduce disturbance within a 2km buffer of the SPA to be expanded, noting the view from NE in regards to its advice in its response to the first all IP consultation [C2-006].

The Applicant, in response to the second information request, provided amendments to both the draft DCO wording and the Outline Project Environmental Management Plan [C3-010] to align with NE's advice and provide for a seasonal restriction for offshore export cable installation within the OTE SPA and 2km buffer. The Secretary of State welcomes the provision of this additional commitment.

During construction, the Secretary of State, in accordance with advice from NE on the seasonal restriction of cable lay activities within the OTE SPA and a 2km buffer, and following agreement by the Applicant, has secured this accordingly in the Order. Considering this and the overall embedded mitigation, including that for the array construction, it is concluded that an AEoI for the Project alone can be ruled out for the OTE SPA in regard to RTD displacement during construction.

During operation, based on the information before him the Secretary of State considers that the Project alone effects would not result in a AEoI of the OTE SPA on the RTD qualifying feature. This decision is in-line with the conclusion of the ExA. The Secretary of State acknowledges the opposing view of NE, and while he considers there could be some displacement effects, agrees, based on the evidence presented by the Applicant, that for the Project alone there would not be significant[19] disturbance effects at a population level. The Secretary of State also notes the density of RTD and the influence of existing sources of disturbance on the impacted area as well as the scale of the Project alone impact on habitat availability and RTD distribution.

5.9.2 Project in-combination

5.9.2.1 Applicant

The in-combination displacement area and the area of effective displacement are presented by the Applicant. In terms of the displacement area, excluding the Project, the total area of the SPA within 12km of an OWF is 1932.32km^2, representing 49% of the total SPA area. Including the overlap of the Project 12km buffer with the SPA brings the total to 1986.7km^2, 51% of the SPA area.

The EDA (an estimate of the area effectively lost from the SPA due to predicted displacement within and at varying distances from OWFs) without the Project, is estimated by the Applicant at 692.78km^2 using the displacement gradient from the London Array OWF, and 926.79 km^2 using the gradient advised by NE, which accounts for 18 and 24% of the SPA area, respectively. As reported by the Applicant, including the Project increases these totals to 718.56 and 955.12km^2, respectively, which do not change the associated percentage values when expressed to the nearest integer.

The Applicant reported in the HRA Report [refer to APP-178], that the mean number of birds (in-combination) predicted to be displaced is 5,824 using the London Array gradient and 12,843 using the NE gradient (for the mean of the baseline surveys used). At 1% mortality of displaced birds, the mean predicted increase in the baseline annual mortality rate of the SPA population is 1% for the London Array gradient and 3% for the NE gradient, at 10% mortality the respective means are 14% and 30%.

The Applicant acknowledged the conclusion of the HRAs for EA1N and EA2, noting this indicates that the Secretary of State considers there is an existing adverse effect on the distribution of RTDs in the SPA due to the in-combination effects of OWFs. The Applicant however highlighted that the Project makes a very small addition to the in-combination effect from other OWFs. This is reported as increasing the displacement area by 2% (and by <1% considering the EDA) when added to the effects of other existing (operational and consented) OWFs. The Applicant highlighted that the increase in the area over which displacement may potentially occur are associated with the more distant parts of the Projects 12km buffer within which the predicted displacement rate is low. Further, the Applicant noted all of the overlap between the 12km buffer of North Falls and the SPA also overlaps with existing sources of displacement for RTDs – International Maritime Organisation ("IMO") ship-routeing measures and/or the displacement

[19] 'Significant' disturbance is defined in the SACO by The Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA), 2016

buffer of another OWF – so that the 12km buffer around the Project does not impact any area of the SPA not already potentially subject to a source of disturbance for RTDs.

The Applicant highlighted that the in-combination assessment is provided as context given its conclusion that the Project would make no material contribution to the in-combination mortality, and there would be no contribution to any adverse effect on integrity to the OTE SPA.

5.9.2.2 Natural England advice

NE found that both the Project alone and in-combination effects resulted in an AEoI of the OTE SPA. For the in-combination assessment NE additionally noted the Applicants in-combination assessment confirms that at present 49% of the SPA is subject to some level of displacement impact from turbine arrays. NE noted that this will rise to >50% of the SPA should the Project array be built, with the Project impacting an additional 54.5km^2 (1.4% of the SPA) and potentially exacerbating existing displacement impacts over a further 33.9 km^2 (0.9% of the SPA). As such, NE considered the Project to represents a significant contribution to in-combination impacts on the SPA, adding significant ongoing additional disturbance.

The RSPB supported the position of NE noting [REP4-089]:

'there is clear evidence of the displacement of red-throated diver from offshore wind farms with a significant effect detectable in some cases at considerable distance from the wind farm. The numbers of red throated divers, their distribution within the SPA and their ability to use all suitable habitat contained in the SPA are relevant to the SPA conservation objectives but are not considered by the Applicant. If, as the evidence suggests, red-throated divers are displaced from part of the SPA which would otherwise be suitable for them the effect is to reduce the functional size of the SPA, undermining the conservation objectives. As detailed by Natural England, there already are extensive current OWF projects in the vicinity of the SPA as well as those that have received planning permission but are not constructed. These will already be causing perturbation to the SPA red-throated diver population and any further disturbance will exacerbate this. The RSPB therefore cannot rule out an adverse impact of displacement on the integrity of the Outer Thames Estuary SPA, arising through the project alone and in combination."

5.9.2.3 ExA

The ExA shared the Applicant's view that RTDs would not be disturbed by the position of North Falls in these circumstances (locational factors of shipping and other OWFs) as there would be no material change to numbers or their distribution within the overall OTE SPA [ER 7.5.34].

The ExA concluded in accordance with the Applicant's assessments and technical information that AEoI can be ruled out beyond reasonable scientific doubt for the Project alone and in-combination. Therefore, contrary to NE's position [REP1-044] and [REP6-060] the ExA considered that protecting RTD via a seasonal restriction would not be necessary, as there would not be an AEoI [ER C.1.4.53].

5.9.2.4 Secretary of State

The Applicant [APP-178 Table 4.19] presented that the in-combination displacement area overlapping with the OTE SPA (OWF buffers of 12km) is 51%. Without the Project the overlap is reported to be 49%. It is noted however that this area is considerably less when considering

the EDA method, where the Project is shown to have a very small contribution (<1%). While the Secretary of State sees the merit of showing the effective EDA values, and the logic behind this, he notes that these values alone could be misleading, and as such are considered in the context of comparison.

It is noted the spatial representation of projects overlapping the SPA was updated by the Applicant [C1-012] in response to the Secretary of State's first information request on 26 November 2025 for clarity.

While the Secretary of State acknowledges the ExA and the Applicant regarding the influence of other sources of disturbance, he notes the area of the SPA already subject to disturbance from OWFs. The Secretary of State is of the view that the Project contributes additional disturbance to that ongoing across the SPA given habituation to disturbance cannot be sufficiently evidenced. Considering the in-combination effects of disturbance on habitat availability he cannot rule out an AEoI in-combination during the operational period. The Secretary of State is mindful of the conservation objective for the extent, distribution and availability of suitable habitat and the SACO disturbance attribute target to reduce the frequency, duration and/or intensity of disturbance affecting roosting, foraging, feeding, moulting and/or loafing birds so that they are not significantly disturbed. Despite the existing levels of shipping in the area impacted by the Project, there remains a contribution from the Project to the in-combination displacement effects on the SPA, particularly noting the sustained nature of displacement from turbines in comparison to shipping disturbance. With the information before him, the Secretary of State cannot rule out an AEoI of the OTE SPA in-combination during the operational period.

The Secretary of State is able to rule out an AEoI of the OTE SPA during construction on an in-combination basis (inclusive of the array and offshore export cable corridor), noting, as recommended by NE, a seasonal restriction has been secured in the Order and is in place for export cable installation within the SPA and 2km buffer for the winter period (November to March). The Secretary of State is also content the Outline Project Environmental Management Plan provides suitable protocols for minimising disturbance from vessels.

5.9.3 Conclusion

The Secretary of State concludes the Project alone does not result in an AEoI of the OTE SPA. However, in-combination there are a large number of sources of disturbance impacting the OTE SPA (over 50% of the SPA is influenced by OWFs) to which the Project contributes, and as such an AEoI of the OTE SPA for the in-combination effect cannot be excluded beyond reasonable scientific doubt. The Secretary of State acknowledges that there is no defined threshold of what constitutes a material contribution but notes the position of NE (that the Project represents a significant contribution to in-combination impacts on the SPA) in coming to this conclusion.

5.10 Southern North Sea SAC

As identified in section 3.4 of the HRA Report [refer to APP-176] the SNS SAC has been recognised as an area with persistent high densities of harbour porpoise[20] and is the largest designated site for harbour porpoise in the UK and European waters at the time of designation. The Project's array area is fully within the winter area of the SNS SAC, and the offshore cable corridor lies partially within the winter area of the SNS SAC. Due to the Project being within the designated area it was identified during the Examination that there could be LSEs to this site through the following impacts:

- Underwater noise;
- Disturbance and displacement;
- Collision risks with vessels;
- Changes to water quality; and
- Changes to prey availability.

The HRA Report [refer to APP-176] contains the Applicant's assessment for each of the above impacts on harbour porpoise both alone and in-combination, and has concluded for each that AEoI could be excluded.

However, at the close of the Examination NE [REP8-099] did not agree with the Applicant's conclusions for the SNS SAC in relation to underwater noise and maintained their outstanding concerns including:

- Lack of confidence in the Applicant's modelling;
- Mitigation commitments were considered not satisfactory; and
- Lack of control measures within the Outline Site Integrity Pan ("SIP").

NE did not dispute the Applicant's conclusion that AEoI could be excluded from the other listed LSE pathways. The ExA agreed with the Applicant and NE that there would not be an AEoI to the SNS SAC resulting from the above LSE pathways, with exception of underwater noise.

Based on the information before him, the views of NE, as well as the ExA, the Secretary of State is satisfied that the Project, either alone or in-combination, will not adversely affect the integrity of the harbour porpoise feature of the SNC SAC from the above LSE pathways, with exception of underwater noise, which is discussed in more detail below followed by the Secretary of State's conclusion on this impact.

5.10.1 Underwater noise effects - alone and in-combination

In relation to the concern over the Applicant's modelling for the alone assessment, NE [REP1-070] raised they did not agree with the Applicant's use of Interim Population Consequences of Disturbance ("iPCoD") modelling to assess the disturbance impacts from piling as well as how they appeared to rely solely on this modelling to reach their conclusions.

[20] Southern North Sea MPA: SAC Selection Assessment Document

The Applicant noted NE's concerns but provided a justification for their use of iPCoD [REP5-055] as well as clarifying that the iPCoD results had been used alongside other methods, including the Effective Deterrent Range ("EDR") and Dose Response Curve ("DRC") for assessing the impact of disturbance for Project alone piling [REP1-057]. The Applicant also provided an additional document at Deadline 5 entitled the "Marine Mammal Assessment Clarifications" [REP5-069] to clarify that using all the different approaches, results lead to a non-significant impact during Project alone piling, as well as further details on cumulative assessments.

The Applicant maintained that the approach taken was appropriate and had been used by previous OWF projects such as Awel Y Môr and Sheringham Shoal Extension and Dudgeon Extension.

NE welcomed the additional information, however maintained [REP6-086] that there were limitations of iPCoD modelling and that the DRC assessment should be the primary assessment method. NE also advised that the use of Noise Abatement Systems ("NAS") would be necessary.

Based on the information before him and in agreement with the Applicant, the Secretary of State considers in this case that the combination of assessments used is appropriate to provide an accurate and proportionate assessment of underwater noise impacts.

In relation to the concerns raised on the lack of mitigation secured to reduce underwater noise impacts at the source, NE advised that they could not agree with the Applicant's conclusion that AEoI could be excluded in-combination from underwater noise without a commitment to include mitigation such as NAS [REP4-067]. The Essex Wildlife Trust ("EWT") agreed with NE and considered that the Applicant should commit to NAS in the draft Marine Mammal Mitigation Protocol ("MMMP") and SIP [REP4-055]. There was also disagreement between NE and the Applicant regarding the reference to NAS as 'additional mitigation', in which NE maintained its position that NAS is not considered additional mitigation but an integral mitigation strategy for reducing noise at source in line with the latest DEFRA policy (2025)[21] on reducing marine noise.

The Applicant responded [REP5-057] stating it had updated the draft MMMP and Outline SIP to include clarifications regarding NAS and included wording that it would apply NAS "if it is deemed necessary". This was not considered by NE [REP8-100, REP8-99] to be sufficient, and that the wording did not align with DEFRA's policy on reducing marine noise (2025), therefore at close of the Examination, this matter remained outstanding.

The MMO considered that the likelihood of there being 'no satisfactory alternative' to piling without NAS for offshore wind developments going forward will be low. At Deadline 7 the MMO [REP7-080] provided suggested wording to be included within the DMLs which would ensure that the Applicant would have to commit to the use of either primary or secondary noise reduction mitigation during piling activities. The MMO believed that alongside a SIP condition it would alleviate concerns raised by NE. The MMO deferred to NE in relation to AEoI, but noted that NAS will likely be required as standard to ensure no AEoI.

The ExA stated [ER.C.1.4.193] contentment that that the Outline SIP provides a mechanism to further consider the use of NAS following any consent and could secure this if necessary, but

[21] Reducing marine noise - GOV.UK

agreed to incorporate the MMO's proposed DML wording [REP7-80] to ensure that this concern is dealt with.

In his first information request on 26 November 2025 the Secretary of State requested that the Applicant and NE review an update to Condition 22(1)(g) in Schedule 9 and Condition 21(1)(g) in Schedule 10 within the DMLs (the pre-construction plans and documentation Condition), which reflected the MMO's suggested wording [REP5-057]. On 16 December 2025 NE responded [C1-008] to confirm they welcomed this addition and had no comments to make on its drafting. The Applicant responded [C1-014] stating it was broadly content with the addition of this condition, with a small change to the proposed wording. This wording has now been added to each of the DMLs to ensure these mitigation methods are suitably secured, with amendments by the Secretary of State simplifying the wording around the details to be provided (following consideration on the MMO's and the Applicants requests).

Based on the information before him, the Secretary of State considers that securing this additional wording satisfies concerns over mitigation, by ensuring the use of primary or secondary noise mitigation measures during construction (i.e. reduction methods through project design and the deployment of NAS/noise reduction measures). This ensures a reduction in the level of underwater noise generated and its propagation through the marine environment, reducing the potential level of disturbance to the harbour porpoise feature of the SNS SAC

The Secretary of State noted that at the end of the Examination there was outstanding concern raised by NE in relation to the SIP, which NE consider must be in line with the DEFRA noise policy (2025). Also in regard to the SIP was an outstanding concern related to the uncertainty of control mechanisms within the SIP to ensure that it could not be submitted too early to the MMO. NE noted that it could impact the ability of the Applicant to secure a suitable NAS [REP8-099].

In his first information request on 26 November 2025 the Secretary of State requested that the Applicant, NE and the MMO review a new SIP condition. The proposed wording was also amended to explicitly state that the SIP must be submitted in writing to the MMO no earlier than nine months and no later than six months prior to the commencement of piling activities.

All three parties were content with this inclusion, with some minor updates to wording to make the condition more specific to the SNC SAC. The Secretary of State has inserted this condition within Schedules 8, 9 and 10 (as all could involve impact piling) to ensure that there are suitable controls for the delivery of the SIP. It is also noted that the previous SIP condition in the DMLs (pre-construction plans and documentation condition) was thus removed due to repetition.

Based on the information before him and the amendments made to the Order to further secure mitigation measures, the Secretary of State is satisfied that the Project, either alone or in-combination with other plans or projects, will not adversely affect the integrity of the harbour porpoise feature of the SNS SAC.

5.11 Stour and Orwell Estuaries SPA and Ramsar

The HRA Report [refer to APP-178], notes the Stour and Orwell Estuaries SPA is approximately 3.3km to the north of the Project at its closest point. The Applicant assessed the potential for AEoI of the SPA on the qualifying species from the Project alone and in-combination. The

Applicant concluded that with the application of mitigation measures, that AEoI could be excluded from the Project alone and in-combination.

During the Examination, NE noted [REP2-054] that they did not consider the Applicant's conclusion, that AEoI could be excluded, to be appropriate and when questioned which features were of concern, NE responded with "*the features for which outstanding concerns remain are unknown as the impacts are yet to be assessed*".

This was further addressed in the Examination, including questions as part of the RIES, and concluding with NE confirming that they agreed with the Applicant's assessment that AEoI could be excluded. NE did state however [REP8-100] that there would likely be residual impacts to the SPA (or Ramsar) in terms of the loss of potential off-site foraging habitat, however given the nature of the farmland habitats being used by the lapwing from the SPA and the availability of similar habitats in the wider area, in this instance AEoI could be excluded.

The ExA was satisfied that an AEoI from the Project alone or in-combination could be excluded for Stour and Orwell Estuaries SPA and Ramsar site [ER.C.1.4.67].

Based on the information before him, the Secretary of State is satisfied that the Project, either alone or in-combination, will not adversely affect the integrity of the Stour and Orwell Estuaries SPA and Ramsar site.

5.12 Appropriate Assessment conclusion

As the competent authority under the Habitats Regulations for this Application under the Planning Act 2008, the Secretary of State has undertaken an AA in respect of the conservation objectives of the relevant protected sites to determine whether the Project, either alone or in-combination with other plans or projects, will result in an AEoI.

The Secretary of State has carefully considered all the information available to him, including the recommendations of the ExA, the advice of NE as the lead SNCB, the views of all other IPs, and the Applicant's case.

The Secretary of State is satisfied that, given the relative scale and magnitude of the identified effects on the qualifying features of the protected sites and where relevant, the measures secured in the Order to avoid or reduce potential adverse effects, there would not be any implications for the achievement of site conservation objectives and therefore AEoI of the following protected sites can be excluded (in addition to those sites listed in Section 5.1):

- Margate and Longsands SAC;
- Orfordness – Shingle Street SAC;
- Southern North Sea SAC; and
- Stour Orwell Estuaries SPA and Ramsar.

For the reasons given in Section 5.5.4 the Secretary of State disagrees with NE and the ExA and concludes that an AEoI can also be ruled out in relation to displacement and disturbance of razorbill of the FFC SPA, in-combination.

The Secretary of State agrees with the ExA, and in accordance with the advice of NE, that an AEoI cannot be ruled out beyond reasonable scientific doubt in relation to:

- Collision mortality of the kittiwake feature of the FFC SPA, in-combination (Section 5.5.2);
- Displacement and disturbance of the guillemot feature of the FFC SPA, in-combination (Section 5.5.3);
- Displacement and disturbance and collision mortality of the seabird assemblage feature of the FFC SPA, in-combination (Section 5.5.5);
- Displacement and disturbance of the guillemot feature of the Farne Islands SPA, in-combination (Section 5.6); and
- Collision mortality of the LBBG feature of the AOE SPA and Ramsar site, in-combination with other plans and projects (Section 5.3).

