



Morecambe Offshore Windfarm: Generation Assets Examination Documents

Volume 9

The Applicant's Comments on Deadline 5A Submissions by Interested Parties and Comments on responses to ExQ3s

Document Reference: 9.67

Rev 01



Document History

| | | | |
|------------------------|-----------------------------|-----------------|---------------|
| Doc No | MOR001-FLO-CON-ENV-NOT-0052 | Rev | 01 |
| Alt Doc No | n/a | | |
| Document Status | Approved for Use | Doc Date | 15 April 2025 |
| PINS Doc Ref | 9.67 | APFP Ref | n/a |

| Rev | Date | Doc Status | Originator | Reviewer | Approver | Modifications |
|-----|---------------|------------------|---------------------------------|---------------------------------|---------------------------------|---------------|
| 01 | 15 April 2025 | Approved for Use | Morecambe Offshore Windfarm Ltd | Morecambe Offshore Windfarm Ltd | Morecambe Offshore Windfarm Ltd | n/a |

Contents

| | | |
|-----|---|-------------------------------------|
| 1 | Introduction | 8 |
| 2 | Comments on Deadline 5A Submissions and Comments on responses to ExQ3s by IPs | 8 |
| 2.1 | Marine Management Organisation (REP5a-066) | 9 |
| 2.2 | Natural England (REP5a-068 – 072)..... | 20 |
| 2.3 | Defence Infrastructure Organisation (REP5a-065)..... | 41 |
| 2.4 | Civil Aviation Authority (REP5a-064)..... | 43 |
| 2.5 | The Crown Estate (REP5a-073, REP5a-074 and REP5a-075)..... | 50 |
| 3 | References..... | Error! Bookmark not defined. |

Tables

| | |
|---|----|
| Table 2.1 The Applicant's comments on the Applicant's Deadline 5 submissions.... | 10 |
| Table 2.2 The Applicant's response to ExQ3s | 13 |
| Table 2.3 The Applicant's response to the MMO's comments on the ExA's Consultation dDCO | 15 |
| Table 2.4 The Applicant's response to the MMO's comments on the RIES | 16 |
| Table 2.5 The Applicant's response to the MMO's comments on the dDCO..... | 17 |
| Table 2.6 The Applicant's response to NE's Cover Letter (REP5a-068) | 20 |
| Table 2.7 The Applicant's response to NE's Appendix B10: Natural England's comments on Offshore Ornithology (REP5a-069) - summary | 21 |
| Table 2.8 The Applicant's response to NE's Appendix B11: Natural England's comments on Offshore Ornithology..... | 22 |
| Table 2.9 The Applicant's response to NE's Appendix B12 to Natural England's Deadline 5a Submission: Natural England's comments on the Applicants Lesser Black Backed Gull Compensation Quantum (REP5a-070) | 25 |
| Table 2.10 The Applicant's response to NE's Appendix I3 to Natural England's Deadline 5a submission: Natural England's responses to the Examining Authority's further written questions and requests for information (ExQ3) (REP5a-071) | 30 |
| Table 2.11 The Applicant's response to DIO's ExQ3 response..... | 41 |
| Table 2.12 The Applicant's response to CAA's ExQ3 response..... | 43 |
| Table 2.13 The Applicant's response to the Crown Estate's ExQ3 response (a) and (b) | 50 |
| Table 2.14 The Applicant's response to The Crown Estate's Written Representation | 51 |

Glossary of Acronyms

| | |
|----------|--|
| AMC | Acceptable Means of Compliance |
| CAA | Civil Aviation Authority |
| CIMP | Compensation Implementation and Monitoring Plan |
| CIV | Central Impact Value |
| CL | Confidence Level |
| CMS | Construction Method Statement |
| DCO | Development Consent Order |
| ES | Environmental Statement |
| ExA | Examining Authority |
| GBBG | Great Black-Backed Gull |
| IMC | Instrument Meteorological Conditions |
| IP | Interested Parties |
| IPMP | In Principle Monitoring Plan |
| LBBG | Lesser Black-Backed Gull |
| MMMP | Marine Mammal Mitigation Protocol |
| MMO | Marine Management Organisation |
| MMob | Marine Mammal Observer |
| NAS | Noise Abatement System |
| NE | Natural England |
| PAM | Passive Acoustic Monitoring |
| PVA | Population Viability Analysis |
| RTD | Red-Throated Diver |
| SoCG | Statement of Common Ground |
| SPA.HOFO | Specific Approval for Helicopter Offshore Operations |
| TCE | The Crown Estate |
| UCL | Upper Confidence Limit |
| UK | United Kingdom |
| UWSMS | Underwater Sound Management Strategy |
| VFR | Visual Flight Rule |