For the reasons given in Section 5.9 the Secretary of State agrees with the ExA, and disagrees with NE, that an AEoI can be ruled out in relation to displacement and disturbance of RTD of the OTE SPA, for the Project alone. However, the Secretary of State disagrees with ExA and concludes in accordance with the advice of NE, that an AEoI cannot be ruled out in relation to displacement and disturbance of RTD of the OTE SPA, in-combination.

In summary an AEoI can be ruled out for all sites listed in Annex A with the exception of the below sites where an AEoI cannot be ruled out beyond reasonable scientific doubt:

- Collision mortality of the LBBG feature of the AOE SPA and Ramsar site, in-combination with other plans and projects;
- Collision mortality of the kittiwake feature of the FFC SPA, in-combination with other plans or projects;
- Displacement and disturbance of the guillemot feature of the FFC SPA, in-combination with other plans or projects;
- Displacement and disturbance and collision mortality of the seabird assemblage feature of the FFC SPA, in-combination;
- Displacement and disturbance of the guillemot feature of the Farne Islands SPA, in-combination with other plans and projects; and
- Displacement and disturbance of RTD of the OTE SPA, in-combination with other plans or projects.

6 Consideration of case for derogation

Based on the AA, the Secretary of State cannot conclude, beyond all reasonable scientific doubt, the absence of an adverse effect from the Project in-combination with other plans or projects on the integrity of the OTE SPA, AOE SPA and Ramsar, FFC SPA and the Farne Islands SPA. The Secretary of State concludes that the Project does not meet the Integrity Test. The Secretary of State has therefore decided to review the Project in the context of Regulations 64 and 68 of the Habitats Regulations and Regulations 29 and 36 of the Offshore Habitats Regulations to determine whether the Project can be consented. A reference to Regulation 64 and 68 of the Habitats Regulations is a reference to Regulations 29 and 36 of the Offshore Habitats Regulations, unless expressly provided to the contrary.

Regulation 64 allows for the consenting of a project that is required for imperative reasons of overriding public interest ("IROPI"), even though it would cause a AEoI of a protected site. Consent may only be given where no alternative solutions to the Project are available which are less damaging to the affected protected site and where Regulation 68 is satisfied. Regulation 68 requires the appropriate authority to secure any necessary compensatory measures to ensure that the overall coherence of the NSN is protected. The Secretary of State's consideration of information provided to inform these further tests is presented in subsequent sections of this HRA alongside his conclusions.

This part of the HRA has followed a sequential process whereby:

- alternative solutions to the Project have been considered;
- consideration has been given to whether there are IROPI for the Project to proceed; and
- compensatory measures proposed by the Applicant for ensuring that the overall coherence of the NSN is protected have been assessed.

7 Consideration of alternatives

The Applicant [REP6-007] presented the following three Project objectives, as relevant to an OWF:

- To deliver low carbon electricity from an offshore wind farm to the National Grid in support of the decarbonisation of the UK electricity supply;
- To export electricity to the UK National Grid to support UK commitments for offshore wind generation and security of supply; and
- To coordinate and optimise generation and export capacity within the constraints of available sites and onshore transmission infrastructure whilst delivering project skills, employment and investment benefits.

The Applicant also identified that the need case of the Project is grounded on achieving relevant national policies, on the need for renewable energy and on the social and economic benefits that could be generated by the Project. The need is based primarily on UK energy objectives and the following three key drivers:

- **Need to Reduce Greenhouse Gas Emissions:** The Applicant stated that the Project will provide a measurable contribution to Government targets in relation to offshore wind and wider decarbonisation. The Applicant stated that the Project would support the UK's national legislation and policy including the Climate Change Act 2008 (as amended) and the urgent need for new electricity generating capacity to meet energy objectives set out in NPS EN-1. The Applicant highlighted paragraph 3.3.20 of the NPS EN1 that states "a secure, reliable, affordable net zero consistent system in 2050 is likely to be composed predominantly of wind and solar"[22]. The Applicant also referenced the support for offshore wind in the target to generate 50GW from offshore wind by 2030 under the British Energy Security Strategy[23] and the Powering Up Britain plans (2022) released by the Department for Energy Security and Net Zero (DESNZ)[24].
- **Need for Low Carbon Electricity Capacity:** The Applicant noted that in light of the need to reduce greenhouse gas emissions and increase energy security, OWFs represent an opportunity to increase electricity generation from a low carbon, low cost, renewable source. The Project has an indicative 850MW capacity which would contribute to meeting the UK Government's ambitious target of net zero by 2050, including the interim target of fully decarbonising the UK power system by 2035.
- **Need for Energy Security:** The Applicant noted that the Project would make a significant contribution to achieving both the national renewable targets and to the UK's contribution to global efforts to reduce the effects of climate change. The Project would support the reduction of reliance on imported energy and improve energy security by generating enough clean renewable energy to power of 400,000 typical households per year [REP7-015].

[22] https://www.gov.uk/government/publications/overarching-national-policy-statement-for-energy-en-1

[23] British energy security strategy - GOV.UK

[24] Powering up Britain - GOV.UK

The Applicant provided an assessment of feasible alternative solutions to the Project [REP7-015 - section 5].

The Secretary of State has considered whether the Project objectives could be met by any feasible alternative solutions with a lesser impact on protected sites.

In his consideration of alternatives, the Secretary of State has not constrained himself solely to those alternatives that could be delivered by the Applicant. Nevertheless, the Secretary of State acknowledges that any alternative must be economically feasible for the developer and allow the developer to fulfil the terms of its lease with The Crown Estate.

The Secretary of State has considered alternative forms of energy generation in the context of the alternative solutions test and is satisfied that in line with the 2021 joint guidance [25], alternative form of energy generation would not meet the objectives of the Project. Alternatives to the Project considered by the Secretary of State are limited either to 'do nothing' or to alternative OWF projects.

Alternative types of OWF projects considered are:

- Offshore wind farms not in the UK Exclusive Economic Zone ("EZZ");
- Offshore wind farms within the UK EZZ that do not include the Project; and
- Feasible alternative scale and design parameters of the Project.

7.1 'Do Nothing'

The 'do nothing' option is discounted by the Applicant on the basis that this approach would not deliver any of the objectives of the Project or meet any of identified needs. The needs and objectives are set out in Section 7 above. The Applicant states that only 14.7GW of energy is currently generated by OWFs in the UK, highlighting the deficit and need for new projects to be consented, including the Project. The Applicant detailed the number of projects consented or in operation but recognised that not all consented projects come forward and stated that only 14GW of proposed OWFs have a grid connection offer on or before 2030. The Applicant stated that if the OWFs proposed for connection before 2030 were delayed, this would increase the climate change risk associated with energy security and potentially increase social inequality associated with increasing energy costs. The Applicant considered the Project should be delivered as soon as possible and would make a measurable contribution to domestic renewable electricity generation, and the UK's national renewable energy targets. The Secretary of State agrees that a compelling need in the public interest for the Project is clearly established and the 'do nothing' option is not a feasible alternative solution as it would fail to meet any of the aims and objectives of the Project in meeting such compelling need.

[25] https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site

7.2 Offshore wind farms not in UK EEZ

The Secretary of State considers that OWF projects which are located outside of UK territorial waters are not an alternative to the Project as this would not meet the objective to support decarbonisation and security of the UK's energy supply.

Although the UK is party to international treaties and conventions in relation to climate change and renewable energy, according to the principle of subsidiarity and its legally binding commitments under those treaties and conventions, the UK has its own specific legal obligations and targets in relation to carbon emission reductions and renewable energy generation. International and EU countries similarly have their own (different) binding targets and sites outside of the UK EEZ are therefore required for other countries to achieve their own respective targets in respect of climate change and renewable energy.

7.3 Offshore wind farms within the UK

Within the UK, all OWFs are required to secure an Agreement for Lease from the Crown Estate or Crown Estate Scotland. The Crown Estate/Crown Estate Scotland identify suitable locations for offshore wind through leasing rounds informed by HRA and Strategic Environmental Assessment. However, there is no certainty that other OWFs will be built or that they will result in extra capacity being added to the current operational offshore wind capacity within the same timeframe as the Project given the uncertainty related to the planning process, grid connection, and delivery timelines, as set out in Clean Power 2030 Action Plan.

The scale of offshore wind deployment and the nature of the Crown Estate/Crown Estate Scotland lease areas is such that it cannot be assumed that alternatives within leasing rounds/ other offshore wind farms would result in less harm to protected sites.

The Project is an extension to GGOW and was identified during The Crown Estate's 2017 Extensions leasing round. The Applicant noted that the Project was subject to criteria set for that leasing round in that the wind farm must share a boundary with the existing (parent) wind farm; and that the proposed wind farm to be extended must be constructed and fully operational at the date of the application. GGOW is the parent wind farm for the Project, which restricts the location of the Project to the array area determined by The Crown Estate. The Applicant stated that given the constraints of the leasing process and constraints associated with the ability to safely co-exist with existing sea users, there are no alternative locations that meet the Project objectives and satisfy NPS EN-1.

The Secretary of State considers that other OWF proposals do not present an alternative solution as all available OWF projects are required in order to meet UK targets for renewable energy. The Secretary of State agrees that a compelling need in the public interest for the Project is clearly established, and the use of alternative locations would fail to meet the aims and objectives of the Project.

7.4 Alternative scale and designs

Other potential alternative solutions were reviewed by the Applicant relate to the scale, design and operation of the Project.

In relation to 'smaller/alternative array area' options, the Applicant noted that the array area has been significantly reduced in size from 150km^2 to 95km^2 after pre-application feedback. This was done in part to increase the distance between the array and the OTE SPA (from 2.3km to 4.5km at the closest point). The Applicant goes on to state that to reduce the size further combined with the number of turbines needed to meet the Project's targets would lead to turbines being packed together tightly within the array. This would lead to a reduction in energy yield and efficiency which would have an impact on the commercial viability of the Project and be less able to contribute to the decarbonisation targets. For these reasons, the Applicant considers further reduction to the array size to be unfeasible.

In relation to 'fewer turbine' options, the Applicant noted that the number of turbines for the Project has also been reduced significantly during the pre-application process, from 72 to 57 of the smallest turbines or 40 to 35 of the largest turbines, depending on which design is used. The Applicant stated that fewer turbines would result in a lower generation capacity and as with the further reduction in array option, would reduce the Project's viability and impact on the ability to support decarbonisation targets. For these reasons, the Applicant considered using fewer turbines to be unfeasible.

In relation to 'smaller rotors/swept area' options, the Applicant noted that the amount of power a turbine can produce reduces significantly as the size of the rotors is reduced, with a 30% reduction in size resulting in 50% less power being produced. The Applicant stated that this reduction in power would lower the capacity of the Project and reduce its commercial viability and ability to support decarbonisation targets. For smaller rotors to achieve the same capacity as the Project aims for would require an increase in number of turbines which is likely to increase impacts to bird species or as above the increase would be so great that the turbines would be too close together to be efficient. For these reasons, the Applicant considered the use of smaller rotors or swept areas to be unfeasible.

In relation to 'increased air gap' options, the Applicant considered that there is the potential for an increased air gap to be an appropriate alternative (for LBBG (AOE SPA) and kittiwake (FFC)) and outlines the feasibility of this alternative. The Applicant noted that the expected heights of the turbine will result in a 27m air gap, which will require the largest vessel on the market to install. Therefore, to increase the height further would not be feasible as there would not be a vessel large enough to install these turbines. For this reason, the Applicant considered that they cannot increase the air gap any further.

In relation to an 'alternative timings' option, the Applicant noted that, relevant to the effects of displacement on RTD and guillemot, disturbance is caused by the physical presence of the wind farm infrastructure, rather than specifically by the operation of the turbines. NE confirmed in pre-application that once the array is constructed but not yet operational it may present the same displacement stimulus as an operational farm. As such operational timing restrictions would not alleviate this potential impact. The Applicant has therefore discounted this as a viable option as a suitable alternative. There were also considerations by the Applicant given to an alternative timings option for kittiwake and LBBG via a seasonal restriction. The Applicant noted that in

order for a seasonal restriction of turbine operation to have a material impact, the complete shutdown of turbines would need to occur for several months of the year. This would reduce the operational period of the Project and impact its commercial viability and ability to provide a reliable source of low carbon energy to National Grid. For these reasons, the Applicant considered that alternative timings are not feasible for the Project.

In relation to 'alternative method', the Application states that as the effects of relevance to this derogation case relate to the operation of the OWF, no alternative methods are available beyond the scale, design and timing options (considered above). There are no alternative solutions relating to an alternative method of carrying out the Project, and this is not considered further.

7.5 Conclusion

The ExA concluded that no alternative design parameters are known to be implementable that would present a feasible alternative solution and that there are no alternative solution that would deliver appreciable benefits in terms of reduced AEoI of the impacted protected sites. The ExA was satisfied that the Applicant has presented a compelling case that there are no alternative solutions to the delivery of the Project [ER C.1.5.13 – ER C.1.5.15].

Following a review of the information submitted by the Applicant, the recommendation of the ExA, and having identified the objectives of the Project and considered all alternative solutions to fulfil these objectives, the Secretary of State is satisfied that no feasible alternative solutions are available that would meet the Project objectives with an appreciable reduction in predicted impacts on protected sites.

The Secretary of State notes that this conclusion does not preclude further design refinements being made following the completion of further site investigations in the post-decision stage.

8 Imperative Reasons of Overriding Public Interest

Regulation 64 provides that a project having an AEoI of a protected site may proceed (subject to a positive conclusion on alternatives and the provision of a necessary compensation) if there are IROPI.

The parameters of IROPI are explored in relevant guidance, including the 2021 joint guidance[26] and the European Commission guidance (2018), which identified the following principles:

- **Imperative** – urgency and important: There would usually be urgency to the objective(s), and it must be considered "indispensable" or "essential" (i.e. imperative). In practical items, this can be evidenced where the objective falls within a framework for one or more of the following;
  (i) actions or policies aiming to protect fundamental values for citizens' life (health, safety, environment);
  (ii) fundamental policies for the State and the Society; or
  (iii) activities of an economic or social nature, fulfilling specific obligations of public service.
- **Public Interest**: The interest must be a public rather than a solely private interest (although a private interest can coincide with delivery of a public objective).
- **Long-Term**: The interest would generally be long-term; short-term interests are unlikely to be regarded as overriding because the conservation objectives of protected sites are long-term interests.
- **Overriding**: The imperative need in the public interest of the development must outweigh the harm, or risk of harm, to the integrity of the protected site which is predicted by the AA.

The HRA derogations identify certain in-principle grounds of IROPI that may be advanced in favour of such a project. Where the site concerned hosts a priority natural habitat or a priority species, grounds for IROPI should include human health, public safety, or beneficial consequences of primary importance to the environment. For other sites other reasons of public interest, including those of a social or economic nature, can also be taken into consideration. The Applicant's Derogation Provision of Evidence [REP7-015, section 6 and 8] concluded that the identified affected features of the Farne Islands SPA, FFC SPA, the AOE SPA and the OTE SPA site were not priority species or habitat and therefore the case presented for IROPI included consideration of social and economic benefits.

The Applicant's case for the imperative need for the Project as presented in [REP7-015, section 6.2] is based on the following points (in summary):

- There is an urgent need to establish a secure energy supply and meet decarbonisation targets. This provides clear evidence of the imperative need for the Project to meet the UK Government's commitment to net zero by 2050. The Project has an indicative capacity of 850MW which could provide energy to power over 400,000 typical UK homes per year.

[26] https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site

- A key purpose of the Extension leasing round that this Project was awarded its lease in was to maximise OWF capacity in the UK, with The Crown Estate stating: "*Extensions to operational wind farms have proven to be a successful way of efficiently developing more offshore generating capacity"* (The Crown Estate, 2019)[27].
- The Project would make a substantial contribution to the achievement of national renewable energy targets towards net zero and to the UK's contribution to global efforts to reduce the effects of climate change.
- The Project would provide employment opportunities as well as social benefits to local communities within the area of the Project.

The Applicant [REP7-015, section 6.3] considered that the benefits from the Project can be viewed as an overriding public interest compared with the extent of harm to the impacted qualifying features of the protected sites. The Applicant justifies their position based on the following statements:

- This is due to the absence of any priority species or habitats in the protected sites that will be adversely affected by the Project;
- The scale of the impacts predicted from North Falls are minimal and the impact predictions are highly precautionary; and
- The energy security benefits, benefits of reducing greenhouse gas emissions to reduce the risks of climate change and economic growth.

8.1 The National Policy Statements (NPSs)

The Project is considered against the National Policy Statements EN-1, EN-3 and EN-5 designated on 17 January 2024 ("2024 NPS"), as those were in force at the time the application was accepted for Examination. The overarching NPS for Energy (NPS EN-1) sets out national policy for energy infrastructure in Great Britian. It has effect, in-combination with the relevant technology-specific NPS, on recommendations made by PINS to the Secretary of State on applications for energy developments that fall within the scope of the NPSs. These provide the primary basis for decisions by the Secretary of State on National Energy Infrastructure.

The NPSs set out a case for the need and urgency for new energy infrastructure to be consented and built with the objective of supporting the Government's policies on sustainable development, in particular by:

- mitigating and adapting to climate change; and
- contributing to a secure, diverse, and affordable energy supply.

The 2024 NPS for renewable energy infrastructure (NPS EN-3) covers those technologies which, at the time of publication in 2024, were technically viable at generation capacities of over 50 MW onshore and 100 MW offshore. This includes offshore wind and as such the need for this technology is fully covered by the NPSs.

27 https://www.thecrownestate.co.uk/en-gb/what-we-do/on-the-seabed/energy/offshore-wind-extension-projects-2017/

The Secretary of State is of the view that the NPSs clearly set out the specific planning policies which the Government believes both respect the principles of sustainable development and can facilitate the consenting of energy infrastructure on the scale and of the kinds necessary to help us maintain, safe, secure, affordable, and low-carbon supplies of energy.

The 2024 NPSs set out the national case and establish the need for certain types of infrastructure, as well as identifying potential key issues that should be considered by the decision maker. Section 104 of the Planning Act 2008 makes clear that where an NPS exists relating to the development type applied for, the Secretary of State must have regard to it. The NPSs provide specific policy in relation to offshore wind development, and the policies set out in NPS EN-1, EN-3, and EN-5 therefore apply. The Secretary of State notes that, in accordance with the transitional provisions set out in section 1.6 of EN-1, the 2024 NPSs had effect for the ExA's consideration of this Project. On 24 April 2025, a consultation on the draft revisions of NPS EN-1 and EN-3 was launched and revised NPSs were laid in Parliament on 13 November 2025, which came into effect on 6 January 2026 (the "2026 NPSs"). Whilst the 2026 NPSs do not have effect for this Application, they are capable of being important and relevant considerations in the Secretary of State's decision-making process. The Secretary of State is content that nothing in the 2026 NPS's changes his consideration of the Project with regards to the derogation provisions of the Habitats Regulations.

This national need relates both to the decarbonisation of the electricity supply within the required timeframe and to the risk the decarbonisation programme could pose to the security of electricity supply as more traditional generating stations are decommissioned. With regard to the latter, the Secretary of State notes the ruling in case C-411/17[28] by the European Court of Justice that the objective of ensuring the security of the electricity supply constitutes an IROPI.

The energy NPSs were intended to speed up the transition to a low-carbon economy and help the UK to realise its climate change commitments sooner than would a continuation under the current planning system. They recognise that moving to a secure, low-carbon energy system to enable the UK to meet its legally binding target to cut greenhouse gas emissions by at least 80% by 2050, compared to 1990 levels, is challenging, but achievable. This would require major investment in new technologies to electrify heating, industry, transport, and cleaner power generation. Under some 2050 pathways, electricity generation would need to be virtually emission-free, as emissions from other sectors were expected to persist. Consequentially, the need to electrify large parts of the industrial, heating, and transportation sectors could double electricity demand by 2050.

The NPSs conclude that the UK needs sufficient electricity capacity from a diverse mix of technologies and fuels, and therefore the UK also needs all forms of energy infrastructure covered by the NPSs to achieve energy security at the same time as dramatically reducing greenhouse gas emissions. Thus, all applications for development consent for the forms of energy infrastructure covered by the energy NPSs should be assessed on the basis that the Government has demonstrated that there is a need for those forms of infrastructure and that the scale and urgency of that need is as described within EN-1 Part 3. Substantial weight should therefore be given to the contribution which projects would make towards satisfying this need for

[28] "Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen" (ECLI:EU:2019;622)

a secure, low carbon, electricity supply when considering applications for development consent under the Planning Act 2008.

To achieve the target of UK commitments to largely decarbonise electricity generation by 2030, the NPSs conclude that it is necessary to bring forward new renewable electricity generating projects as soon as possible. The need for new renewable electricity generation projects is therefore urgent. The NPSs expect OWFs to make up a significant proportion of the UK's renewable energy generating capacity up to 2030 and towards 2050.

8.2 The United Kingdom's legal commitment to decarbonise

This section sets out the obligations of the Climate Change Act 2008 ("CCA 2008"), against which the 2024 NPSs were established. It then outlines the UK's 2019 legally binding commitment to achieving 'Net Zero' carbon emissions by 2050, against which the need for future electricity generation developments should be assessed, as well as updated ambitions in the Clean Power Action Plan 2030 (2024).

8.2.1 Climate Change Act 2008

The Government through the CCA 2008, set legally binding carbon targets for the UK, aiming to cut emissions (relevant to the 1990 baseline) by 34% by 2020 and at least 80% by 2050, through investment in energy efficiency and clean energy technologies such as renewables, nuclear, and carbon capture and storage.

The CCA 2008 is underpinned by further legislation and policy measures. Many of these have been consolidated in the UK Low Carbon Transition Plan ("LCTP"), and UK Clean Growth Strategy. A statutory body, the Climate Change Committee ("CCC"), was also created by the CCA 2008, to advise the UK and devolved Governments and Parliaments on tackling and preparing for climate change, and to advise on setting carbon budgets. The CCC reports regularly to the Parliaments and Assemblies on the progress made in reducing greenhouse gas emissions. The UK Government has set five-yearly carbon budgets which currently run until 2032.

8.2.2 Enhancements of existing UK Government Policy: Net-Zero

In October 2018, following the adoption by the UN Framework Convention on Climate Change of the Paris Agreement, the Intergovernmental Panel on Climate Change ("IPCC") published a 'Special Report' on the impacts of global warming of 1.5 degrees Celsius above pre-industrial levels. This report concluded that human-induced warming had already reached approximately 1 degrees Celsius above pre-industrial levels, and that without a significant and rapid decline in emissions across all sectors, global warming would not likely be contained, and therefore more urgent international action is required.

In response, in May 2019, the CCC published their report titled: 'Net-Zero: The UK's Contribution to Stopping Global Warming'[29]. This report recommended that the UK Government extend the ambition of the CCA 2008, going further than the initial aim of reducing UK net GHG emissions by 80% compared to 1990 levels, by 2050. The CCC recommended that "the UK should set and vigorously pursue an ambitious target to reduce GHG emissions to 'Net-Zero' by 2050, ending the UK's contribution to global warming within 30 years." Importantly, the CCC recommendation identified a need for low-carbon infrastructure development which is consistent with the need case set out in NPS EN-1, but points to an increased urgency for action.

Since the implementation of the CCA 2008, the UK Government has set five-yearly carbon budgets. The latest of which is the sixth carbon budget (CB6) which was laid in legislation in April 2021 and commits to cutting greenhouse gas emissions by 78% by 2035, compared to the 1990 level, in line with the CCC's recommendation. The sixth carbon budget spans from 2033-2037.

In October 2021, the UK Government published The Net Zero Strategy: Build Back Greener. It is a cross-economy strategy which set out the measures to keep the UK on a path to achieving Net Zero, including action to keep on track for meeting carbon budgets and the UK's 2030 Nationally Determined Contribution. The Net Zero Strategy was set to meet the level of decarbonisation that CB6 requires and simultaneously cater to a 40-60% increase in electricity demand. This presents a substantial challenge and could require having to build out all currently known low-carbon technologies in the power sector at or close to their maximum technical limits by 2035.

In March 2019 the Government announced its ambition to deliver at least 30GW of offshore wind by 2030, as part of the Offshore Wind Sector Deal (the 'Sector Deal'). The Sector Deal reinforced the aims of the UK's Industrial Strategy and Clean Growth Strategy, which seeks to maximise the advantages for UK industry from the global shift to clean growth, and in particular: "The deal will drive the transformation of offshore wind generation, making it an integral part of a low-cost, low-carbon, flexible grid system." Within supplementary documents to the Queen's Speech, December 2019, the Government committed to increase their ambition on offshore wind to 50GW by 2030. In June 2019, the Government amended the CCA 2008 to implement the CCC's recommendation.

In December 2024, the Government published the Clean Power 2030 Action Plan, updating the ambition to rapidly deploy new renewable energy capacity across the whole of the UK. The Plan outlines that, by 2030, the power system must see clean energy sources produce at least as much power as Great Britain consumes in total over the whole year, and at least 95% of Great Britain's generation. This entails between 43-50 GW of offshore wind generating capacity to be installed, emphasising the urgent need for significant numbers of renewable energy projects to progress to construction.

Within this context, the importance of all offshore wind projects currently under development to the achievement of government policy and pledges is clear.

[29] https://www.theccc.org.uk/wp-content/uploads/2019/05/Net-Zero-The-UKs-contribution-to-stopping-global-warming.pdf

8.3 Conclusion

The ExA noted that the absence of priority species and habitats[30] allows the consideration of benefits of social and economic nature [ER C.1.6.6].

The ExA, considering the information surrounding the need for the Project, the public interests presented, and that the interests are overriding when measured against the adverse effects on the affected features of the FFC SPA, the AOE SPA and Ramsar, the OTE SPA and the Farne Islands SPA, and was content that IROPI for the Project has been established [ER C.1.6.7].

The Secretary of State agrees with the ExA and the Applicant and considers that imperative reasons in the public interest for the Project to proceed are clearly established, especially the contribution that the Project would make towards renewable electricity generation and ensuring the security of electricity supply from a domestically generated source. The Secretary of State also considers that such need in the public interest for the Project clearly outweighs the predicted harm to the integrity of the FFC SPA, the AOE SPA and Ramsar, the OTE SPA and the Farne Islands SPA.

[30] listed under Article 1(d) and Article 1(h) of the Habitats Directive

9 Compensatory measures

Having determined that there are no feasible alternative solutions and that the Project must be carried out for IROPI, the Secretary of State has proceeded to consider the requirements of Regulation 68[31] and Regulation 36[32]; to provide that any necessary compensatory measures are secured to ensure that the overall coherence of the NSN is maintained.

The Applicant submitted a proposed package of compensatory measures for the LBBG feature of the AOE SPA and Ramsar site, and, as updated in Examination, the kittiwake feature of the FFC SPA and the guillemot feature of the FFC SPA and Farne Islands SPA. No separate compensation measures were provided for the seabird assemblage of the FFC SPA, given the species-specific measures provided for guillemot and kittiwake; the Secretary of State agrees this is not required.

The Applicant also submitted, on a without prejudice basis, a proposed package of compensatory measures for the RTD feature of the OTE SPA[33].

The Applicant provided an overview of the compensation measures in [REP8-015] and details of the compensation measures for all relevant protected sites, and relevant features, were also outlined in the Applicant's HRA Derogation provision of evidence [REP7-015] which provided an up to date position of measures presented on a "without prejudice" basis at the end of Examination.

As such, the below sections present the compensation details for the following protected sites and features:

- LBBG – AOE SPA and Ramsar (in-combination impacts from collisions during operation) – Section 9.1;
- Kittiwake – FFC SPA (in-combination impacts from collisions during operation) – Section 9.2;
- Guillemot – FFC SPA and Farne Islands SPA (in-combination impacts from displacement/disturbance during operation) – Section 9.3; and
- RTD – OTE SPA (in-combination impacts from displacement/disturbance during operation) – Section 9.4.

[31] Conservation of Habitats and Species Regulations 2017

[32] Conservation of Offshore Marine Habitats and Species Regulations 2017

[33] Compensation measures were also provided on a without prejudice basis for Flamborough and Filey Coast SPA – breeding razorbill – and Margate and Long Sands SAC – Annex I Sandbanks – but these were not considered to be required by the Secretary of State based on the conclusion of the AA.

9.1 Lesser black-backed gull – AOE SPA and Ramsar site

It is concluded by the Secretary of State, in agreement with the position of the Applicant, ExA and NE, that compensation is required due to the in-combination effect of collision during the operation of the Project. To reach a conclusion on the Applicant's LBBG compensation measures, the Secretary of State has considered the theoretical merit of the proposed compensation measure, as well as the scale of compensation required, implementation timescales, site location and monitoring (and adaptive management) provisions. He has set out his conclusions on each of these topics below, and with an overall conclusion on the deliverability of the measure.

9.1.1 Theoretical merit of the proposed compensation measures

The compensatory measures proposed by the Applicant for LBBG of the AOE SPA and Ramsar site are:

- Breeding enhancement (predator exclusion/control, disturbance management, habitat management); and
- Contribution to a strategic compensation fund/Marine Recovery Fund (MRF).

The compensation measures, specific to LBBG, proposed by the Applicant are presented in the following documents where justification for the selection is provided:

- Habitats Regulations Assessment Appendix 2 Lesser Black-backed Gull Compensation Document (Rev 3) [REP8-021]; and
- Outline Lesser Black-backed Gull Compensation Implementation and Monitoring Plan (Rev 3) [REP8-019].

It is noted that for breeding enhancement, consideration has been given by the Applicant to predator exclusion, predator control, disturbance management and habitat management. The delivery of breeding enhancement has been identified by the Applicant as the preferred compensation measure that could be taken forward as part of a Project alone or via a collaborative delivery model.

The Applicant provided examples to demonstrate that seabird breeding success has been shown to be much higher in areas within predator-proof fences, and that seabird breeding numbers tend to recover rapidly when given such protection. The predator exclusion measure – aimed primarily at foxes – is predicted to reduce predation of eggs and nestlings, which would offset the predicted losses of LBBGs from the AOE SPA population due to collisions during the Project's operation. Predator control is also identified by the Applicant to support fencing measures, or depending on the site, replace the need for fencing to control/eradicate predators (with the Applicant highlighting the success of predator eradication on islands). Another mechanism outlined to enhance breeding is to reduce anthropogenic disturbance at breeding sites, however as discussed in Section 9.1.4, given the sites identified, this measure has not been selected as a primary delivery measure, rather a potential adaptive management measure. Habitat management may also be applied to support predator exclusion/control or disturbance management.

The Secretary of State is satisfied that breeding enhancement, and the delivery mechanisms discussed above, is an appropriate compensation measure for the Project's impacts to LBBG at the AOE SPA (and Ramsar).

Regarding strategic compensation, predator reduction has been approved for use by offshore wind activities consented in English and Welsh waters and DEFRA is identifying the prioritised target locations for this measure (DEFRA, 2025[34]). It is recognised that predator reduction is a strategic measure for OWFs which could be delivered by the MRF. The Applicant stated they will continue to monitor the progress of strategic measures, should this become an available option. It is noted that the MRF Regulations 2025[35] came into force while the Project was in the determination phase, but at the point of the Project decision, is not available for this measure. As such, and as proposed by the Applicant, the Secretary of State includes provision in the Order (Schedule 15, Part 1) to allow the strategic delivery of ornithological compensation measures with the consent of the Secretary of State. In line with this, and as considered in detail below in Section 9.1.4, the Applicant provides specific Project-led (including collaborative) site location options alongside the provision for strategic compensation should this become available.

9.1.2 Scale of compensation measure

Following consultation with NE through Examination, the Applicant applied the HP4 method to calculate the number of fledglings and breeding pairs required to replace the predicted 2.3 (mean mortalities per year as show in Section 5.3.1) adults from the AOE SPA lost each year to collision. The Secretary of State agrees that 2.3 annual bird mortalities is the impact on LBBG which must be compensated and is the basis of the compensation success criteria. The Applicant calculated 4.7 fledglings per year would be required. Accordingly, the Applicant stated, including consideration of natal philopatry/dispersal, a minimum of 19 breeding pairs would be needed to produce and recruit the equivalent number of breeding age birds into the colony.

As noted by the ExA, despite initial advice to use the Hornsea Project 3 (HP3) approach, NE later recognised [REP4-060] the limitations and therefore agreed the most appropriate method for determining the scale of compensation measure was the HP4 method [ER C.1.7.22].

NE however highlighted [REP4-060] that the proposals should be able to demonstrate that the compensation measure;

- could compensate for the UCL value should the impacts of the Project be greater than the Central Impact Value ("CIV"), and
- is scaled using a ratio to increase confidence that sufficient benefits will still arise, should the measure underperform, and
- takes account of philopatry if necessary, to increase the prospect of a significant contribution to NSN coherence.

NE continued [REP4-060] that the scale of compensatory measures should be sufficient to address the 95% UCL predicted impact value, whereas the compensation target can be measured against the mean or CIV. Further, NE noted the application of a ratio to address

[34] Offshore wind development: library of strategic compensatory measures - GOV.UK

[35] The Marine Recovery Funds Regulations 2025

uncertainty should be set on a case-by-case basis, considering the level of impact, the feasibility of the measure and the potential effectiveness. NE considered that a 1:1 ratio is only appropriate where there is high confidence in the likelihood of success, whereas that seabird compensation measures remain largely untested and unproven and that the scale of compensation should be able to accommodate the number of pairs required on a 3:1 ratio.

The Applicant presented the number of breeding pairs and the resulting compensation area required, based on likely nesting densities of LBBG, for the predicted mean collisions and the UCL, across a range of compensation ratios, with and without consideration of natal dispersal/ philopatry. This includes ratios of 1:1, 2:1, and 3:1 using the HP4 methodology.

NE [REP4-061] advised that for compensation sites within or immediately adjacent to the AOE SPA, no account needed to be made for natal dispersal. This is because NE are content that measures will directly and demonstrably contribute to the coherence of the NSN. However, NE noted that if a measure is implemented at a location outside of, and remote from the NSN (e.g. Outer Trial Bank) it advised that the calculation of scale and target should relate to birds expected to disperse, and thus potentially recruit back into the NSN.

The Applicant also regarded no consideration of natal philopatry/dispersal would be appropriate for compensation sites within and adjacent to the AOE SPA, and consideration of natal philopatry /dispersal would be appropriate for compensation sites remote from the AOE SPA.

The Applicant [REP8-021, table 5.2] calculated that when using the mean mortality value, accounting for natal philopatry, and using 2:1 ratio, 37 breeding pairs would be required. Using a 3:1 ratio the number of breeding pairs is noted by the Applicant as 56. If philopatry is discounted, the numbers of breeding pairs using a 2:1 ratio is 20 and using a 3:1 ratio the number of breeding pairs is 30. The Applicant's preferred scale of compensation is a 2:1 ratio, taking into account natal philopatry, resulting in 37 breeding pairs [ER C.1.7.25] at a remote compensation site and 20 breeding pairs if the compensatory measures is located within or adjacent to the AOE SPA.

The Applicant considered that a density of between 0.04-0.047 nests per m^2 is realistic to achieve, but also presented for context the calculations with a density of 0.002. Based on the mean predicted collisions and a 2:1 ratio, the maximum compensation area required, based on 0.04-0.047 nests per m^2 would be 0.05ha for a site within or adjacent to the SPA, and 0.09ha for a remote site. The Applicant recognised, however, that a minimum area of 4ha is likely to be required for fencing to exclude predators. A 4ha site is considered to be ecologically effective in enhancing LBBG breeding, noting the birds may not use a smaller enclosed space.

NE [REP8-100] stated it was content with the approach of the Applicant to calculate the scale and target for measure of compensation measure and agreed that a minimum area of 4ha is likely to be required (noting further comments below should a collaborative site be taken forward).

In light of evidence presented, the ExA recommended a ratio of 2:1 resulting in a requirement for 37 breeding pairs [ER C.1.7.60].

The Secretary of State considers the impact on LBBG which must be compensated is the Project mean annual mortality impact, of 2.3 birds. The Secretary of State also agrees with the ExA that the compensation ratio at 2:1 is suitable, resulting in a requirement to support 37 breeding pairs.

This allows for the fact that the compensation site could be remote from the SPA (the Secretary of State applies philopatry). However, if approved by the Secretary of State, in consultation with NE and the relevant planning authority for the area in which the compensation measure is to be provided (upon confirmation of the final site location) then 20 breeding pairs (not accounting for natal dispersal) could be applied to a site within or adjacent to the SPA.

In terms of the compensation design requirement (area), the Secretary of State agrees with the Applicant and NE, that an area of at least 4ha would be required to be ecologically effective in enhancing LBBG breeding with predator fencing. The provision of 4ha could also (at a density of 0.047 - 0.04 m^2) provide for the 56 breeding pairs associated with the mean mortality and 3:1 ratio (with philopatry) as well as both the number of pairs associated with the 2:1 and 3:1 ratio (with philopatry) considering the UCL (126 and 188 respectively), noting NE's view that the UCL should be used to inform the scale of the compensation.

NE has expressed that, if the compensation measure is delivered collaboratively with other projects, it is not persuaded that a 4ha site will be sufficient. The Applicant in acknowledgement has included in the Outline LBBG CIMP that should a shared site be selected then the scale and contribution for the Project would be discussed and agreed with the LBBG compensation steering group. The Secretary of State is content with this approach but notes NE's advice that that if the measure is to be delivered in collaboration (as proposed with VEOWF), it would be appropriate to increase the scale of implementation in terms of the area of nesting habitat provided [REP8-100]. As such the Secretary of State considers in this case (when using a collaborative site) the 3:1 compensation ratio (using the mean mortality) (56 pairs) should be accommodated as necessary, with the total area (design requirement) to be approved by the Secretary of State following consultation and development with the LBBG Compensation Steering Group ("LGCSG") to allow for the event that the impacts of the Project are above the mean and/or the measure underperforms. In summary, any collaboration should ensure the combined compensation is appropriate to address the effects described for the Project as well as the effects on LBBG identified for other projects sharing the site and the overall area across the projects should be approved by the Secretary of State following engagement with the appropriate steering groups.