Glossary of Terminology

| | |
|---|--|
| Applicant | Morecambe Offshore Windfarm Ltd |
| Agreement for Lease (AfL) | Agreements under which seabed rights are awarded following the completion of The Crown Estate tender process. |
| Evidence Plan Process (EPP) | A voluntary consultation process with specialist stakeholders to agree the approach, and information to support, the Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) for certain topics. The EPP provides a mechanism to agree the information required to be submitted to the Planning Inspectorate as part of the Development Consent Order (DCO) application. This function of the EPP helps Applicants to provide sufficient information in their application, so that the Examining Authority (ExA) can recommend to the Secretary of State whether or not to accept the application for examination and whether an appropriate assessment is required. |
| Expert Topic Group (ETG) | A forum for targeted engagement with regulators and interested stakeholders through the EPP. |
| Generation Assets (the Project) | Generation assets associated with the Morecambe Offshore Windfarm. This is infrastructure in connection with electricity production, namely the fixed foundation wind turbine generators (WTGs), inter-array cables, offshore substation platform(s) (OSP(s)) and possible platform link cables to connect OSP(s). |
| Other infrastructure projects | The offshore windfarm projects detailed in Appendix D of the Rule 6 Letter (PD-007). |
| Inter-array cables | Cables which link the WTGs to each other and the OSP(s). |
| Morgan and Morecambe Offshore Wind Farms: Transmission Assets | The Transmission Assets for the Morgan Offshore Wind Project and the Morecambe Offshore Windfarm. Also referred to in this report as the Transmission Assets, for ease of reading. |
| Offshore substation platform(s) | A fixed structure located within the windfarm site, containing electrical equipment to aggregate the power from the WTGs and convert it into a more suitable form for export to shore. |
| Platform link cable | An electrical cable which links one or more OSP(s). |
| Windfarm site | The area within which the WTGs, inter-array cables, OSP(s) and platform link cables will be present. |



The future of renewable energy

A leading developer in Offshore Wind Projects

1 Introduction

1. This document presents the Applicant's comments on Deadline 5A submissions by Interested Parties (IPs) and comments on responses to Examining Authority's third written questions (ExQ3) at Deadline 5A. These include the following:
 - Marine Management Organisation (MMO) (REP5a-066 and REP5a-067)
 - Natural England (NE):
 - Deadline 5a Submission Cover Letter (REP5a-068)
 - Appendix B11 – Comments on Offshore Ornithology (REP5a-069)
 - Appendix B12 – Comments on Lesser Black Backed Gull Compensation Quantum (REP5a-070)
 - Appendix I3 – Responses to the Examining Authority's further written questions and requests for information (ExQ3) (REP5a-071)
 - Defence Infrastructure Organisation (REP5a-065)
 - Civil Aviation Authority (REP5a-064)
 - The Crown Estate:
 - Response to ExQ3 (a) (REP5a-073)
 - Response to ExQ3 (b) (REP5a-074)
 - Written Representation (REP5a-075)
2. The Applicant has also provided additional comments in **Section 2.2.5** of this document detailing any changes between the Natural England Risk and Issues Log at Deadline 5 and 5A. The Applicant has also responded to Spirit Energy and Harbour Energy Deadline 5A submissions (REP5a-076 - REP5a-077, and REP5a-078 - 081) in a separate document (Document Reference 9.71), submitted alongside this document at Deadline 6.
3. As the owner of the Morecambe Offshore Windfarm Generation Assets, Morecambe Offshore Windfarm Ltd is the named undertaker that has the benefit of the Development Consent Order (DCO). References in this document to obligations on, or commitments by, 'the Applicant' are given on behalf of Morecambe Offshore Windfarm Ltd as the undertaker of Morecambe Offshore Windfarm Generation Assets.

2 Comments on Deadline 5A Submissions and Comments on responses to ExQ3s by IPs

4. The Applicant's comments on Deadline 5A submissions by IPs and comments on responses to ExQ3s are provided in the following sections.

2.1 Marine Management Organisation (REP5a-066)

5. The MMO's Deadline 5A submission is broken down into the following (please note, matters which are now considered 'resolved' / 'closed', where the MMO state they would not be providing further comments or where the row is greyed out, have not been duplicated in the following tables):

- The MMO's Comments on the Applicant's Deadline 5 submissions, including:
 - The MMO's Comments on 9.46 Outline Construction Method Statement (REP5-056). A response is provided by the Applicant, where required, in **Section 2.1.1**.
 - The MMO's Comments on 9.57 The Applicant's Comments on Deadline 4 Submissions by Interested Parties (REP5-060). A response is provided by the Applicant, where required, in **Section 2.1.1**.
 - The MMO's Comments on 9.60 The Applicant's Response to ExA's Written Questions (REP5-070). A response is provided by the Applicant, where required, in **Section 2.1.1**.
- The MMO's Response to Examiners Third Written Questions (ExQ3). A response is provided by the Applicant, where required, in **Section 2.1.2**.
- The MMO's Comments on the Examining Authority's (ExA) Consultation draft Development Consent Order (dDCO) (PD-019). A response is provided by the Applicant, where required, in **Section 2.1.3**.
- The MMO's Comments on the Report on Implications for European Sites (RIES) (PD-017). A response is provided by the Applicant, where required, in **Section 2.1.4**.
- The MMO's Comments on the Draft Development Consent Order (DCO) (REP5-003). A response is provided by the Applicant, where required, in **Section 2.1.5**.

2.1.1 Comments on the Applicant's Deadline 5 submissions

6. Where the MMO had no further comments or welcomed updates made to documents, these have not been presented below.

Table 2.1 The Applicant's comments on the Applicant's Deadline 5 submissions

| ID | MMO comment | Applicant's response |
|---|---|---|
| Comments on 9.49 Outline Construction Method Statement (REP5-056) | | |
| REP5a-066-01 | The MMO requests that the final Cable Installation Plan should address the reasons why cables may be buried to 3m depth (C002 of Table 5.3) when the target burial is 1.5m – this would simply be to illustrate that no unnecessary seabed disturbance arising from burial to unnecessary excess depths, the MMO suggests this is updated within the commitment register rather than the document due to remaining time within the Examination. | The Applicant has updated the Commitments Register_Rev 05 at Deadline 6 (Document Reference 9.31) to illustrate that no unnecessary seabed disturbance would be undertaken during cable burial. The Applicant considers this matter resolved as reflected in the Statement of Common Ground (SoCG) with the Marine Management Organisation (MMO) submitted at Deadline 6 (Document Reference 3.1). |
| REP5a-066-02 | The MMO welcomes the commitment (C019 in Table 5.3) to micro-siting to minimise seabed preparation works where possible and C054, committing to consider scour and cable protection that would be more readily removable at decommissioning. | The Applicant welcomes this response. |
| Comments on 9.57 The Applicant's Comments on Deadline 4 Submissions by Interested Parties (REP5-060) | | |
| REP5a-066-03 | The MMO has reviewed this document and considers most of the matters closed at Deadline 5 or a position of agreed to disagree has been decided upon. | The Applicant welcomes this response. An indication of matters that are 'agreed' or 'not agreed – no material impact' are detailed in the final Statement of Common Ground (SoCG) with the MMO_Rev 03 at Deadline 6 (Document Reference 9.1). |
| REP5a-066-04 | With regards to representation 1BEM24, the MMO notes that the Applicant and the MMO agrees that it will not be possible for new information to be | The Applicant notes this response and highlights that the mitigation is agreed. The piling seasonal |

| ID | MMO comment | Applicant's response |
|---|--|--|
| | provided by the Applicant during the remainder of Examination that will remove the requirement for a piling restriction on the face of the DML. The MMO agrees with the proposed wording on the DML for the proposed piling restriction. | restriction (and mechanism for potential removal) is provided in the Outline Underwater Sound Management Strategy (UWSMS) (REP5a-042) and is duplicated with a more detailed UWSMS condition on the face of the Development Consent Order (DCO). However, the Applicant confirms the condition wording has been agreed if this is considered to be required on the face of the DCO by determining authorities. |
| REP5a-066-05 | The MMO notes condition 20(3) of the DML (REP5-002) includes a piling restriction and has discussed this further with the Applicant. | |
| REP5a-066-06 | With regards to 1HRA28, the MMO notes the Applicant's response regarding cumulative effect of invasive Non-Native Species and the associated stepping stone effect of Project Infrastructure. The MMO considers the Applicant's response appropriate and has no other comments to raise. | The Applicant welcomes this response. |
| Comments on 9.60 The Applicant's Response to ExAs Written Questions (REP5-070) | | |
| REP5a-066-07 | <p>Ex2 Question – The Outline Underwater Sound Management Strategy (2BEM1)</p> <p>The MMO does not consider that there are other fish ecology scenarios for which the Applicant should be implementing Noise Abatement System (NAS) in the Underwater Sound Management Strategy (UWSMS). From a fish ecology perspective, the only other scenario which would require NAS would be the disturbance of Atlantic herring engaged in spawning at their spawning ground near the Isle of Man as a result of piling noise from the Morecambe array. Underwater noise (UWN) impacts to herring were examined in detail and we were largely content that piling at Morecambe OWF alone during the Manx herring spawning season is unlikely to result in significant impacts to herring at their spawning grounds due the limited overlap of modelled noise disturbance with areas of low, or low-medium larval density.</p> <p>The MMO does not consider that including different scenarios based on different sensitivities, species and times of year is of benefit to the</p> | The Applicant welcomes this response, noting the appropriate species (cod) and timing of the seasonal restriction is agreed between the Applicant and the MMO. |