9.1.3 Timescales of compensation measure

It is acknowledged by the Applicant that allowing four years to elapse between the implementation of the compensation measure and the start of the Project's operational phase would allow for the additional juveniles to become adults by the start of operation of the Project, and therefore enter the breeding population. However, the Applicant proposed that the compensatory measure is installed at least three breeding seasons (1st April to 31st August) prior to operation of the Project as the compensation required by the Project is for a small number of birds and the minimum scale of compensation necessary for the Project will over-compensate for the potential impact.

NE [RR-243, G31] explained that there is a potential for a delay in LBBG using the compensation sites which could lead to a mortality debt accruing. NE advised that the compensation site should be made available prior to LBBGs returning to nesting sites in late February and before Year 1 to allow pairs to scope the areas before nesting commences (April). NE advised that Schedule 15 on the DCO should be amended to reflect that compensation should be in place four full breeding seasons prior to operation. The Applicant at Deadline 7 [REP7-051] did not agree with

NE and reiterated its position of implementing the compensation measure three breeding seasons prior to operation. It argued that a difference of one year would result in a mortality debt of 2.3 birds, and this can already be compensated for as a result of the proposed 4ha compensation site. The position of both parties remained unchanged at the close of Examination, and the draft DCO [REP8-005] still referred to the implementation of three breeding seasons [ER C.1.7.30].

The ExA concluded that given the Outline LBBG CIMP allows for adaptive management should 4 seasons be required, the compensation measure should be in place a minimum of three breeding seasons prior to operation of the Proposed Development [ER C.1.7.60].

The Secretary of State agrees with the Applicant that implementation three breeding season before the operation of turbines is suitable. It is also noted that, and in consideration of mortality debt, the Order has been amended so that compensation measures cannot be decommissioned until approval is given by the Secretary of State in consultation with the relevant SNCB (noting that the compensation delivered may be required for longer than the lifetime of the Proposed Development). As such the Secretary of State agrees with the ExA that no change to Schedule 15 is required which refers to the implementation at least three breeding seasons prior to operation.

9.1.4 Compensation site locations and landowner agreement

The Applicant undertook a site selection process to identify suitable locations for breeding enhancement delivery, including sites within and outside of the OTE SPA. The key shortlisted sites include ‘Gedgrave Marshes’ adjacent to the SPA on the west bank of the River Ore and immediately to the west of Havergate Island (where the main breeding colony of LBBG in the AOE SPA is located) and the Outer Trial Bank, an artificial island in the Wash.

The Applicant reported that the Gedgrave Marshes site is currently farmland and while there is no evidence of previous use of Gedgrave Marshes by breeding LBBG, the site could function as an extension of the colony at Havergate Island. The Applicant asserted there is evidence of the colony already expanding from Havergate Island to the east on to adjacent area of Orford Ness (known as Shingle Street spit), and with sufficient measures in place to facilitate LBBG breeding on Gedgrave Marshes, it is considered reasonable to assume LBBG could expand into this area as well. The soil types are noted by the Applicant as being the same as Havergate Island and therefore it can be expected that suitable habitat can be established for LBBG. As highlighted in Section 9.1.2 above the Applicant proposes an indicative 4ha area that considers disturbance effects at this location.

The Applicant stated that available data indicates that the LBBG colony on the Outer Trial Bank has declined in recent years, and habitat management and potentially predator control could help the LBBG population re-establish their peak numbers. This location is proposed alongside the VEOWF project, in a collaborative delivery model.

The Applicant outlined the likely compensatory measures, depending on the location selected and relevant pressures on the breeding colony at that location as well as the process that would be undertaken to support the final site selection process including further surveys and data review. The Applicated stated that in the event of alternative sites being identified during the final site selection process, this would also be informed by surveys to determine its ecological

effectiveness and impacts on other receptors, and consultation with the LBBG Compensation Steering Group (LBCSG) would be undertaken.

The RSPB [REP4-089] considered that the Gedgrave Marshes was unsuitable due to levels of disturbance by walkers and dog walkers [ER C.1.7.41]. NE [REP4-060] considered Gedgrave Marshes was a viable option in principle. However, NE [REP5-110] raised concerns regarding the potential for Gedgrave Marshes to be functionally linked to designated sites and considered it could be used by waterbird qualifying features. The ExA sought clarification from the Applicant as to whether the implementation of compensation measures at Gedgrave Marshes may result in LSE/AEoI on nearby designated sites. The HRA Lesser Black-backed Gull Compensation – Gedgrave Marshes Impact Assessment [REP5-072] provided by the Applicant, did not identify any pathways for direct or indirect effects on any designated sites considered within 1km of Gedgrave Marshes. The assessment concluded that AEoI could be excluded for any of the designated sites identified [ER C.1.7.42].

At Deadline 6, NE [REP6-088] considered this matter had progressed but was not yet resolved. It considered that the conclusion of no LSE/AEoI is based on a site visit and desk-based studies and is therefore not an evidenced based conclusion. The Applicant [REP6-059] confirmed that baseline surveys would be undertaken post-consent/pre-construction [ER C.1.7.43].

In response to the concerns set out by NE (and the RSPB), the Applicant [REP8-035] explained that the Outline LBBG CIMP [REP6-014] was updated at Deadline 6. This included a commitment that construction of the fence would take place outside the nesting seasons of relevant bird species present on Gedgrave Marshes to avoid causing serious disturbance, where possible. This would be informed by pre-construction surveys and further impact assessment prior to construction. The Outline LBBG CIMP, including scope and timing of surveys, and mitigation measures, would be discussed with the LBCSG [ER C.1.7.44].

NE [REP6-088] also raised concerns that the impact assessment had not considered the implications of fence installation and maintenance on the adjacent RSPB Wader Project. The Applicant [REP8-035] explained that it has considered the Boyton and Hollesley Marshes RSPB reserve and determined that compensation measure at Gedgrave Marshes would not increase risk to the waders at this reserve [ER C.1.7.45].

The RSPB [RR-294] and [REP4-089] expressed concern regarding a lack of information available to inform the understanding of the ecology of Outer Trial Bank, current influences on LBBG productivity and the implications of rat eradication and management. At the point of its Deadline 5 submission, the RSPB [REP5-114] did not consider that Outer Trial Bank was capable of progression as suitable compensation [ER C.1.7.38]. However, NE [REP4-060] considered that Outer Trial Bank offers significant benefits, by restoring an important colony that will export additional LBBG into NSN sites and that consideration of the Outer Trial Bank site will be informed by further surveys of LBBG nesting numbers and predator impacts.

At Deadline 8, NE [REP8-099] stated there was no change from its previous concerns that the sites have not been secured or identified as the preferred option. The RSPB [REP8-103] stated that assessment is required 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 SPA and The Wash and North Norfolk SAC. The RSPB noted that the Applicant is undertaking survey work in summer 2025 [ER C.1.7.40].

For Gedgrave Marshes and Outer Trial Bank the Applicant provided details of the status of negotiations with landowners. In his first information request on 26 November 2025, the Secretary of States required the Applicant to update on the status of negotiations. In the Applicant's response, the status remained for Gedgrave Marshes and Outer Trial Bank that the heads of terms are in negotiation, but that additional meetings and correspondence had been undertaken post Examination end. In addition, the Applicant updated the progress on the VE2 site (identified as part of the VEOWF project), which was retained in the short list. This site was added by the Applicant to the Outline LBBG CIMP [C1-033] given progress following the close of Examination. However, this was subsequently removed from the Outline LBBG CIMP by the Applicant [C3 -015] following the Secretary of States second information request on 28 January 2026 in response to the representations made by Cobra Mist Limited [C1-009].

As noted in NE's final Risks and Issues Log [REP8-099] there is acknowledgement by NE of the work undertaken by the Applicant but still note that final site selection and landowner agreements have not been secured. At Deadline 8, NE [REP8-099] reiterated its previous concerns that compensation measures sites have not been secured or properly investigated.

The ExA considered that negotiations are advancing and there is sufficient information from the Applicant for the Secretary of State to establish that appropriate compensatory measures could be implemented, in order to fulfil their duty under the requirements of the Habitats Regulations [ER C.1.7.56].

As noted above, the Secretary of State in his first information request on 26 November 2025, asked for the Applicant to update the latest position on landowner progression for all compensation measures. In regard to LBBG the Applicant updated that the heads of term agreements remain ongoing for the two main options (Gedgrave Marshes and Outer Trial Bank) but meetings/correspondence have progressed since the end of Examination.

The Secretary of State considers that suitable ecological evidence has been provided to support that Gedgrave Marshes and Outer Trial Bank have the potential to deliver the level of benefit required and that discussions are suitably advanced to demonstrate that a site can be secured in the timescales required. While further advancement in securing sites would have been preferred, in this case, considering the opportunities to collaborate with other projects, the Secretary of State is satisfied site selection is adequately advanced and he is content that the sites are capable of being secured. He considers that Part 1 of Schedule 15 of the Order adequately secures the further work required to progress the proposed compensation measures through the finalisation of the LBBG CIMP.

9.1.5 Monitoring and adaptive management

The Applicant provided draft details of monitoring and adaptive management in section 3.8 of the Outline LBBG CIMP. The monitoring obligations described by the Outline LBBG CIMP are not in dispute with NE [ER C.1.7.59].

The Applicant included in the Outline LBBG CIMP [C1-033] in response to the Secretary of States first information request on 26 November 2025 that there would be regular submission of all relevant pre-implementation and operational survey and monitoring data to the Marine Data Exchange (The Crown Estate) and relevant Local Environmental Records Centres.

The Secretary of State is satisfied with the measures provided in the Outline LBBG CIMP and agrees with the ExA that monitoring is to be undertaken, in consultation with the LGCSG and until the compensation measure is found to be delivering the scale of required compensation.

9.1.6 Conclusion

In conclusion, having reviewed all the information before him, the Secretary of State is satisfied with the proposed Project-led compensation and while he has not taken the strategic compensation into account in coming to this conclusion, he acknowledges that this is a potential alternative measure if it becomes available. The Secretary of State is content that the scale of compensation as identified is appropriate, sufficiently advanced landowner negotiations have been presented for ecologically suitable sites and appropriate monitoring and adaptive management is secured to ensure the long-term success of the measure. In summary the Secretary of State notes the application of:

- Compensation success criteria associated with the productivity needed to address the mean mortality impact of annual collisions.
- A minimum compensation quantum of 37 breeding pairs (ratio of 2:1, the CIV and including natal dispersal), or 20 pairs if agreed through the CIMP by the Secretary of State in consultation with NE for sites within or adjacent to the OTE SPA (ratio of 2:1, the CIV and not including natal dispersal).
- A compensation design requirement of 4ha is required to deliver an ecologically effective measure for the Project. Where a compensation site is shared with another OWF project, a 3:1 ratio (56 pairs, with philopatry, associated with the CIV mortality impact) should be accommodated as necessary, and the overall area (design requirement) of the measure of a collaborative site is subject to consultation with the LGCSG and approval by the Secretary of State.
- The compensation measures to be in place at least three breeding seasons prior to operation.
- The compensation measure is to remain in place until decommissioning is approved by the Secretary of State in consultation with SNCBs.
- Monitoring to be undertaken as approved by the Secretary of State through the CIMP in consultation with the LGCSG and until the compensation measure is found to be delivering in accordance with the success criteria.

The Order secures the provision for LBBG compensation in Part 1 of Schedule 15, supported by the Outline LBBG CIMP as updated in the (C1-033). The Secretary of State considers that Part 1 of Schedule 15 of the Order, as amended, adequately secures the further work required to progress the proposed compensation measures, including a contribution to the MRF or the approval of a final LBBG CIMP.

Secretary of State is satisfied that the necessary compensatory measures can be secured and delivered to maintain the coherence of the UK NSN for LBBG as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations.

9.2 Kittiwake – FFC SPA

It is confirmed by the Secretary of State, in agreement with the ExA and NE, that compensation for kittiwake is required due to the in-combination effect of collision during the operation of the Project. The Applicant accepted during Examination that based on the Secretary of State's decision in the Rampion 2 DCO, it was unlikely that an AEoI could be excluded from the Project in-combination with other plans and projects for the kittiwake feature of the FFC SPA. The Applicant updated its Habitats Regulations Derogation Provision of Evidence [REP6-007] so that the proposed compensation measure for kittiwake was no longer on a 'without prejudice' basis. [ER C.1.7.93].

To reach a conclusion on the Applicant's kittiwake compensation measures, the Secretary of State has considered the theoretical merit of the proposed compensation measure, as well as the scale of compensation required, implementation timescales, site location and monitoring (and adaptive management) provision. He has set out his conclusions on each of these topics below, and with an overall conclusion on the deliverability of the measure.

9.2.1 Theoretical merit of the proposed compensation measures

The compensatory measures proposed by the Applicant for the kittiwake feature of the FFC SPA are:

- Provision of additional artificial nesting structure (ANS) for new kittiwake breeding colonies; and
- Contribution to a strategic compensation fund/MRF.

These compensation measures, specific to kittiwake, proposed by the Applicant are presented in the following documents where ecological justification for the selection is provided:

- Kittiwake Compensation Document (Rev 2) [REP6-019]; and
- Outline Kittiwake Compensation Implementation and Monitoring Plan (Rev 2) [REP6-021].

The Applicant provided evidence that kittiwake nesting on man-made structures may achieve high breeding success, often higher than at nearby natural colonies and that there is a surplus of kittiwakes requiring new nest sites.

The Applicant undertook an assessment of potential ANS, including reference to the Ørsted review of the potential location of sites for creation of new kittiwake colonies, that could supply recruits to the FFC SPA and identified several potential onshore and offshore sites. The Applicant proposed the use of an existing ANS constructed by RWE in Gateshead (as discussed in Section 9.2.4), which the Applicant would adopt responsibility for a portion of.

The Secretary of State is satisfied that ANS is an appropriate compensation measure for the Project's impact to kittiwake at the FFC SPA.

Regarding strategic compensation, ANS have been approved for use by offshore wind activities consented in English and Welsh waters (DEFRA, 2025[36]). It is recognised that ANS is a strategic measure for OWFs which could be delivered by the MRF. The Applicant states they will continue

[36] Offshore wind development: library of strategic compensatory measures - GOV.UK

to monitor the progress of strategic measures, should this become an available option. It is noted that the MRF Regulations 2025[37] came into force while the Project was in the determination phase, but at the point of the Project decision, it is not available for this measure. As such, and as proposed by the Applicant, the Secretary of State includes provision in the Order (Schedule 15 Part 3) to allow the strategic delivery of ornithological compensation measures through the MRF with the consent of the Secretary of State. In line with this, and as considered in detail below in Section 9.2.4, the Applicant provided a specific Project-led option alongside the provision for strategic compensation should this become available.

9.2.2 Scale of compensation measure

The Project impact, as noted in Section 5.5.2, is 0.76 (mean) mortalities per annum, apportioned to the FFC SPA population and this is agreed by NE [REP4-062]. The Secretary of State considers this is the impact on kittiwake which must be compensated and is the basis for the success criteria. To predict the required number of kittiwake breeding pairs to produce sufficient new recruits into the breeding population (to replace predicted collision mortality) of the FFC SPA population the Applicant used the HP4 methodology and also updated documents in Examination to include the HP3 approach in response to NE comments.

It is noted that the Applicant draws upon information from the Rhoades *et* al., 2025[38] paper, using an in-press copy in Application documents, which reviews the methods to calculate the required scale of ANS proposed as a compensation measure for kittiwake mortality at OWFs.

NE [REP4-062] provided calculations of the level of compensation it considered is required using the HP3 Part 2 method. This identified an annual target of 5 pairs using the value of 0.76 mortalities and 17 pairs using the UCL mortality impact value of 2.72, on a 1:1 basis[39]. NE highlighted, in regard to the scale of compensation, the use of a 2:1 or 3:1 ratio would result in the provision of 34 or 51 nest space respectively (using the UCL).

The Applicant proposed a compensation quantum of 9.72 breeding pairs of kittiwake and the provision of 10 nesting spaces on an ANS which reflected the mean predicted collisions, the HP3 methodology and a 2:1 ratio.

As a result of uncertainty raised by NE [RR-243] and the RSPB [REP4-089] regarding collaboration and agreement between the Applicant and other OWF projects proposing to use the same ANS, the Applicant confirmed that there are 240 nesting spaces available at the ANS which are expected to be shared equally between the Project and four other OWFs. The Applicant confirmed [REP6-019] that the Project would secure 48 nesting spaces at the ANS. The Applicant asserted that this figure is expected to exceed the level of compensation it considers is required for this species from the Project [ER C.1.7.100].

NE [REP8-100] considered that provision of 48 nests (a 20% share) is likely to be a suitable scale to compensate for the predicted impacts over the project's lifetime. However, NE

[37] The Marine Recovery Funds Regulations 2025

[38] RR 788 Rhoades et al kittiwakes FINAL.pdf

[39] The Applicants calculations of the equivalent are presented in Table 5.5 of REP6-019 for three scenarios of productivity

highlighted that monitoring data will ultimately inform the assessment of the measure against the success criteria. In the final Risks and Issue Log, NE noted there is inherent uncertainty around colonisation of the ANS, but resolved the matter on the understanding that 48 nest sites would be secured.

In consideration of evidence provided by the Applicant and comments from NE, the ExA recommended to the Secretary of State the following parameters as set out in the Outline Kittiwake CIMP [REP6-021] as appropriate to calculate the compensation quanta for kittiwake of FFC SPA from the Project:

- Applicant's – 2:1 ratio based on a CIV resulting in 10 pairs [ER C.1.7.107].

The ExA noted that the Applicant has confirmed that the existing ANS at Gateshead has capacity to accommodate 48 nesting spaces as a precaution which can be secured by the DCO through a minor modification[40]. This is in the context of NE's preferred option of 2:1 ratio and 34 nests or 3:1 ratio and 51 nests [ER C.1.7.108].

The Secretary of State agrees with the ExA that the compensation ratio of 2:1 is suitable (10 breeding pairs), but that the provision of 48 nest spaces at the Gateshead ANS is appropriate, to reflect various uncertainties such as the timing and speed of colonisation. Providing 48 nest spaces also sufficiently aligns with the view of NE that the compensation measures should 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.

The Secretary of State clarifies that the impact on kittiwake which must be compensated is 0.76 adult kittiwake per annum. He defines the compensation design requirement as 48 nest spaces at the Gateshead ANS, to facilitate the minimum quantum on a 2:1 ratio (10 breeding pairs), but no adaptive management would be required as long as the measure is meeting the minimum success criteria.

9.2.3 Timescales of compensation measure

The Applicant provided in the draft DCO for the allocation of artificial nests at least three full kittiwake breeding seasons prior to the operation of any Project turbine.

The ExA considered it to be acceptable that the Applicant would adopt responsibility for its portion of the ANS "at least" three breeding seasons prior to operation of the Project as set out in Part 3 of Schedule 15 of the recommended DCO [ER C.1.7.111].

NE noted [REP4-062] the ANS has already been built, which gives comfort around lead-in times (but did seek clarity around the coordination with other projects requirements (alongside the RSPB [REP4-089])).

[40] As per the ExA recommended DCO

Within the final NE Risks and Issues Log, NE confirmed that the Applicant has considered the potential for the accumulation of mortality dept and addressed it within the adaptive management plans in the Outline kittiwake CIMP [REP6-021].