| ID | MMO comment | Applicant's response |
|---------------------|--|---|
| | <p>assessment. The Applicant has also correctly highlighted that throughout their application and consultation process, only cod has been identified as a species where there is the need for a seasonal restriction. Atlantic cod are sensitive to impulsive underwater noise because their anatomy means that their swim bladder is involved in hearing and the anatomy of the species does not change during or outside of the spawning season. Species with a swim bladder and other gas chambers have a greater potential to suffer from physiological trauma (barotrauma) as a result of sudden pressure changes which can cause rapid motion off the walls of these cavities, particularly from impulsive sounds (Popper et al., 2014). The MMO therefore does not consider it appropriate for different criteria to be applied to the assessment during the cod spawning season versus other times of year. There is also no evidentiary basis for doing this.</p> | |
| <p>REP5a-066-08</p> | <p>Ex2 Question – Site Specific Fish/Shellfish Surveys (2BEM2)</p> <p>The MMO notes that they previously raised concerns regarding the level of information for shellfish indicators, including insufficient information on queen scallop (<i>Aequipecten opercularis</i>) which was subsequently updated and sufficient information was provided including consultation with Isle of Man Government, fisheries associations and port office, which reviewed the landings data (2011-2022), Vessel Monitoring System (VMS) data and assessed the scallop ground mapping (International Council for the Exploration of the Sea and Scallop Working Group).</p> <p>Additionally, the Applicant has provided more recent evidence to inform the impacts of electromagnetic fields on crustaceans. This is sufficient to address the concerns which were previously raised.</p> <p>Further, the MMO notes that the Applicant has informed that further mapping of fishing grounds was provided, the MMO welcomes this approach by the Applicant and supports its inclusion. The shellfish species listed within the area include Whelk (<i>Buccinum undatum</i>), King scallop (<i>Pecten maximus</i>),</p> | <p>The Applicant welcomes this response and confirmation of agreement regarding the baseline data used.</p> |

| ID | MMO comment | Applicant's response |
|----|--|----------------------|
| | <p>Queen scallop (<i>Aequipecten opercularis</i>), Nephrops (<i>Nephrops norvegicus</i>), Lobster (<i>Homus gamarus</i>) and Brown crab (<i>Cancer pagurus</i>).</p> <p>Based upon the responses reviewed and previous advice given, the MMO considers this information to be sufficient, the Applicant has included relevant baseline information on shellfish species and identified species present within the area and no further information is required.</p> | |

2.1.2 Response to the Examining Authority Third Written Questions (ExQ3)

7. Where the MMO had no comments to add or no response from the Applicant was considered necessary, these have not been presented below.

Table 2.2 The Applicant's response to ExQ3s

| ID | ExQ3 question | MMO response | Applicant response |
|--------------|---|---|---|
| REP5a-066-09 | <p>Ex3 Question - Noise Abatement Systems (3BEM12)</p> <p>If NAS were secured for all piling activity, would this affect the provisions relating to ADD, seasonal restrictions, breaks in piling or soft start procedures? For example, if NAS were secured, would there still need to be a temporal restriction during the cod spawning season?</p> | <p>The MMO believes that for breaks in piling if NAS was utilised for all this could change depending on the NAS utilised. For soft start procedures and ADD evidence would need to be provided to reduce or change any requirement.</p> <p>In order to remove the requirement of a seasonal piling restriction further information on the NAS including modelling would be required. The MMO maintains that a seasonal temporal piling restriction during the cod spawning season is required as a licence condition if the DML is granted. This is on the</p> | <p>The Applicant can confirm this response aligns with the Applicant's (apart from that the licence condition on the face of the deemed Development Consent Order (dDCO) is considered duplication given the measures in the Outline Underwater Sound Management Strategy (UWSMS) (REP5a-042)).</p> |