The Secretary of State determines that implementation of the compensation measure three breeding seasons before the operation of turbines is sufficient and is secured in Part 3 of Schedule 15 of the Order. He also has included in Schedule 15 that the compensation measure is to remain in place until decommissioning is agreed by the Secretary of State in consultation with SNCBs.

9.2.4 Compensation site locations and landowner agreement

Following analysis of onshore and offshore ANS the Applicant selected onshore ANS as its preferred measure. However, contribution to an offshore ANS as part of a strategic measure is also retained as an option to deliver compensation for the Project, should this become available.

The Applicant [REP5-023] highlighted that the delivery of the ANS would be undertaken through use of the existing kittiwake ANS at Gateshead that was constructed on behalf of RWE Renewables UK Dogger Bank South (East) Limited and RWE Renewables UK Dogger Bank South (West) Limited.

The Applicant explained the structure is a four-sided tower located in the H. Nichol storage yard, South Shore Road, Gateshead and approximately 33m from an existing ANS at Saltmeadows established in 2001, and adjacent to the south shore of the River Tyne. It was installed in February 2023 as a pilot study to test and experiment with the design and different ledge types.

It is considered by the Applicant that the ANS is appropriately located as man-made structures are already utilised in the area and commented that monitoring undertaken by RWE supports this.

NE considered the general proposal is proportionate and appropriate given the modest contribution that the Applicant's proposal makes to the in-combination collision total for the kittiwake feature at FFC SPA [REP4-062].

The Applicant is seeking to enter into a formal agreement with RWE Renewables UK Dogger Bank South (East) Limited regarding the kittiwake ANS for an allocation proportionate to the effects associated with the Project, in accordance with the Letter of Intent (provided in Annex 1C [APP-187]). The Secretary of State in his first information request on 26 November 2025, asked for the Applicant to update the latest position on landowner progression for all compensation measures. In regard to kittiwake the Applicant noted that no further progress had been made since the end of Examination and that the heads of term negotiations were ongoing as per the end of Examination.

The Secretary of State in his second information request on 28 January 2026 sought more comfort from the Applicant on the commitment to secure 48 nests. The Applicant confirmed this intention in its response [C3-006]. The Secretary of State has agreed this figure in Section 9.2.2 above, and as the final CIMP should secure this commitment as required, has not included in the Order that 48 nest spaces shall be secured. The Secretary of State considers this allows for the potential for over compensation (with a target of the provision of 10 breeding pairs) but on the other hand considers the potential for the measure to underperform and require adaptive management.

The Secretary of State considers that suitable ecological evidence has been provided to support that the selected ANS has the potential to deliver the level of benefit required and that formal agreements are suitably advanced to demonstrate that nesting spaces can be secured in the timescales required.

9.2.5 Monitoring and adaptive management

The Applicant presented the principles of monitoring and adaptive management within the Outline Kittiwake CIMP which includes objectives and success criteria, monitoring techniques and adaptive management options. The Applicant clarified at Deadline 7 [REP7-052] that in relation to the HP3 method, the revised kittiwake compensation document also draws on information in the Rhoades *et al*., 2025 paper. A revised Outline CIMP was provided by the Applicant at Deadline 6 [REP6-021] which provides some additional information on monitoring and adaptive management, noting that full details of proposed monitoring and adaptive management would be developed post-consent in consultation with the KCSG.

The ExA summarised that the success of the compensation measure would be monitored through observation of bird numbers and breeding successes. Counts for large chicks would be made once on an annual basis in mid-July prior to fledging. It is proposed that monitoring would continue to take place on an annual basis until it is sufficiently demonstrated that the compensation measure has been successful. If it is found that the compensation measure is not successful after three consecutive years of the Project being in operation, the Applicant will consider the need for adaptive management in discussion with the KCSG. The KCSG will consist, as appropriate, of members of relevant stakeholders such as NE, Gateshead Council, the RSPB, the Tyne Kittiwake Partnership and the Applicant and would be convened post-consent. The KCSG will oversee the compensation measure to be delivered by the Applicant together with monitoring and adaptive management measures [ER C.1.7.102].

The ExA also noted that in the event the ANS is not successful, the Applicant [REP6-021] would implement adaptive management measures such as seeking to attract kittiwake to the ANS by playing kittiwake calls and selection of an alternative compensation measure such as contribution to strategic measures. The Applicant [REP6-021] also noted that consideration would be given to a contribution to the local Tyne kittiwake group for colour ringing of chicks, which NE advised was essential to understanding philopatric recruitment at the ANS [ER C.1.7.103]. This is noted by the Secretary of State as the only matter outstanding surrounding kittiwake compensation in the final NE Risks and Issues Log at the end of Examination.

The Secretary of State in his first information request on 26 November asked the Applicant to secure the provision of colour ringing in line with NE's advice which was updated by the Applicant in the Outline Kittiwake CIMP [C1-030]. The Applicant also included in the Outline Kittiwake CIMP that there would be regular submission of all relevant pre-implementation and operational survey and monitoring data to the Marine Data Exchange (The Crown Estate) and relevant Local Environmental Records Centres.

With these additions the Secretary of State agrees with the principles for monitoring and adaptive management in the Outline Kittiwake CIMP [C1-030].

9.2.6 Conclusion

The ExA concluded that there is sufficient information for the Secretary of State to establish that appropriate compensatory measures can be implemented in order to fulfil their duty under the requirements of the Habitats Regulations. The ExA stated that the kittiwake package of proposed compensation measures is feasible, appropriate and would ultimately ensure the overall coherence of the UK NSN [ER C.1.7.104].

The Secretary of State agrees with the ExA that the approach to compensatory measures proposed by the Applicant is appropriate for the level of impact identified from the Project and agrees that with the consent of the Secretary of State an appropriate contribution to the MRF, or the implementation of a final Kittiwake CIMP, would deliver a proportionate level of compensation and benefit.

In conclusion, having reviewed all the information before him, the Secretary of State is satisfied with the proposed Project-led compensation and while he has not taken the strategic compensation into account in coming to this conclusion, he acknowledges that this is a potential alternative measure if it becomes available. The Secretary of State is content that the scale of compensation as identified is appropriate, sufficiently advanced negotiations have been presented for securing ANS nest spaces and appropriate monitoring and adaptive management is secured to ensure the long-term success of the measure.

The Secretary of State considers the following to be appropriate:

- Compensation success criteria associated with the occupancy and productivity needed to address the mean mortality impact of annual collisions.
- A minimum compensation quantum of 10 breeding pairs applying a 2:1 ratio and the CIV.
- Securing 48 kittiwake nesting spaces at the Gateshead ANS unless otherwise agreed in the approval of the CIMP by the Secretary of State following consultation with the SNCB and relevant local planning authority.
- The compensation measures to be in place a minimum of three breeding seasons prior to operation.
- The compensation measure to remain in place until decommissioning is agreed by the Secretary of State in consultation with SNCBs.
- Monitoring to be undertaken as approved by the Secretary of State through the CIMP in consultation with the KCSG and until the compensation measure is found to be delivering in accordance with the success criteria.

The Secretary of State is satisfied that the necessary compensatory measures can be secured and delivered to protect the coherence of the UK NSN for kittiwake as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations. He considers that Part 3 of Schedule 15 of the Order, as amended, adequately secures the further work required to progress the proposed compensation measures, including a contribution to the MRF or the approval of a final Kittiwake CIMP.

9.3 Guillemot – FFC SPA and Farne Islands SPA

It is confirmed by the Secretary of State, in agreement with the ExA and NE, that compensation for guillemot is required due to the in-combination effect of disturbance/displacement during the operation of the Project. The Applicant accepted in Examination that based on Secretary of State's decision in the Rampion 2 DCO, it was unlikely that an AEoI could be excluded from the Project in-combination with other plans and projects for the guillemot feature of the FFC SPA and Farne Islands SPA. The Applicant updated its Habitats Regulations Derogation Provision of Evidence [REP6-007] so that the proposed compensation measures for guillemot was no longer on a 'without prejudice' basis. [ER C.1.7.93].

To reach a conclusion on the Applicant's guillemot compensation measures, the Secretary of State has considered the theoretical merit of the proposed compensation measure, as well as the scale of compensation required, implementation timescales, site location and monitoring (and adaptive management) provisions. He has set out his conclusions on each of these topics below, with an overall conclusion on the deliverability of the measure.

9.3.1 Theoretical merit of the proposed compensation measures

The compensatory measures proposed by the Applicant for the guillemot feature of the FFC SPA and Farne Islands SPA are:

- Reduction of recreational disturbance at a breeding colony; and
- Contribution to a strategic compensation fund/MRF.

These compensation measures, specific to guillemot, proposed by the Applicant are presented in the following documents where ecological justification for the selection is provided (noting that the Secretary of State does not require compensation for razorbill but documents for these species were combined by the Applicant):

- Guillemot and Razorbill Compensation Document (Rev 2) [REP7-023]; and
- Outline Guillemot and Razorbill Compensation Implementation and Monitoring Plan (Rev 2) [REP6-025].

The Applicant presented details of how disturbance reduction could benefit breeding colonies. It is noted by the Applicant that, as recommended by NE, small colonies with historical declines should be considered for the reduction of disturbance, particularly those where pressures have been identified as suppressing the breeding success of the population, and where remedial action can be taken to facilitate recovery of these colonies. A comprehensive review of the effects of disturbance on breeding guillemot was provided by the Applicant, followed by a review of potential sites in Devon and Cornwall where a reduction in the amount of anthropogenic compensation could be achieved, as further discussed in Section 9.3.4.

The Applicant reported that there is indication, via studies of guillemot or from species of similar nesting ecology, that guillemot survival or breeding success are affected by the following recreational sources of disturbance:

- Walking (in the case of guillemot walking access is commonly only achievable to the cliff tops above colonies);
- Rock climbing and coasteering;

- Birdwatching (for guillemot at their colony this presents as an extension of disturbance posed by walking wherein birds are subject to more prolonged and intensive viewing and/or photography, presenting a more focused and predator-like stimulus from humans);
- Boats, motorised watercraft and kayaks/canoes; and
- Aircraft (including drones).

The Secretary of State, in review of the provided evidence, is satisfied that reduction of recreational disturbance at breeding colonies is an appropriate compensation measure for the Project's impacts to guillemot at the FFC SPA and the Farne Islands SPA.

Regarding strategic compensation, ANS and predator control have been approved for use by offshore wind activities consented in English and Welsh waters (DEFRA, 2025[41]). It is recognised that ANS and predator control are strategic measures for OWFs which could be delivered by the MRF in the future. The Applicant states these measures could be suitable for guillemot and they will continue to monitor the progress of strategic measures, should this become an available option. It is noted that the MRF Regulations 2025[42] came into force while the Project was in the determination phase, but at the point of the Project decision, it is not available for this measure. As such, and as proposed by the Applicant, the Secretary of State includes in the Order (Part 2 of Schedule 15) provision to allow the strategic delivery of ornithological compensation measures through the MRF with the consent of the Secretary of State. In line with this, and as considered in detail below in Section 9.3.4, the Applicant provides specific Project-led (including collaborative) site location options alongside provision for strategic compensation as an alternative option should this be available.

9.3.2 Scale of compensation measure

As agreed by NE [REP5-110] separate derogation cases for the FFC SPA and the Farne Islands SPA are not required, as the measure for FFC SPA could be scaled up to include impacts of the Farne Islands SPA. As such the scale of compensation in this section reflects both SPAs.

The Secretary of State considers the impact on guillemot which must be compensated is the mean mortality impact of 6.1 birds per annum for the FFC SPA and the Farne Islands SPA combined (as presented in Section 5.3.3 for FFC SPA Section 5.6 for the Farne Islands SPA to the nearest integer) and is the basis for the success criteria.

The Applicant followed the HP4 approach to calculate the required number of fledglings per year to produce sufficient birds that survive to breeding age to replace the predicted annual mortality to breeding adults at FFC SPA and the Farne Islands SPA (taking account of available information on age-specific survival).

The Applicant proposed 19.4 pairs as the appropriate requirement for compensation. This was based on the mean displacement mortality impact value of 6.1 birds per annum the national average productivity, a ratio of 50% displacement and 1% mortality and with a 2:1 compensation ratio.

[41] Offshore wind development: library of strategic compensatory measures - GOV.UK

[42] The Marine Recovery Funds Regulations 2025

NE advised a displacement rate of 70% and a mortality of 2%, which the Applicant presented within the compensation document [REP7-023] including compensation ratios of 2:1 and 3:1. NE welcomed the range of the presentation but advised that the measure should be scaled so that it could, at least theoretically, compensate for the 95% UCL of the mortality impact estimate [REP4-060]. The Applicant did not present values for the scale of compensation applying the UCL displacement mortality impact value and as such the Secretary of State in his second information request on 28 January 2026 asked the Applicant to further justify their proposed number of pairs, noting that NE do not accept the argument that the use of the UCL is overly precautionary due to the small scale of the impact.

In response to the second information request the Applicant provided the calculated scale of compensation required for guillemot based on the 95% UCL of predicted annual mortality, but maintained the view that the CIV was appropriate. Although noting some missing information, NE in response to the second all IP consultation[43] welcomed the Applicant's presentation of a range of guillemot mortality estimates, including UCL mortality estimates, and considered the relevant item in its risks and issues log [Point G4 in REP8-099] to be resolved. The Secretary of State is satisfied suitable information has now been presented to inform his decision on the scale of compensation required.

The ExA found that NE's preferred approach of 70% displacement and 2% mortality was more persuasive when applying precautionary principles [ER C.1.7.68]. Combining the FFC SPA and Farne Islands SPA the ExA recommend a compensation quantum of 54 pairs, this applied a 2:1 compensation ratio using the mean displacement mortality impact value.

The Secretary of State agrees with the ExA that the mean displacement value and a 70% displacement and 2% mortality rate are appropriate, in this case, to define the impact (as noted above and in Sections 5.3.3 and 5.6) and the compensation success criteria. The Secretary of State also agrees that applying a 2:1 ratio would result in a minimum compensation quantum of 54 pairs.

However, noting NE's comments on the ability of the measure to be scaled to compensate for the UCL and the remaining survey and site selection work required to finalise the compensation location/s, the Secretary of State concludes the Applicant must design the compensation (scale of management interventions) in consideration of a 3:1 ratio of the CIV, which is 80 pairs for the FFC SPA and Farne Islands SPA combined (unless otherwise agreed by the Secretary of State in consultation with NE). While he does not agree with the use of the UCL impact value in addition to a 3:1 ratio to scale the compensation requirement (as he considers this would be over precautionary) the Secretary of State does note that 80 pairs encompasses the 74 pairs that would be required applying the UCL on a 1:1 ratio.

Given uncertainties relating to the productivity of the site that will be selected and, as stated by NE, that the implementation of the measure does not necessarily scale with the potential of the site (in terms of additional nesting pairs) the number of sites relative to the number of breeding pairs should be agreed post-consent in the final site selection process. It is also noted that the

[43] The Secretary of State invited all interested parties on the 18 February 2026 to comment on the consultation responses to the consultation issued on 28 January 2026.

design requirement must be considered against the full details of the compensation potential of selected site/s which will be informed by future survey and analysis.

The selection of the location/s for disturbance reduction is also subject to measures being delivered in collaboration with other OWFs. In his second information request on the 28 January 2026 the Secretary of State sought further explanation from the Applicant on the collaboration undertaken with other projects and the availability of sites for the Project where they may also be included in the proposals for other projects.

The Applicant responded to highlight the following had taken place:

- Engaging with relevant local stakeholders and landowners;
- Developing the programme, costs and methods for the implementation of disturbance reduction measures;
- Developing monitoring proposals; and
- Working with the OWF development partners and Offshore Wind Industry Council ("OWIC") to ensure compensation measures meet the needs of the projects.

While the Secretary of State does not rely on the Applicant's justification in comparing the level of information provided on site selection to other projects, he does note the potential number of pairs associated with the short listed sites and is content the engagement process is sufficient between projects for the compensation measures to meet the needs of the identified projects.

Overall, the Secretary of State considers that a minimum compensation quantum for the Project is suitable at 54 pairs (FFC SPA and Farne Islands SPA combined). However, 80 pairs must be considered in regards to the scale of management interventions (design requirement) when selecting the number of delivery site/s in (this is also in consideration of NEs concerns around mortality debt as discussed in Section 9.3.3). Given the further survey work and site selection to be undertaken this can be suitably agreed in the finalisation of the Guillemot CIMP post-consent, as discussed further in Section 9.3.4 below.

9.3.3 Timescales of compensation measure

As summarised by the ExA [ER C.1.7.79] the Applicant [REP6-025] proposed deployment of the compensation measures three breeding seasons prior to operation of the Project. NE considered that this approach could result in mortality debt on guillemot populations as these birds do not reach breeding age maturity until approximately six years old and therefore it would take seven breeding seasons after compensation measures are implemented for young birds produced to enter the breeding population. NE suggested that the scale of compensation measures be increased to address the risk of 'mortality debt' in the early years. In the Outline Guillemot and Razorbill CIMP submitted at Deadline 6 [REP6-025], the position of the Applicant remained that deployment of compensation measures would be three breeding seasons prior to the operation of the Project.

In agreement with recommendations made by the ExA, the Secretary of State considers implementation of the compensation measure three breeding seasons before the operation of turbines is suitable in terms of securing compensation and this is secured in Part 2 of Schedule 15 of the Order. However, acknowledging NE's position, the Secretary of State has factored in the potential for mortality debt in the design requirement, as described in Section 9.3.2. He has

also included in Part 2 of Schedule 15 that the compensation measure is to remain in place until decommissioning is agreed by the Secretary of State in consultation with SNCBs.

9.3.4 Compensation site locations and landowner agreement

The initial search undertaken by the Applicant for potential target colonies focused on those located in Devon and Cornwall, with results presented in REP6-023. The Applicant highlighted that for each colony considered, counts were included to identify population trends and size and that colonies with historically larger breeding populations were selected (as this would indicate there is potential nesting space for a larger population than was most recently recorded). The Applicant noted that interventions for these colonies could be more beneficial as there is space for them to increase back to their historical sizes, or potentially to increase beyond the maximum recorded count.

Following the initial screening the Applicant undertook a desk study of existing human disturbance and undertook a rating exercise, considering the potential of each site to deliver the compensation. The Applicants shortlisted 12 sites as listed below.

- Carters Rocks
- Cow and Calf
- Gull Rock (Falmouth)
- Gulland Rock
- Highveer Point
- Lynton 1 & 2
- North Cliffs 1
- North Cornwall 3
- Rillage Point to Ramsay Beach
- Seal Hole to Trevaunance
- St Agnes Head to Newdowns Head
- Wringapeak

The Applicant outlined the process to be undertaken in the final site selection post-consent, and highlighted that surveys were commissioned in 2025 at a number of sites to collect further information on disturbance as well as the numbers and productivity of guillemots (and their responses to disturbance). The Applicant noted that sites may be progressed solely for the Project or in collaboration with other projects.