| ID | ExQ3 question | MMO response | Applicant response |
|----|---------------|---|--------------------|
| | | <p>basis that the UWSMS does not provide evidence that a seasonal piling restriction is not required.</p> <p>As noted above there is insufficient time remaining within the Examination period for the Applicant to provide adequate underwater noise (UWN) modelling to fully remove the recommended piling restriction. Therefore, a temporal piling restriction should be conditioned on the DML covering the peak of the cod spawning season between 15 February to 31 March (inclusive) for Morecambe OWF.</p> <p>The MMO notes that the UWSMS will be used post-consent to ensure that appropriate NAS, supported by appropriate UWN modelling of the mitigated impact ranges for the NAS employed, should the Applicant seek to remove the piling restriction.</p> <p>The MMO is also content that even with securing commitment to use NAS on a DML that any refinement to a seasonal restriction or change in mitigation (ADD, breaks in piling etc.) would be presented as part of the Marine Mammal Mitigation Protocol (MMMP) or UWSMS as further</p> | |

| ID | ExQ3 question | MMO response | Applicant response |
|----|---------------|---|--------------------|
| | | evidence is required on the reduction of impacts from the type of NAS utilised. | |

2.1.3 Comments on the Examining Authority's (ExA) Consultation draft Development Consent Order (dDCO) (PD-019)

8. Where the MMO welcomed the update to DCO wording (No. 6, 7, 10 and 11), or where the MMO did not provide a comment as it was not within their remit (No. 1, 2, 3, 4, 5 and 13), these have not been presented below.

Table 2.3 The Applicant's response to the MMO's comments on the ExA's Consultation dDCO

| No. | Article/Schedule | MMO Comment | Applicant response |
|-----|---------------------------------|--|--|
| 8 | Schedule 6, Part 2, condition 8 | The MMO maintains that this condition should be removed. | <p>The Applicant notes the Marine Management Organisation's (MMO's) maintained position.</p> <p>The Applicant's position on the inclusion and appropriateness of this condition remains as set out in the Applicant's Comments on Deadline 4 Submissions by Interested Parties (REP5-060, at ID RR-047-20, pg. 46) and the Applicant's Comments on Deadline 3 Submissions by Interested Parties (REP4-058, at IDs REP3-085-25 to REP3-085-35, pg. 78).</p> |

| No. | Article/Schedule | MMO Comment | Applicant response |
|-----|------------------------------------|--|--|
| 9 | Schedule 6, Part 2, condition 9(1) | The MMO notes this update and requests contact details of each party are included in Part 1 (4). | The Applicant has added these parties and their contact details to Part 1(4) of Schedule 6 in the version of the draft Development Consent Order (DCO) submitted at Deadline 6 (Document Reference 3.1). |

2.1.4 Comments on the Report on Implications for European Sites (RIES) (PD-017)

Table 2.4 The Applicant's response to the MMO's comments on the RIES

| RIES Q | Question | MMO Response | Applicant response |
|--------|---|--|--|
| 14 | <i>[To JNCC, the MMO, NE, NRW(A)] Confirm if your concerns about the applicant's commitment to NAS, and its Outline MMMP [REP5-028] and Outline UWSMS [REP5-052] are resolved based on the updated versions submitted at D5. If not, provide a position statement setting out specific updates that you seek to the management plans.</i> | <p>The MMO notes updates have been made in relation to new noise policies with regards to the MMMP and the MMO is largely in agreement with the updates, noting the Applicant has advised there are a few wording changes required by other interested parties.</p> <p>The MMO strongly advises that NAS will likely be required for all piling in the coming years but considers the UWSMS will be used to determine the specific mitigation requirements. The MMO defers to NE in relation to the worst case and commitment to NAS in the UWSMS and on the DCO.</p> <p>The MMO notes the Applicant has continued discussions with interested parties on this matter and has provided a without prejudice condition for commitment to utilise</p> | <p>The Applicant welcomes agreement from the Marine Management Organisation (MMO) regarding the wording of Noise Abatement System (NAS) in the Underwater Sound Management Strategy (UWSMS) condition in the draft DCO, but again highlights the mechanism of the UWSMS to agree final mitigations required for the final design of the Project. To confirm, the Applicant updated the UWSMS (REP5a-042) and Draft Marine Mammal Mitigation Protocol (MMMP) (REP5a-029) at Deadline 5A in line with discussions with other parties.</p> <p>The only change made at Deadline 6 is the reporting of observations has</p> |

| RIES Q | Question | MMO Response | Applicant response |
|--------|----------|--|---|
| | | <p>NMS/NAS should the design require it, the MMO agrees with the proposed wording.</p> <p>The MMO understands the Applicant is expecting to submit an updated MMMP and UWSMS at Deadline 5a which the MMO will review and provide comments to the Applicant to ensure an agreed document is submitted at Deadline 6.</p> | <p>been clarified in the Draft MMMP_06 (Document Reference 6.5) and aligned with the In Principle Monitoring Plan (IPMP)_Rev 06 (Document Reference 6.4) in response to Natural England (NE) Deadline 5A submissions.</p> |

2.1.5 Comments on the Draft Development Consent Order (DCO)

Table 2.5 The Applicant's response to the MMO's comments on the dDCO

| ID | MMO comments | Applicant response |
|--------------|---|---|
| REP5a-066-10 | <p>Timescales Condition 9(1)</p> <p>The MMO notes that the following update (underlined> has been made to condition 9(1)(g):</p> <p><i>“an offshore operation and maintenance plan which is to be submitted at least six months before the intended commencement of licensed activities and is in accordance with the outline offshore operation and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase;”</i></p> <p>The following update has been made to condition 9(1)(j):</p> <p><i>“a vessel traffic management plan which is to be submitted at least six months before the intended commencement of licensed activities and is in accordance with the outline vessel traffic management plan; and”</i></p> <p>The following update has been made to condition 9(1):</p> | <p>The Applicant welcomes this response, with the submission timescales agreed.</p> |

| ID | MMO comments | Applicant response |
|--------------|---|---|
| | <p><i>"an offshore project environmental management plan which is to be submitted at least six months before the intended commencement of licensed activities and which accords with the outline project environmental management plan covering the period of construction and operation to include details of—"</i></p> <p>The MMO is content with these updates regarding timescales to at least six months.</p> | |
| REP5a-066-11 | <p>Chemicals Condition 9(1)(e)</p> <p>The MMO understands the Applicant has made some minor changes to the condition to align with their drafting style, the MMO requested a minor wording change to the Chemical Condition below and the Applicant has accepted this:</p> <p><i>(ii) a site specific chemical risk assessment for all chemicals that have a pathway to the marine environment and are used for the licensed activities outside the course of normal navigation, to include;</i></p> <p><i>(aa) the function of the chemical;</i></p> <p><i>(bb) the quantities being used and the frequency of use; and</i></p> <p><i>(cc) the physical, chemical and ecotoxicological properties of the chemical</i></p> <p><i>Chemicals present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR) are exempt from this requirement;</i></p> | <p>The Applicant has agreed the condition wording on chemicals with the Marine Management Organisation (MMO) and has included updates in the deemed Development Consent Order (dDCO)_Rev 06 submitted at Deadline 5A (REP5a-002) (see Condition 9(1)(e)(ii) and 9(3)), with final wording alignment made in the dDCO submitted at Deadline 6 (Document Reference 3.1).</p> <p>The Applicant considers this matter resolved as reflected in the Statement of Common Ground (SoCG) with the MMO submitted at Deadline 6 (Document Reference 3.1).</p> |
| REP5a-066-12 | <p>Dropped Objects Condition 7(11)</p> <p>The MMO has had discussions with the Applicant regarding the dropped object condition. The MMO has requested the following update is made to this condition:</p> <p><i>All dropped objects which are considered a danger or hazard to navigation or which, having regard to guidance issued by the MMO from time to time would be considered reportable, must be reported to the MMO using the Dropped Object Procedure Form (or any updated or replacement form provided by the MMO) as soon as reasonably practicable and in any event within 24 hours of</i></p> | <p>The MMO provided updated wording on the condition in the dDCO for Dropped Objects on 28 March 2025. The wording has been agreed by both parties and included in the dDCO_Rev 06 submitted at Deadline 5A (REP5a-002).</p> <p>The Applicant considers this matter resolved as reflected in the SoCG with the MMO submitted at Deadline 6 (Document Reference 3.1).</p> |

| ID | MMO comments | Applicant response |
|----|--|--------------------|
| | <p><i>the undertaker becoming aware of an incident (or such other timescale as agreed with the MMO in writing).</i></p> <p>The MMO has shared this with the Applicant via email and understands this is being updated for Deadline 5a.</p> | |