In his first information request on 26 November 2025 the Secretary of State asked for an update on the progression of landowner agreements and site selection for all compensation measures including guillemot. The Applicant in the HRA land tracker [C1-013] noted that survey reports from the 2025 surveys were being finalised but that there were no other updates beyond the end of Examination, which at that stage the Applicant was engaging with relevant land interests but no contract terms had been negotiated or agreed. It is noted that the Applicant did provide a letter of comfort from Cornwall Wildlife Trust [REP3-010] (regarding a collaborative delivery approach with other projects) to confirm that, provided the relevant strategic coordination and funding provisions are sufficient, Cornwall Wildlife Trust can provide the necessary services that would be required to deliver the potential measures should they be required.

The Secretary of State, in his second information request on the 28 January 2026 and as noted in Section 9.3.2, asked the Applicant to provide further details on collaborations with other projects and that there were suitable sites to deliver the compensation. Noting the Applicants response detailed in Section 9.3.2 above, the Secretary of State is satisfied by the engagement in place to deliver a collaborative measure.

The Secretary of State notes the concerns of NE that no sites have been secured at this stage, but he does not consider it proportionate in this case to require this prior to granting development consent, with no indication that appropriate permissions would not be obtained. He is satisfied by the fact that surveys have been carried out in 2025 and the Applicant's justification that suitable sites are available. The Secretary of State considers that the Applicant has suitably demonstrated that there are sufficient sites to facilitate the compensation requirements for FFC SPA and the Farne Islands SPA for the Project. He has taken into account the level of the Projects' contribution to in-combination effects, the fact that site selection post-consent allows for the measures to be carried out collaboratively with other projects, and that engagement with local stakeholders and landowners is best delivered through a single coordinating body. The Order secures that the final locations, and scale of management interventions can be agreed post-consent.

9.3.5 Monitoring and adaptive management

The Applicant presented the principles of monitoring and adaptive management. A Guillemot Compensation Steering Group (GCSG) would be established, as secured in the Outline Guillemot CIMP, which would facilitate the agreement of monitoring and adaptive management (if required).

As noted by the ExA [ER C.1.7.84] strategic long-term monitoring longer than the three years proposed by the Applicant was requested by NE. In response to this, and at the request of the ExA, the Applicant updated the Outline Guillemot CIMP [REP6-025] which states that "Monitoring would commence at least one breeding season prior to commencement of the compensatory measure. It is expected that monitoring will be required annually for the first three years or until the measure is deemed to be operating successfully. Thereafter, monitoring throughout the operational life-span of North Falls will be undertaken and the frequency of this monitoring will be discussed with the GRCSG/GCSG and agreed with the Secretary of State".

The Outline Guillemot CIMP also provides that the monitoring requirements will be discussed with the GCSG and approved by the Secretary of State, and acknowledges that given the proposed measure it may be difficult to derive direct cause and effect relationships (noting that NE advise that pragmatic approaches to success criteria for this measure are likely to be required, and it may not be appropriate to (only) consider any resulting additional nesting birds and their productivity when assessing success).

The Applicant also updated the arrangements for adaptive management, which could include identifying additional/alternative sites to deploy further compensatory measures or moving to a collaborative or strategic measure.

Noting the progress made in Examination the Secretary of State is satisfied that the Outline Guillemot CIMP provides a suitable means to establish the details of monitoring commitments, as well as adaptive management arrangements. The Secretary of State in his first information request on the 26 November 2025 also asked the Applicant to ensure data sharing provisions

were added to the Guillemot CIMP, which was actioned by the Applicant in the updated version [C1-029].

The Secretary of State considers the Applicant has sufficiently considered the implementation of the measure, and he considers the management and monitoring detail to be a matter that can be finalised post-consent.

9.3.6 Conclusion

The ExA considered that there is sufficient information for the Secretary of State to establish that appropriate compensatory measures can be implemented, in order to fulfil their duty under the requirements of the Habitats Regulations. The ExA noted that the compensation measures proposed by the Applicant are sufficient for the level of impact anticipated from the Proposed Development, and the implementation of the Guillemot and Razorbill CIMP secured via Part 2 of Schedule 15 has the potential to deliver a proportionate level of benefit [ER C.1.7.88].

In conclusion, having reviewed all the information before him, the Secretary of State is satisfied with the proposed Project-led compensation and while he has not taken the strategic compensation into account in coming to this conclusion, he acknowledges that this is a potential alternative measure if it becomes available. The Secretary of State is content that the scale of compensation as identified is appropriate, sufficiently advanced negotiations have been presented to deliver disturbance reduction and appropriate monitoring and adaptive management is secured to ensure the long-term success of the measure.

The Secretary of State agrees with the ExA that the compensatory measures proposed by the Applicant are appropriate for the level of impact identified from the Project and agrees that the implementation of a final Guillemot CIMP, or an appropriate contribution to the MRF if approved by the Secretary of State, would deliver a proportionate level of compensation and benefit.

The Secretary of State considers the following to be appropriate:

- Compensation success criteria associated with the productivity needed to address the mean mortality impact at a displacement rate of 70% and mortality of 2%.
- A minimum compensation quantum of 54 pairs applying a 2:1 compensation ratio.
- Further site selection to be undertaken to agree the scale of management interventions and location of the final site/s (i.e the compensation design requirement) and accommodating as necessary a 3:1 ratio applying the CIV (80 breeding pairs) to reflect various uncertainties relating to the productivity of the site/s and the potential to accrue a mortality debt.
- The compensation measures to be in place a minimum of three breeding seasons prior to operation.
- The compensation measure to remain in place until decommissioning is agreed by the Secretary of State in consultation with SNCBs.
- Monitoring to be undertaken as approved by the Secretary of State through the CIMP in consultation with the GCSG and until the compensation measure is found to be delivering in accordance with the success criteria.

The Secretary of State is satisfied that the necessary compensatory measures can be secured and delivered to maintain the coherence of the UK NSN for guillemot as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats

Regulations. He considers that Part 2 of Schedule 15 of the Order adequately secures the further work required to progress the proposed compensation measures, including a contribution to the MRF or the approval of a final Guillemot CIMP.

9.4 OTE RTD

The Secretary of State considers that compensation for RTD is required due to the in-combination effect of disturbance/displacement during the operation of the Project. The ExA [ER 7.5.37] and the Applicant, as summarised at the end of Examination in [REP8-036], considered that an AEoI could be ruled out, which is not in-line with NE conclusions (who concluded AEoI for the Project alone as well as in-combination [REP8-100]). The Applicant provided compensation measures on a 'without prejudice' basis.

To reach a conclusion on the Applicant's RTD compensation measures, the Secretary of State has considered the theoretical merit of the proposed compensation measure, as well as the scale of compensation required, implementation timescales, site location and monitoring (and adaptive management) provision. He has set out his conclusions on each of these topics below, and with an overall conclusion on the deliverability of the measure.

9.4.1 Theoretical merit of the proposed compensation measures

The compensation measures proposed by the Applicant for the RTD feature of the OTE SPA are:

- Enhance breeding habitat (e.g. with nesting rafts and/or habitat management);
- Collaborative compensation including sanctuary/reserve area or collection of data to support the development of sanctuary/reserve areas; and
- Contribution to a strategic compensation fund/MRF.

These compensation measures, specific to RTD, proposed by the Applicant are presented in the following documents where ecological justification for the selection is provided:

- Red Throated Diver Compensation Document (Rev 2) [REP6-015]; and
- Outline Red Throated Diver Compensation Implementation and Monitoring Plan (Rev 2) [REP6-017].

9.4.1.1 Project led breeding enhancement

Compensatory measures proposed by the Applicant for breeding enhancement are the installation of artificial nesting rafts and/or habitat management measures to boost breeding success. It is noted that Project disturbance impacts on the over-wintering RTD at the OTE SPA, as proposed by the Applicant, are to be compensated by breeding enhancement at RTD breeding locations which are remote from the OTE SPA. Compensation sites were identified in Shetland, as well as Caithness and Sutherland. The Applicant outlined that in Shetland, the compensation would involve peatland habitat management to restore lochs where RTDs are unable to breed successfully as water is draining away due to erosion. In Caithness and Sutherland compensation measures would involve the installation of rafts on lochs to enhance the breeding success of RTDs. The Applicant provided evidence that both of these measures

are proven techniques for increasing RTD breeding success and would result in increased numbers of juveniles recruiting into the population and in due course (the age of first breeding is three years) increased numbers of breeding adults. The Applicant presented this could offset any adverse effects on over-winter survival (due to displacement from OWFs during the non-breeding season). Enhancement of breeding habitat is the Applicant's preferred compensatory measure that could be delivered by the Project alone.

As discussed further in Section 9.4.4, the option for installing rafts in Finland was also considered given the evidence of connectivity between RTD breeding in Finland and the OTE SPA, but following feedback from NE on the benefits for the UK NSN this option was not progressed into detailed site selection.

The aim of the Project-led RTD compensation, as noted by the Applicant, is to increase the number of juveniles fledged in areas where compensation is implemented. This can be achieved by increasing productivity at lochs where RTDs are already breeding and/or increasing the number of breeding pairs within an area. The Applicant stated this will be achieved by:

- Reducing risk of flooding of nests by using rafts;
- Reducing risk of nests becoming stranded by stabilising water levels in lochs used by breeding RTDs;
- Reducing predation of eggs/chicks by using rafts; and/or
- Reducing human disturbance of nesting divers (which can increase predation risk) by using rafts.

NE, in the Risks and Issue Log at the end of Examination, state that nesting rafts and habitat management are technically feasible, but that site selection is a critical factor to the success of this measure. NE raised several concerns, alongside those of the RSPB and NatureScot. As these are primarily around the scale or compensation and the site selection process these matters are discussed in detail in the sections below. However, the Secretary of State is satisfied that breeding enhancement is an appropriate compensation measure for the Project's impacts to RTD at the OTE SPA.

9.4.1.2 Collaborative and strategic measures

In addition to Project-led breeding enhancement, the Applicant also outlined potential collaborative measures including the contribution of data/research to the development of sanctuary/reserve areas, working collaboratively with the studies being undertaken by the EA1N and EA2 OWF projects. The Applicant stated they have, and continue to, explore potential collaboration. While the Applicant stated it expects to be invited to join a working group being established by Scottish Power Renewables and intends to contribute to this group, opportunities for the Project to provide additional benefit to the data collection required for the EA1N/EA2 projects have not currently been identified. This measure is included in the Outline RTD CIMP as being delivered wholly or partly replacing the Applicant's proposal of Project-led measures or as part of adaptive management, if required. Given the continued disagreement between NE and the Applicant on the scale of compensation required, as noted in Section 9.4.2 below, the Secretary of State considers that opportunities to contribute to research on RTD disturbance should be progressed by the Applicant as a secondary measure, rather than only on a full or part replacement basis of breeding enhancement (which considered by the Secretary of State as the primary measure).

Regarding strategic compensation, options for RTD are not currently listed in the approved library of measures. The Applicant noted that DEFRA is considering strategic options for RTD but that timescales are uncertain and as such they will continue to monitor the progress of strategic measures, should this become an available option. It is noted that the MRF Regulations 2025[44] came into force while the Project was in the determination phase, but at the point of the Project decision, does not include this measure. As such, and as proposed by the Applicant, the Secretary of State includes in the Order (Part 4 of Schedule 15) provision to allow the strategic delivery of ornithological compensation measures if approved by the Secretary of State at a later date. In line with this, and as considered in detail below in Section 9.4.4, the Applicant provides specific Project-led options, as well as provision for collaborative and/or strategic compensation should a measure become available.

9.4.2 Scale of compensation measure

The Applicant outlined [REP6-015] how typically the scale of compensation is calculated to compensate for the predicted damage to protected sites, with a multiplier (ratio) applied to increase the scale of compensation to address any uncertainty around the likely success of the measure.

NE advised that, in this case, the compensatory measure should focus on compensating for the area of effective habitat loss within the OTE SPA, rather than displacement mortality. As such the Applicant and NE recognised that there was no quantitative method to convert the effect within the OTE SPA into a demographic effect that could be used to calculate the compensation quantum, i.e. the magnitude by which RTD breeding success would need to be increased.

The Applicant proposed that breeding enhancement at 20 lochs would provide a suitable scale of compensation that would contribute to the UK NSN. The Applicant calculated the total number of additional fledglings per year that the compensation could produce and the number of these that are predicted to survive to produce adult RTD which would recruit into the breeding population. The Applicant provided an estimated number of annual fledglings ranging from 6 to 13.9 based on three scenarios with different combinations of rafts and habitat management measures; one in which all compensation is delivered in Shetland; one in which three-quarters of compensation is delivered in Shetland and the rest in Caithness and Southerland; and one in which all compensation is delivered in Caithness and Sutherland. The difference in fledglings for the scenarios is due to the expectation that the peatland habitat management measure (considered in Shetland) would increase breeding success to a greater extent than the nesting raft measure.

NE disagreed with the scale of compensation proposed and while it noted the progress made through Examination, considered it difficult to advise on the sufficiency of the measure given the different scenarios, and differences in the deliverable benefits. This is detailed in the NE Risks and Issue Log, which also highlights NE's view of the potential benefit of habitat management over rafts. NE also recommended that a package of measures would be required, and commenting on the Project's opportunities to support research into sanctuary areas.

[44] The Marine Recovery Funds Regulations 2025

The ExA considered, that in the event that the Secretary of State decides that compensatory measures are required for RTD of the OTE SPA (contrary to the ExA's recommendation), the Secretary of State should be satisfied the in-principle scale of compensatory measures is agreed between NE and the Applicant with other details then built on top of that [ER 7.8.5].

The Secretary of State in his first information request on the 26 November 2025 asked NE and the Applicant to provide further details on their view of the level of Project impact (Section 5.9), which he has considered in his view of the scale of compensation required as well as progress made on compensation site selection. The Applicant's response included a detailed site selection [C1-012] report as well as further justification on the aforementioned scale of the impact to be compensated.

The Secretary of State has reviewed the evidence and considers that the impact to be compensated is the area of the OTE SPA habitat that could experience displacement effects from the Project array. The Secretary of State agrees that the area is best represented (as discussed in Section 5.9) by the area of the OTE SPA where displacement effects would be predicted for the Project alone as 54.5 km^2 and the area of 33.91 km^2 where the Project is the closest OWF. The Secretary of State however does consider there is merit in the arguments made by the Applicant that with distance from the Project array the displacement effect would reduce and that closer sources of disturbance from shipping would also influence displacement effects from the Project. He considers this in determining the scale of compensation required.

Noting the continued disagreement between NE and the Applicant on the scale of compensation, to gain further information to consider the required scale of compensation, in his second information request on the 28 January 2026 the Secretary of State asked the Applicant to further justify the proposal for 20 lochs, noting that the productivity of the measure would differ depending on the ratio of raft provision to peatland restoration (in Shetland). He also asked the Applicant and NE about the suitability of wording that allowed the number of sites to be agreed post-consent based on the waterbody size, as had been originally included in a previous version of the RTD compensation document, as well as the benefits of the RTD monitoring proposed in the Offshore IPMP [REP8-009].

The Applicant confirmed their position that should all 20 waterbodies identified for compensation be in Caithness and Sutherland (provision of rafts), this would still be a suitable scale of compensation.

NE noted the potential for broader ecological benefits from peatland restoration but given uncertainty in the benefits stated, "that it seems reasonable at this point to simply select a target number of waterbodies deemed to be appropriate regardless of management scenario". Ultimately, NE maintained the position that the level of compensation proposed by the Applicant was insufficient, regardless of the specific measures deployed across the twenty waterbodies (and retained concerns on the deliverability) and considered a package of measures would be required.

Regarding RTD monitoring at the OTE SPA secured in the Offshore IPMP the Applicant in their responses highlighted that the monitoring is proposed to determine the level of displacement from the Project array area, i.e. to determine whether there is a change in abundance and distribution of RTDs, separate breeding enhancement to the compensation measures.

The Applicant and NE confirmed that it was not appropriate to include in the RTD Outline CIMP that 'the number of waterbodies would be subject to the size of the selected waterbodies', given RTD typically prefer waterbodies of a size that supports only one breeding pair and this is being taken into account in the site selection.

In review of the evidence, the Secretary of State acknowledges the level of ecological rigour undertaken by the Applicant in their site selection process and that this provides for the best opportunity to deliver benefits to the UK NSN. As such the Secretary of State agrees with the Applicant that a suitably ambitious scale of compensation has been provided. However, given the uncertainty around the site locations and thus overall benefits, it is considered the final compensation scale should be a minimum of 20 waterbodies, i.e. number of breeding enhancement locations, but this would be subject to further agreement post-consent by the Secretary of State once the site selection process is further progressed and the benefits of each site confirmed.

As noted in Section 9.4.1 above, the Outline CIMP details collaborative (RTD disturbance research to support the development of a potential 'sanctuary' area within the OTE SPA) on the basis of full or part replacement of Project led measures. The Secretary of State considers that opportunities to support collaborative research should be explored alongside the Project led measures and considered as a secondary measure in the finalisation of the CIMP. The Secretary of State considers the opportunity to contribute to research should continue to be proactively explored, noting the Applicant intends to engage with a RTD working group [REP6-015] (while appreciating the Applicant's and NE's view that contribution to data research continues to prove challenging) and in the Offshore IPMP the Applicant has committed to RTD monitoring in the OTE SPA.

As noted in Section 9.4.4, while landowner agreement is identified as potentially challenging, it is considered by the Secretary of State that the Applicant has demonstrated that there are enough suitable sites for the measure to be delivered. The Secretary of State notes both NE's and the Applicant's comments on the RTD compensation agreed for the Morecambe OWF but makes his decision on the sale of compensation required for the Project which is made on the basis of evidence presented for the Project.

Given the further survey work and site selection to be undertaken the Secretary of State considers it suitable to require a minimum of 20 waterbodies, but the final number and locations can would be agreed in the finalisation of the RTD CIMP post-consent, as discussed further in Section 9.4.4 below. While not relied upon in coming to the conclusion that he is content that adequate compensation can be provided by breeding enhancement the Sectary of State also requires the consideration of secondary measures in the finalisation of the RTD CIMP via the exploration of opportunities in regard to of RTD disturbance/sanctuary area research.

9.4.3 Timescales of compensation measure

The Applicant considered that installing the compensatory measure one breeding season prior to construction of the Project array is appropriate given that RTDs would be expected to start using rafts the following summer, and fledglings from these sites will contribute to the UK NSN. The Applicant also highlighted NE's response in [REP5-110], which states due to the nature of the impact there is not a concern around mortality debt and that the provision of one breeding season prior to construction is adequate based on the available information.

Following conflicting information on both the number of seasons required (and the season dates) and the Project stage (construction or operation) the Secretary of State in his second information request asked the Applicant to clarify the provision.

The Applicant responded to confirm that the RTD compensation must be deployed one breeding season prior to construction within the array area, with the breeding season for these purposes defined as from 1 March to 31 August, and highlighted the difference between the dates linked to the optimal season for breeding surveys.

Following clarifications, the Secretary of State agrees and reflects in the Order that the compensation measure should be implemented at least one breeding season (1 April to 31 August) before the start of the construction of the array, unless otherwise agreed. The Secretary of State notes that while an AEoI has only been determined for the operational phase, implementation ahead of construction would provide an increased benefit to the measure.

9.4.4 Compensation site locations and landowner agreement

As noted above in Section 9.4.1, compensation is proposed at breeding areas remote (RTD breed at high latitudes) to the OTE SPA given that the SPA provides over-wintering RTD habitat rather than breeding habitat for RTD. The Applicant undertook a site selection process to establish sites suitable for rafts and/or habitat enhancement in breeding habitat locations. Initially Finland and Scotland were presented to be the areas with potential suitability but following comments from NE, only Scotland was progressed further.

In Scotland, the Applicant selected regions based on RTD breeding density, evidence of suppressed productivity and logistical and practical feasibility. This resulted in Shetland, the Inner Hebrides and a number of mainland areas being identified. Suitable lochs were identified within these areas to form a long list of potential sites. From this, sites were then shortlisted based on preferred regions (with a established breeding population of RTD), stakeholder feedback, landowner feedback and site visits (undertaken in 2025).

NE raised concerns [REP7-090] over a lack of properly short listed or secured sites and as negotiations with landowners were ongoing, there was uncertainty if sufficient sites could be secured for the lifetime of the Project. This concern was echoed by RSPB [REP4-089] who considered greater detail was needed regarding arrangements of access and permissions.

NatureScot [REP7-097] raised concerns over site selection due to its remote location and how landowner permission would be secured. It also explained concerns over peatland restoration and how this is linked or could be linked to Scotland's peatland restoration programme. Furthermore, NatureScot considered that the Applicant should take impacts from predators such as mink and stoat into account. NatureScot also raised a concern that the implementation of compensation for RTD may have effects on nearby SPAs and other SPA designated birds and considered that monitoring should be undertaken in agreement with NatureScot and NE.

The ExA noted that at the close of Examination, no sites had been secured. The ExA considered that there to be presently insufficient information from the Applicant for the Secretary of State to establish that appropriate compensatory measures could be implemented, in order to fulfil their duty under the requirements of the Habitats Regulations. The ExA concluded that whilst the overall package of proposed compensation measures is possible, substantial pre-consent information would be required [ER C.1.7.131].

The Secretary of State notes the concerns of the ExA and other IPs and asked in his first information request on the 26 November 2025 for the Applicant to provide an update on landowner agreement and site selection. The Applicant provided a detailed Red-throated Diver Compensation Site Investigations 2025 (confidential) report [C1-012], indicating that while agreements had not progressed significantly further, access to a number of sites had been granted for survey work and that there were a large number of sites available. NE [C2-006] acknowledged, and commended, the rigorous and detailed approach to site investigation presented. NE noted the considerable progress made toward shortlisting sites where raft installation or peatland management might be possible, appropriate, and ecologically beneficial but remained unpersuaded by the scale offered at 20 lochs and highlighted that securing sites remains challenging. The Applicant also highlighted in [C1-012], in response to the first information request, details of site visits made in 2025 to areas of search for potential RTD compensation areas in Scotland, in both Caithness and Sutherland and Shetland. This report also described the progress with regards to landowner discussions, and how access for surveys was agreed with some landowners to inform site selection and subsequent site investigations.

As noted in Section 9.4.2 the Secretary of State asked further questions on the scale of the compensation measure in his second information request on the 28 January 2026. In the Applicant's response it was noted that a further review of suitable compensation site locations is being undertaken, with a current focus on Shetland and informed by analysis of historic data.

While further advancement in securing sites would have been preferred, in this case, considering the scale of the impact and based on the depth of ecological information, including evidenced survey work, provided by the Applicant the Secretary of State is satisfied that site selection is adequately advanced, noting the number of potential sites identified and the opportunity to secure sites. He adds that the work to date identifies sites that could be secured in areas that will provide the most benefit to the UK NSN. He considers that Part 4 of Schedule 15 of the Order adequately secures the further work required to progress the proposed compensation measures through the finalisation of the RTD CIMP.

9.4.5 Monitoring and adaptive management

The Applicant proposed that, to demonstrate that the compensatory measure of raft installation/habitat management is successful, it will be necessary to demonstrate higher productivity at lochs in which rafts have been installed or habitat management measures implemented, compared with control lochs with no rafts or habitat management, i.e. the compensation will be considered to be 'successful' if productivity on managed lochs is higher than lochs with no management.

The Applicant identified that control lochs would be established to facilitate monitoring, in that comparison would be made between control lochs and lochs with rafts, to establish breeding success. However, the Applicant noted the success of the measure to restore breeding lochans for RTDs through habitat (peatland) management is unlikely to require control lochs. This is because peatland restoration is likely to be carried out on lochs which are currently unsuitable for breeding RTDs (i.e. the baseline breeding success is zero).

For both rafts and habitat restoration the Applicant outlined methods for RTD productivity monitoring, in that RTD productivity will be monitored from late April to late August or possibly September, for any late nesting broods following established methods. The Applicant

established the need to minimise potential disturbance and stated that where possible, remote technology (nest temperature probes, remote cameras) would be used, once it had been established that breeding was taking place.

During Examination the Applicant's approach to monitoring as set out in [REP1-018] was queried by NE [REP4-060] who considered the approach to be insufficient.

The Applicant subsequently confirmed and updated [REP6-016] that it is expected that monitoring of RTD breeding success will be required annually for the first three years or until the measure is deemed to be operating successfully. Thereafter, the frequency of monitoring over the life of the Project will be discussed with the Red Throated Diver Compensation Steering Group ("RTDCSG") and agreed with the Secretary of State.

During Examination, the Applicant also updated the Outline RTD CIMP [REP6-016] regarding adaptive management details. The Applicant highlighted that as installation of nesting rafts and peatland habitat management (to maintain water levels in lochs) are measures that have been demonstrated to increase RTD breeding success, it is expected that rather than the entire measure failing and a whole new measure being implemented, adaptive management, if required, is more likely to be on a loch-by-loch basis. The Applicant noted that there may be some specific lochs where breeding success remains low, despite implementation of the compensatory measure.

The Applicant detailed that if monitoring of breeding success shows that a particular loch continues to fail to fledge chicks, investigations will be made into the cause of this and the adaptive management would be tailored to mitigate the pressures on the RTD at the relevant location(s), for example:

- Predator control or mitigation;
- Measures to reduce disturbance;
- Further peatland restoration/management; and
- Vegetation management.

The Applicant concluded that adaptive management will be based on evidence collected on the cause of breeding failure and used to identify the optimal approach to addressing any of these factors, if they are believed to be inhibiting RTD breeding success. The Applicant noted that specific measures to address these factors, if they occur, will be discussed with the RTDCSG. The Outline RTD CIMP also provides that strategic or collaborative compensation would be delivered wholly or partly, replacing the Applicant's initial proposal of Project-led measures or as part of adaptive management, if required.

In response to RIES Q43 [PD-020], NE [REP8-100] confirmed it did not have any outstanding concerns relating to the Applicant's proposed approach to monitoring or adaptive management for RTD, which is also reflected in the NE Risks and Issues Log at the end of Examination.

Secretary of State agrees with the principles for monitoring and adaptive management outlined in the Outline RTD CIMP [C1-032].

9.4.6 Conclusion

In conclusion, having reviewed all the information before him, the Secretary of State is satisfied with the proposed Project-led compensation and while he has not taken the strategic

compensation into account in coming to this conclusion, he acknowledges that this is a potential alternative measure if it becomes available. The Secretary of State is content that the scale of compensation as identified is appropriate, sufficiently evidenced opportunity has been presented for securing compensation sites and appropriate monitoring and adaptive management is secured to ensure the long-term success of the measure.

The Secretary of State considers the following to be appropriate:

- Success criteria linked to increased productivity of RTD breeding as approved by the Secretary of State in consultation with the RTDCSG.
- A minimum compensation quantum of 20 lochs based on information currently available, with the final number and locations to be approved in the CIMP by the Secretary of State following consultation with the SNCB and relevant planning authority (based on analysis of the potential benefit).
- As a secondary measure, the Applicant is required to explore opportunities to RTD disturbance understanding and opportunities to contribute to RTD sanctuary research.
- Implementation of the compensation measure one breeding season before the construction of turbines commences, unless otherwise agreed.
- The compensation measure is to remain in place until decommissioning is agreed by the Secretary of State in consultation with SNCBs.
- Monitoring to be undertaken as approved by the Secretary of State through the CIMP in consultation with the RTDCSG and until the compensation measure is found to be delivering in accordance with the success criteria.

The Secretary of State is satisfied that the necessary compensatory measures can be secured and delivered to maintain the coherence of the UK NSN for RTD as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations. He considers that Part 4 of Schedule 15 of the Order adequately secures the further work required to progress the proposed compensation measures, including the approval of a final RTD CIMP. The Order also allows the possibility of a contribution to the MRF for strategic compensation if approved by the Secretary of State.

10 Transboundary assessment

The Secretary of State considers that it is important to consider the potential impacts on protected sites in other European Economic Area ("EEA") states, known as transboundary sites. The ExA also considered the implications for transboundary sites. The conclusions of the ExA's considerations and the Secretary of State's own views on this matter are presented below.

On 03 February 2022, following the Applicant's request for an EIA scoping opinion, PINS undertook a transboundary screening and consultation on behalf of the Secretary of State pursuant to Regulation 32 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and United Nations Environmental Programme Convention on Biological Diversity 1992. A second and final screening was undertaken on 26 November 2024 following submission of the Application documents. PINS considered that the Project was likely to have a significant effect either alone or in-combination on the environment in an EEA state. Notification of transboundary issues were required under Regulation 32 of the 2017 EIA Regulations and issued to Germany, France, Belgium and The Netherlands.

No response was received from France and Belgium during the second screening consultation. Germany provided a response to PINS stating that they considered there to be no transboundary impacts from the Project alone or in-combination with their country. The Netherlands responded stating they would like to participate in the procedure under Regulation 32 and were invited to participate in the Examination as "Other Persons" as well as Germany, France, Belgium.

The Netherlands Ministry of Infrastructure and Water Management engaged [REP3-065] with the Examination, providing comments on concerns relating to transboundary effects on:

- Marine mammals
- Offshore ornithology
- Migratory bats

The ExA noted this representation and directed a question to the Applicant to confirm that transboundary and cumulative impacts had been considered in full in the second round of the ExA's questions [PD-012]. The Applicant provided a response [REP5-054 and REP4-027].

In response to concerns relating to marine mammals, the Applicant stated that impacts had been fully assessed to include the Netherlands within the Cumulative Effects Screening [APP-101] report and that details of the mitigation measures being used were set out in the draft MMMP [REP3-013]. They maintained their conclusions that there would not be a significant impact to any EEZ sites due to differing construction dates between North Falls and the Dutch OWF "Noorszeeloket OWF".

In response to concerns relating to offshore ornithology, the Applicant stated that the cumulative assessment [APP-027] was undertaken to consider effects at the scale of the UK EEZ. The Applicant concluded in the assessment that due to the spatial scale there was not likely to be a significant impact on the Dutch sites or populations, and so transboundary effects were screened out. The Applicant maintained this conclusion.

In response to the concerns on migratory bats, the Applicant noted that only one species of bat, *Nathusius pipistrelle* had a ZoI large enough to be considered to have the potential to be impacted by the Project. In response to the point regarding the ZoI for European sites (rather than bat individuals), the Applicant notes that there are no UK Special Areas of Conservation (SAC) designated under the Conservation of Habitats and Species Regulations 2017 or the Offshore Marine Habitats and Species Regulations 2017 (each as amended) for which the *Nathusius pipistrelle* is a designated feature, and therefore no sites have been considered within their assessment.

The ExA was satisfied that, based on the information provided by the Applicant that the Project would not have an LSE on protected sites in any EEA state [ER 4.3.25 and ER 4.3.136].

The Secretary of State has not been presented with any substantive evidence to demonstrate that transboundary impacts would have an LSE on any transboundary sites.

11 Conclusion

The Secretary of State has carefully considered all the information presented within the Application, during the Examination, along with the ExA's Recommendation Report and as provided in response to his consultations.

The Secretary of State concludes that an AEoI cannot be ruled out for the following:

- LBBG – AOE SPA and Ramsar (in-combination impacts from collisions during operation)
- Kittiwake – FFC SPA (in-combination impacts from collisions during operation)
- Guillemot – FFC SPA and Farne Islands SPA (in-combination impacts from displacement/disturbance during operation)
- Seabird assemblage feature – FFC SPA (due to collision mortality of the kittiwake component and displacement and disturbance of the guillemot component)
- RTD – OTE SPA in-combination (impacts from displacement/disturbance during operation)

The Secretary of State has considered the derogation provisions to determine whether the Project can be consented. He is satisfied that there are no feasible alternative solutions to fulfilling the objectives of the Project which would remove or reduce the risk of an AEoI of the protected sites. The Secretary of State is also satisfied that there are imperative reasons in the public interest for the Project to proceed, and that these reasons clearly outweigh the impacts to the protected sites. The Secretary of State is also satisfied that a package of compensatory measures to ensure that the overall coherence of the UK NSN is maintained is secured through Schedule 15 of the Order and can be delivered.

Annex A: Protected sites and qualifying features for which LSE could not be excluded

Protected Site	Qualifying Feature(s)	SACOs	LSE Identified from Construction (C), Operation and Maintenance (O&M) and/or Decommissioning (D):
Hamford Water SAC	Fisher's estuarine moth	See footnote[45]	Indirect disturbance from noise (C&D) Indirect disturbance from visual/lighting (C&D) Indirect effects from changes in supporting surface or groundwater resources (C&D) Direct and indirect effects on ex-situ habitats (C&D)
Sothern North Sea SAC	Harbour Porpoise	See footnote[46]	Underwater noise (C, O&M and D) Barrier effects (C, O&M and D) Collision risk (C, O&M and D) Changes to prey (C, O&M and D) Changes to water quality (C, O&M and D)
Humber Estuary SAC	Grey Seal	See footnote[47]	Underwater noise (C, O&M and D)

[45] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0030377&SiteName=hamford%20water&SiteNameDisplay=Hamford%20Water%20SAC&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=&HasCA=1&NumMarineSeasonality=0&SiteNameDisplay=Hamford%20Water%20SAC

[46] Southern North Sea MPA | Advisor to Government on Nature Conservation | JNCC

[47] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0030170&SiteName=humber%20estuary&SiteNameDisplay=Humber%20Estuary%20SAC&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

			Barrier effects (C, O&M and D) Collision risk (C, O&M and D) Changes to prey (C, O&M and D) Changes to water quality (C, O&M and D)
Humber Estuary Ramsar	Grey Seal	N/A	Underwater noise (C, O&M and D) Barrier effects (C, O&M and D) Collision risk (C, O&M and D) Changes to prey (C, O&M and D) Changes to water quality (C, O&M and D)
The Wash and North Norfolk Coast SAC	Harbour Seal	See footnote[48]	Underwater noise (C, O&M and D) Barrier effects (C, O&M and D) Collision risk (C, O&M and D) Changes to prey (C, O&M and D) Changes to water quality (C, O&M and D)
Orfordness-Shingle Street SAC	Coastal lagoons Annual vegetation of drift lines Perennial begetation of stone banks	See footnote[49]	Disturbance or displacement (O&M) - sandwich tern only Collision risk (O&M)

[48] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0017075&SiteName=the%20wash&SiteNameDisplay=The%20Wash%20and%20North%20Norfolk%20Coast%20SAC&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[49] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK0014780&SiteName=orfordness&SiteNameDisplay=Orfordness%20-%20Shingle%20Street%20SAC&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=&HasCA=1&NumMarineSeasonality=0&SiteNameDisplay=Orfordness%20-%20Shingle%20Street%20SAC

Margate and Long Sands SAC	Sandbanks which are slightly covered by sea water all the time	See footnote[50]	Increased suspended sediment concentrations (C, D) Smothering due to increased suspended sediment (C, D) Re-mobilisation of contaminated sediments (C, D)
Alde-Ore Estuary SPA	Sandwich tern Lesser Black-Backed Gull Avocet Marsh harrier Redshank Ruff Notable assemblage of breeding and wintering wetland birds	See footnote[51]	Disturbance or displacement (O&M) - sandwich tern only Collision risk (O&M)
Alde-Ore Estuary Ramsar	As above	N/A	As above
Outer Thames Estuary SPA	Common tern Red Throated Diver	See footnote[52]	Collision risk (O&M) Displacement (C, O&M, D)

[50] https://designatedsites.naturalengland.org.uk/ConservationAdvice/SupplementaryAdvice.aspx?SiteCode=UK0030371&SiteName=margate&SiteNameDisplay=Margate+and+Long+Sands+SAC&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=&NumMarineSeasonality=0

[51] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009112&SiteName=alde-ore&SiteNameDisplay=Alde-Ore%20Estuary%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[52] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9020309&SiteName=outer%20thames&SiteNameDisplay=Outer%20Thames%20Estuary%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=&HasCA=1&NumMarineSeasonality=3&SiteNameDisplay=Outer%20Thames%20Estuary%20SPA

Stour and Orwell Estuaries SPA	Avocet Black-tailed godwit Dark-bellied brent goose Dunlin Grey plover Knot Pintail Redshank Water bird assemblage	See footnote[53]	Collision risk (O&M)
Stour and Orwell Estuaries Ramsar	As above	N/A	Collision risk (O&M)
Foulness SPA	Sandwich tern Common tern Avocet Ringed plover Bar-tailed godwit Dark bellied brent goose Grey plover	See footnote[54]	Collision risk (O&M)

[53] https://designatedsites.naturalengland.org.uk/ConservationAdvice/SupplementaryAdvice.aspx?SiteCode=UK9009121&SiteName=stour%20and&SiteNameDisplay=Stour+and+Orwell+Estuaries+SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=&NumMarineSeasonality=8

[54] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009246&SiteName=foulness&SiteNameDisplay=Foulness%20(Mid-Essex%20Coast%20Phase%205)%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=&HasCA=1&NumMarineSeasonality=12&SiteNameDisplay=Foulness%20(Mid-Essex%20Coast%20Phase%205)%20SPA

	Hen harrier Knot Oystercatcher Redshank Waterbird assemblage		
Foulness Ramsar	As above	N/A	As above
Flamborough and Filey Coast ("FFC") SPA	Gannet Guillemot Kittiwake Razorbill Seabird assemblage	See footnote[55]	Disturbance or displacement (O&M) Collision risk (O&M)
Sandlings SPA	Nightjar Woodlark	See footnote[56]	Collision risk (O&M)
Minsmere-Walberswick SPA	Avocet Marsh harrier Nightjar	See footnote[57]	Collision risk (O&M)

[55] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9006101&SiteName=flamborough&SiteNameDisplay=Flamborough%20and%20Filey%20Coast%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[56] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9020286&SiteName=sandling&SiteNameDisplay=Sandlings%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[57] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009101&SiteName=minsmere&SiteNameDisplay=Minsmere-Walberswick%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

	Shoveler Teak Gadwall White fronted goose Hen harrier Assemblage of rare breeding birds associated with marshland and reedbeds		
Minsmere-Walberswick Ramsar	As above	N/A	As above
Deben Estuary SPA	Avocet Dark-bellied brent goose	See footnote[58]	Collision risk (O&M)
Deben Estuary Ramsar	As above	N/A	As above
Hamford Water SPA	Avocet Black tailed godwit Dark-bellied brent goose Grey Plover Redshank Ringed plover	See footnote[59]	Collision risk (O&M) Disturbance with European site (direct) (C&D) Disturbance on FLL (direct) (C&D) Habitat loss on FLL (direct) (C&D) Indirect effects on FLL (direct) (C&D)