2.2 Natural England (REP5a-068 – 072)

2.2.1 Cover Letter (REP5a-068)

Table 2.6 The Applicant's response to NE's Cover Letter (REP5a-068)

| ID | NE comment | Applicant response |
|--------------|--|--|
| REP5a-068-01 | <p>Natural England's Position on noise management measures</p> <p>In January 2025, Defra published their Marine Noise Package including their 'Reducing Marine Noise' policy paper Reducing marine noise - GOV.UK. This paper includes the expectation that <i>'all offshore wind pile driving activity across all English waters will be required to demonstrate that they have utilised best endeavours to deliver noise reductions through the use of primary and/or secondary noise reduction methods in the first instance.'</i> Natural England does not consider a commitment to employ best endeavours constitutes a commitment to use NAS as it does not go far enough to provide confidence and certainty that a project will implement either primary or secondary NAS and therefore noise reduction at source may not be achieved.</p> <p>Natural England is therefore supportive of the steps taken by the Applicant for this project so far, which displays a positive commitment to implementing NAS, as detailed in the updates to the MMMP [REP5-028] and UWSMS [REP5-053]. In order to provide confidence and certainty that the Applicant will implement either primary or secondary NAS, NE strongly advises that a general commitment to the use of NAS should appear on the face of the DCO as mitigation to ensure the satisfactory alternatives test for EPS licensing can be passed and significant noise reductions can be achieved.</p> <p>Natural England's references to NAS in a general sense includes both primary and secondary measures intended, respectively, to reduce the noise produced initially at the source or to prevent the propagation of noise into the environment.</p> <p>Natural England does not stipulate or advocate for any particular noise reduction system and the Applicant is free to secure the most appropriate noise abatement system or noise mitigation technology they can between consent and construction.</p> | <p>The Applicant considers that the Underwater Sound Management Strategy (UWSMS) provides an effective mechanism to have further discussions with Natural England (NE) (and other stakeholders) post-consent to secure the appropriate noise mitigation for the final design of the Project.</p> <p>As noted by NE, and as set out in the Outline UWSMS submitted at Deadline 5a (REP5a-042), the Applicant is committed to reducing underwater noise impacts and will consider primary and secondary noise reduction measures (including noise abatement systems) for the final design of the Project, in line with the latest relevant United Kingdom (UK) Government guidance. The Applicant is committed to planning appropriately for future mitigation but maintains that the appropriate time to consider in detail – and agree – such mitigation is in respect of the final design of the Project.</p> |

| ID | NE comment | Applicant response |
|----|---|--------------------|
| | Natural England would welcome the opportunity to engage with the Applicant in this regard post-consent. | |

2.2.2 Appendix B11 to Natural England's Deadline 5a Submission (REP5a-069)

Table 2.7 The Applicant's response to NE's Appendix B10: Natural England's comments on Offshore Ornithology (REP5a-069) - summary

| NE comment | | Applicant response |
|----------------------------------|---|---|
| 1. Major/Complex comments | | |
| REP5a-069-01 | 2.1 Summary The Applicant has incorporated updates to the offshore ornithology assessment initially submitted in Technical Note 1 (EIA) at Deadline 1 into the Environmental Statement (ES). See Appendix B8 to Natural England's Deadline 3 submission [REP3-090] for our detailed comments on the Deadline 1 updates. In summary, the Applicant has incorporated Natural England's recommended reference values, made some minor corrections, and incorporated the updated cumulated effects assessment into the ES. | Noted. The Applicant welcomes confirmation from Natural England (NE) that the required information has been updated in Chapter 12 Offshore Ornithology_Rev 03 (REP5-014). |
| REP5a-069-02 | On the basis of the updated assessment, Natural England agrees with the Applicant's conclusions that significant adverse effect at an EIA scale can be ruled out for all offshore ornithological receptors with the exception of great black-backed gull, where we agree with the Applicant's assessment that significant adverse effect cannot be ruled out. In the Technical Note 1 (EIA), the Applicant presented an analysis of the potential to mitigate the impact of the Project on this species by increasing the air gap between the turbine blades and the sea surface and concluded that the mitigation achieved would in this case be insignificant, which Natural England agrees with. | Noted. The Applicant welcomes confirmation that NE agrees with the assessment conclusions presented in the updated in Environmental Statement (ES) Chapter 12 Offshore Ornithology_Rev 03 (REP5-014). As NE indicates, it is the Applicant's view that the mitigation provided (i.e. the provided air gap) is proportionate to the likely effect, particularly when the very small contribution of the Project to cumulative effects is taken into account. Further mitigation would not be |

| NE comment | Applicant response |
|------------|--|
| | justified, and would not provide meaningful benefit to this species. |