[58] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009261&SiteName=deben&SiteNameDisplay=Deben%20Estuary%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[59] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009131&SiteName=hamford&SiteNameDisplay=Hamford%20Water%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

	Shelduck Teal		
Hamford Water Ramsar	As above	N/A	As above
Thanet Coast and Sandwich Bay SPA	Golden plover Turnstone	See footnote[60]	Collision risk (O&M)
Thanet Coast and Sandwich Bay Ramsar	As above	N/A	As above
Benacre to Easton Bavents SPA	Marsh harrier	See footnote[61]	Collision risk (O&M)
Colne Estuary (Mid-Essex Coast Phase 2) SPA	Pochard Ringer plover Dark-bellied brent goose Black-tailed godwit Hen harrier Redshank Waterbird assemblage Little tern	See footnote[62]	Collision risk (O&M) Disturbance on FLL (direct) (C&D) Habitat loss on FLL (direct) (C&D) Indirect effects on FLL (C&D)

[60] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012071&SiteName=thanet&SiteNameDisplay=Thanet%20Coast%20and%20Sandwich%20Bay%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[61] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009291&SiteName=benacre&SiteNameDisplay=Benacre%20to%20Easton%20Bavents%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[62] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009243&SiteName=colne&SiteNameDisplay=Colne%20Estuary%20(Mid-Essex%20Coast%20Phase%202)%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

Colne Estuary (Mid-Essex Coast Phase 2) Ramsar	Pochard Ringer plover Dark-bellied brent goose Black-tailed godwit Hen harrier Redshank Waterbird assemblage	N/A	Collision risk (O&M)
Broadland SPA	Marsh harrier Bewick's swan Hen harrier Ruff Gadwall Shoveler Whooper swan Wigeon	See footnote[63]	Collision risk (O&M)
Broadland Ramsar	As above	N/A	As above
Stodmarsh SPA	Gadwall	See footnote[64]	Collision risk (O&M)

[63] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009253&SiteName=broadland&SiteNameDisplay=Broadland%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[64] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012121&SiteName=stodmarsh&SiteNameDisplay=Stodmarsh%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

	Bittern Hen harrier Shoveler Breeding bird assemblage Waterbird assemblage		
Stodmarsh Ramsar	As above	N/A	As above
Dengie SPA	Dark-bellied brent goose Grey plover Hen harrier Knot Waterbird assemblage	See footnote[65]	Collision risk (O&M)
Dengie Ramsar	As above	N/A	As above
Blackwater Estuary SPA	Pochard Ringed plover Black-tailed godwit Dark-bellied brent goose Dunlin Grey plover	See footnote[66]	Collision risk (O&M)

[65] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009242&SiteName=dengie&SiteNameDisplay=Dengie%20(Mid-Essex%20Coast%20Phase%201)%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[66] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009245&SiteName=blackwater%20&SiteNameDisplay=Blackwater%20Estuary%20(Mid-Essex%20Coast%20Phase%204)%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

	Hen harrier Waterbird assemblage		
Blackwater Estuary Ramsar	As above	N/A	As above
Abberton Reservoir SPA	Coot Gadwall Goldeneye Great crested grebe Mute swan Shoveler Teal Tufted duck Wigeon Waterbird assemblage	See footnote[67]	Collision risk (O&M)
Abberton Reservoir Ramsar	As above	N/A	As above
Crouch and Roach Estuaries SPA	Dark-bellied brent goose Waterbird assemblage	See footnote[68]	Collision risk (O&M)
Crouch and Roach Estuaries Ramsar	As above	N/A	As above

[67] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009141&SiteName=abberton&SiteNameDisplay=Abberton%20Reservoir%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[68] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009244&SiteName=crouch&SiteNameDisplay=Crouch%20and%20Roach%20Estuaries%20(Mid-Essex%20Coast%20Phase%203)%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

Breydon Water SPA	Common tern Avocet Bewick's swan Golden plover Lapwing Ruff	See footnote[69]	Collision risk (O&M)
Breydon Water Ramsar	As above	N/A	As above
The Swale SPA	Dark bellied brent goose Dunlin Redshank Breeding bird assemblage Waterbird assemblage	See footnote[70]	Collision risk (O&M)
The Swale Ramsar	As above	N/A	As above
Benfleet and Southend Marshes SPA	Dark bellied brent goose Dunlin Grey plover	See footnote[71]	Collision risk (O&M)

[69] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009181&SiteName=breydon&SiteNameDisplay=Breydon%20Water%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[70] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012011&SiteName=swale&SiteNameDisplay=The%20Swale%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[71] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009171&SiteName=benfleet&SiteNameDisplay=Benfleet%20and%20Southend%20Marshes%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

	Knot Ringed plover Waterbird assemblage		
Benfleet and Southend Marshes Ramsar	As above	N/A	As above
Thames Estuary and Marshes SPA	Avocet Black-tailed godwit Dunlin Grey plover Hen harrier Knot Redshank Ringed plover Waterbird assemblage	See footnote[72]	Collision risk (O&M)
Thames Estuary and Marshes Ramsar	As above	N/A	As above
Medway Estuary and Marshes SPA	Avocet Dark bellied brent goose	See footnote[73]	Collision risk (O&M)

[72] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012021&SiteName=thames&SiteNameDisplay=Thames%20Estuary%20and%20Marshes%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[73] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012031&SiteName=medway&SiteNameDisplay=Medway%20Estuary%20and%20Marshes%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

	Dunlin Grey plover Knot Pintail Redshank Ringed plover Shelduck Breeding bird assemblage Waterbird assemblage		
Medway Estuary and Marshes Ramsar	As above	N/A	As above
Brekland SPA	Nightjar Stone curlew Woodlark	See footnote[74]	Collision risk (O&M)
Dungeness, Romney Marsh and Rye Bay SPA	Sandwich tern Common tern Avocet Marsh harrier	See footnote[75]	Collision risk (O&M)

[74] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009201&SiteName=breckland&SiteNameDisplay=Breckland%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[75] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9012091&SiteName=dungeness&SiteNameDisplay=Dungeness,%20Romney%20Marsh%20and%20Rye%20Bay%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

	Aquatic warbler Bewick's swan Bittern Golden plover Hen harrier Ruff Shoveler Mute swan Waterbird assemblage		
Dungeness, Romney Marsh and Rye Bay Ramsar	As above	N/A	As above
North Norfolk Coast SPA	Sandwich tern Common tern	See footnote[76]	Collision risk (O&M)
North Norfolk Coast Ramsar	Sandwich tern Common tern	N/A	Collision Risk
Chichester and Langstone Harbour SPA	Sandwich tern Common tern	See footnote[77]	Collision risk (O&M)

[76] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9009031&SiteName=north%20norfolk&SiteNameDisplay=North%20Norfolk%20Coast%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[77] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9011011&SiteName=chichester&SiteNameDisplay=Chichester%20and%20Langstone%20Harbours%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

Solent and Southampton Water SPA	Sandwich tern Common tern	See footnote[78]	Collision risk (O&M)
Solent and Southampton Water Ramsar	Sandwich tern Common tern	N/A	Collision risk (O&M)
Teesmouth and Cleveland Coast SPA	Common tern	See footnote[79]	Collision risk (O&M)
Coquet Island SPA	Sandwich tern Common tern Arctic tern	See footnote[80]	Collision risk (O&M)
Farne Islands SPA	Sandwich tern Common tern Arctic tern Guillemot	See footnote[81]	Collision risk (O&M) Disturbance and displacement (O&M) - Guillemot only
Forth Islands SPA	Sandwich tern	See footnote[82]	Collision risk (O&M)

[78] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9011061&SiteName=solent&SiteNameDisplay=Solent%20and%20Southampton%20Water%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[79] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9006061&SiteName=teesmouth&SiteNameDisplay=Teesmouth%20and%20Cleveland%20Coast%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[80] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9006031&SiteName=coquet&SiteNameDisplay=Coquet%20Island%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[81] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9006021&SiteName=farne&SiteNameDisplay=Farne%20Islands%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[82] SiteLink - Forth Islands SPA

	Common tern Arctic tern Lesser-black backed gull Gannet		Disturbance and displacement (O&M) - Gannet only
Ythan Estuary, Sands of Forvie and Meikle Loch SPA	Sandwich tern Common tern	See footnote[83]	Collision risk (O&M)
Loch of Strathbeg SPA	Sandwich tern	See footnote[84]	Collision risk (O&M)
The Wash SPA	Common tern	See footnote[85]	Collision risk (O&M)
Inner Moray firth SPA	Common tern	See footnote[86]	Collision risk (O&M)
Cromarty Firth SPA	Common tern	See footnote[87]	Collision risk (O&M)
Northumbria Coast SPA	Arctic tern	See footnote[88]	Collision risk (O&M)
Pentland Firth Islands SPA	Arctic tern	See footnote[89]	Collision risk (O&M)

[83] SiteLink - Ythan Estuary, Sands of Forvie and Meikle Loch SPA

[84] SiteLink - Loch of Strathbeg SPA

[85] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9008021&SiteName=wash&SiteNameDisplay=The%20Wash%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[86] SiteLink - Inner Moray Firth SPA

[87] SiteLink - Cromarty Firth SPA

[88] https://designatedsites.naturalengland.org.uk/ConservationAdvice.aspx?SiteCode=UK9006131&SiteName=northumbria%20coast&SiteNameDisplay=Northumbria%20Coast%20SPA&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=

[89] SiteLink - Pentland Firth Islands SPA

Auskerry SPA	Arctic tern	See footnote[90]	Collision risk (O&M)
Rousay SPA	Arctic tern	See footnote[91]	Collision risk (O&M)
Fair Isle SPA	Arctic tern Guillemot	See footnote[92]	Collision risk (O&M) Disturbance or displacement (O&M) - Guillemot only
West Westray SPA	Arctic tern Guillemot	See footnote[93]	Collision risk (O&M) Disturbance or displacement (O&M) - Guillemot only
Papa Westray (North Hill and Holm) SPA	Arctic tern Arctic skua	See footnote[94]	Collision risk (O&M)
Sumburgh Head SPA	Arctic tern	See footnote[95]	Collision risk (O&M)
Mousa SPA	Arctic tern	See footnote[96]	Collision risk (O&M)
Foula SPA	Arctic tern Great skua Guillemot	See footnote[97]	Collision risk (O&M) Disturbance or displacement (O&M) - Guillemot and RTD only

[90] SiteLink - Auskerry SPA

[91] SiteLink - Rousay SPA

[92] SiteLink - Fair Isle SPA

[93] SiteLink - West Westray SPA

[94] SiteLink - Papa Westray (North Hill and Holm) SPA

[95] SiteLink - Sumburgh Head SPA

[96] SiteLink - Mousa SPA

[97] SiteLink - Foula SPA

	Red-throated diver		
Papa Stour SPA	Arctic tern	See footnote[98]	Collision risk (O&M)
Fetlar SPA	Arctic tern Great skua	See footnote[99]	Collision risk (O&M)
Fowlsheugh SPA	Guillemot Kittiwake	See footnote[100]	Collision risk (O&M) Disturbance or displacement (O&M) - Guillemot only
Troup, Pennan and Lion's Heads SPA	Guillemot	See footnote[101]	Disturbance or displacement (O&M)
East Caithness Cliffs SPA	Guillemot Razorbill Herring gull Kittiwake	See footnote[102]	Disturbance or displacement (O&M)-Guillemot and Razorbill only Collision risk (O&M) - Herring gull and Kittiwake only
North Caithness Cliffs SPA	Guillemot	See footnote[103]	Disturbance or displacement (O&M)
Marwick Head SPA	Guillemot	See footnote[104]	Disturbance or displacement (O&M)

[98] SiteLink - Papa Stour SPA

[99] SiteLink - Fetlar SPA

[100] SiteLink - Fowlsheugh SPA

[101] SiteLink - Troup, Pennan and Lion's Heads SPA

[102] SiteLink - East Caithness Cliffs SPA

[103] SiteLink - North Caithness Cliffs SPA

[104] SiteLink - Marwick Head SPA

Noss SPA	Guillemot Gannet	See footnote[105]	Disturbance or displacement (O&M) Collision risk (O&M) - Gannet only
Hermaness, Saxa Vord and Valla Field SPA	Gannet Great skua Red-throated diver	See footnote[106]	Disturbance or displacement (O&M)-Gannet and Red-throated diver Collision risk (O&M)- Gannet and Great skua
Hoy SPA	Great skua Red-throated diver	See footnote[107]	Disturbance or displacement (O&M)- Red-throated diver Collision risk (O&M)- Great skua
Ronas Hill- North Roe and Tingon SPA	Great skua Red-throated diver	See footnote[108]	Disturbance or displacement (O&M)- Red-throated diver Collision risk (O&M)- Great skua
Caithness and Sutherland Peatlands SPA	Red-throated diver	See footnote[109]	Disturbance or displacement (O&M)
Otterswick and Graveland SPA	Red-throated diver	See footnote[110]	Disturbance or displacement (O&M)
Orkney Mainland Moors SPA	Red-throated diver	See footnote[111]	Disturbance or displacement (O&M)
Transboundary Sites			

[105] SiteLink - Noss SPA

[106] SiteLink - Hermaness, Saxa Vord and Valla Field SPA

[107] SiteLink - Hoy SPA

[108] SiteLink - Ronas Hill - North Roe and Tingon SPA

[109] SiteLink - Caithness and Sutherland Peatlands SPA

[110] SiteLink - Otterswick and Graveland SPA

[111] SiteLink - Orkney Mainland Moors SPA

Vlaamse Banken SAC	Harbour Seal Grey Seal	See footnote[112]	Changes to prey (C, O&M and D)
SBZ 1/ZPS 1 SPA	Harbour Seal	See footnote[113]	Changes to prey (C, O&M and D)
Vlakte van de Raan SCI	Harbour Seal Grey Seal	See footnote[114]	Changes to prey (C, O&M and D)
Baie de Canche et couloir des trois estuaries SAC	Harbour Seal Grey Seal	See footnote[115]	Changes to prey (C, O&M and D)
Bancs des Flandres SAC	Harbour Seal Grey Seal	See footnote[116]	Changes to prey (C, O&M and D)
Dunes De La Plaine Maritime Flamande SAC	Harbour Seal	See footnote[117]	Changes to prey (C, O&M and D)
Estuaire De La Canche, Dunes Picardes Plaquees Sur L'ancienne Falaise, Foret D'hardelot Et Falaise D'equihen SAC	Harbour Seal	See footnote[118]	Changes to prey (C, O&M and D)

[112] EUNIS -Site factsheet for Vlaamse Banken

[113] EUNIS -Site factsheet for SBZ 1 / ZPS 1

[114] EUNIS -Site factsheet for Vlakte van de Raan

[115] EUNIS -Site factsheet for Baie de Canche et couloir des trois estuaires

[116] EUNIS -Site factsheet for Bancs des Flandres

[117] EUNIS -Site factsheet for Dunes de la plaine maritime flamande

[118] EUNIS -Factsheet for Embryonic shifting dunes

Estuaires et littoral picards (baies de Somme et d'Authie) SAC	Harbour Seal Grey Seal	See footnote[119]	Changes to prey (C, O&M and D)
Falaises du Cran aux Oeufs et du Cap Gris-Nez, Dunes du Chatelet, Marais de Tardinghen et Dunes de Wissant SAC	Harbour Seal Grey Seal	See footnote[120]	Changes to prey (C, O&M and D)
Recifs Gris-Nez Blanc-Nez SAC	Harbour Seal Grey Seal	See footnote[121]	Changes to prey (C, O&M and D)
Ridens et dunes hydrauliques du detroit du Pas-de-Calais SAC	Grey Seal	See footnote[122]	Changes to prey (C, O&M and D)
Borkum Riffgrund SCI	Grey Seal	See footnote[123]	Changes to prey (C, O&M and D)
Nationalpark Niedersächsisches Wattenmeer SAC	Grey Seal	See footnote[124]	Changes to prey (C, O&M and D)
Doggersbank SAC	Grey Seal	See footnote[125]	Changes to prey (C, O&M and D)
Duinen Ameland SAC	Grey Seal	See footnote[126]	Changes to prey (C, O&M and D)

[119] EUNIS -Site factsheet for Estuaires et littoral picards (baies de Somme et d'Authie)

[120] EUNIS -Site factsheet for Falaises du Cran aux Oeufs et du Cap Gris-Nez, Dunes du Chatelet, Marais de Tardinghen et Dunes de Wissant

[121] EUNIS -Site factsheet for Récifs Gris-Nez Blanc-Nez

[122] EUNIS -Site factsheet for Ridens et dunes hydrauliques du détroit du Pas-de-Calais

[123] EUNIS -Site factsheet for Borkum-Riffgrund

[124] EUNIS -Site factsheet for Nationalpark Niedersächsisches Wattenmeer

[125] Dogger Bank - Special Areas of Conservation

[126] EUNIS -Site factsheet for Duinen Ameland

Duinen en Lage Land Texel SAC	Grey Seal	See footnote[127]	Changes to prey (C, O&M and D)
Duinen Goeree & Kwade Hoek SAC	Harbour Seal Grey Seal	See footnote[128]	Changes to prey (C, O&M and D)
Duinen Terschelling SAC	Grey Seal	See footnote[129]	Changes to prey (C, O&M and D)
Duinen Vlieland SAC	Grey Seal	See footnote[130]	Changes to prey (C, O&M and D)
Grevelingen SAC	Harbour Seal Grey Seal	See footnote[131]	Changes to prey (C, O&M and D)
Klaverbank SAC	Grey Seal	See footnote[132]	Changes to prey (C, O&M and D)
Noordzeekustzone SAC	Harbour Seal Grey Seal	See footnote[133]	Changes to prey (C, O&M and D)
Oosterschelde SPA and SAC	Harbour Seal Grey Seal	See footnote[134]	Changes to prey (C, O&M and D)

[127] EUNIS -Site factsheet for Duinen en Lage Land Texel

[128] EUNIS -Site factsheet for Duinen Goeree & Kwade Hoek

[129] EUNIS -Site factsheet for Duinen Terschelling

[130] EUNIS -Site factsheet for Duinen Vlieland

[131] EUNIS -Site factsheet for Grevelingen

[132] EUNIS -Site factsheet for Klaverbank

[133] EUNIS -Site factsheet for Noordzeekustzone

[134] EUNIS -Site factsheet for Oosterschelde

Vlakte van de Raan SAC	Harbour Seal Grey Seal	See footnote[135]	Changes to prey (C, O&M and D)
Voordelta SAC and SPA	Harbour Seal Grey Seal	See footnote[136]	Changes to prey (C, O&M and D)
Waddenzee SAC	Harbour Seal Grey Seal	See footnote[137]	Changes to prey (C, O&M and D)
Westerschelde and Saeftinghe SAC	Harbour Seal Grey Seal	See footnote[138]	Changes to prey (C, O&M and D)

[135] EUNIS -Site factsheet for Vlakte van de Raan

[136] EUNIS -Site factsheet for Voordelta

[137] EUNIS -Site factsheet for Waddenzee

[138] EUNIS -Site factsheet for Westerschelde & Saeftinghe

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