9. Where key concerns were considered 'Resolved' by Natural England, these have not been duplicated below.

Table 2.8 The Applicant's response to NE's Appendix B11: Natural England's comments on Offshore Ornithology

| Document reviewed: [REP5-015] 5.1.12 Chapter 12 Offshore Ornithology Rev_03 | | | | |
|---|-------------|---|--|--|
| NE Ref | Section | Key Concern and/or Update | Natural England's Advice to Resolve Issue | Applicant response |
| 1 | Table 12.17 | We note that this table has been updated and is now mostly correct except for the mortality rate for great black-backed gull, which should be 0.0969 rather than 0.093. We note that the correct GBBG mortality rate is used in Table 12.48. | Ensure that the correct figures are incorporated from the Technical Note into the Environmental Statement. | The Applicant acknowledges this transcription error. It is noted that the correct value has been used in all calculations and therefore the assessment conclusions are unaffected. An updated version of Chapter 12 Offshore Ornithology_04 (Document Reference 5.1.12), correcting this error, has been submitted at Deadline 6. It is noted that the Examining Authority (ExA) have also requested this update to Chapter 12 Offshore Ornithology, following Natural England's (NE's) comment (Ref. R17.2.5 in The Applicant's Response to the Rule 17 Letter (Document Reference 9.70)). |
| 6 | N/A | The updated CEAs do not include impacts from the | See NE response to ExQ1 1BEM46 [REP3-092]. Whilst it would be preferable to consider impacts from these projects | The Applicant notes this response and welcomes confirmation that the assessment conclusions are agreed. |

Document reviewed: [REP5-015] 5.1.12 Chapter 12 Offshore Ornithology Rev_03

| | | | | |
|---|-----------------|--|--|--|
| | | Barrow and North Hoyle projects. | in the CEA, we do not believe it will make a material difference to the outcome of this Examination. | |
| 7 | 12.465 – 12.467 | The Applicant has incorporated the updated CEA and PVA for great black-backed gull from the EIA technical note submitted at Deadline 1 into the ES Offshore Ornithology Chapter. Natural England is in agreement with the Applicant that significant adverse effect at the EIA scale cannot be ruled out for this species. | The Applicant has investigated the potential to mitigate the Project's impact on this species by increasing the air gap between the turbine blades and the sea surface and has demonstrated that the difference this would make is likely to be insignificant in this case. Natural England accept that the impact has been mitigated as far as possible. We note that some benefits to great black-backed gull <i>might</i> accrue at Steephholm if the Applicant delivers their compensatory measure for lesser black-backed gull there. While this species is not as inclined to breed gregariously with the other large gulls, it may still benefit from scrub clearance, especially if there is some feature such as a rock outcrop or similar to provide some shelter/structure rather than a completely exposed 'plateau' site. | The Applicant welcomes confirmation from NE that the Project has provided appropriate mitigation for potential collision effects. NE's comments in respect of the potential benefits of Lesser Black-Backed Gull (LBBG) compensation at Steep Holm to Great Black-Backed Gull (GBBG) are also noted. |
| 8 | 12.465 | There is an error in the paragraph describing impacts on great black-backed gull. The paragraph states that the cumulative impacts would increase mortality by 0.71%. It appears that this has been calculated using the biogeographic population | Ensure that the correct figures are incorporated from the Technical Note into the Environmental Statement. | The Applicant acknowledges this transcription error. It is noted that the correct value has been used in all calculations and therefore the assessment conclusions are unaffected. An updated version of Chapter 12 Offshore Ornithology_04 (Document Reference 5.1.12), |

Document reviewed: [REP5-015] 5.1.12 Chapter 12 Offshore Ornithology Rev_03

| | | | | |
|---|--------|---|----------------------|--|
| | | rather than the BDMPS. The increase in baseline mortality relative to the BDMPS population that the Applicant presented in the EIA Technical Note at Deadline 1 was 9.37%. | | correcting this error, has been submitted at Deadline 6. It is noted that the ExA have also requested this update to Chapter 12 Offshore Ornithology, following NEs comment (Ref. R17.2.5 in The Applicant's Response to the Rule 17 Letter (Document Reference 9.70)). |
| 9 | 12.466 | In the absence of a focused UK ringing program on great black-backed gull, demographic rates are not well understood. The demographic rates are based on relatively old data, from outside the UK in some cases, and therefore are not considered particularly reliable. Caution must be used when considering the outputs of PVA, and the counterfactuals are generally considered a more informative measure for assessing impacts than the predicted absolute population and population growth rate. A predicted annual population growth rate of 1.1279 is unrealistically high for a species which has seen significant declines on a national level between Seabird 2000 and Seabirds Count | For information only | The Applicant notes this response, and highlights that both the counterfactuals and absolute growth rate have been presented in the GBBG Population Viability Analysis (PVA) within Chapter 12 Offshore Ornithology (REP5-014). |

Document reviewed: [REP5-015] 5.1.12 Chapter 12 Offshore Ornithology Rev_03

| | | | | |
|--|--|---|--|--|
| | | (Burnell and others, 2023). Within England, the population was relatively stable over the same period, although with severe impacts due to HPAI reported. In the 2024 addendum to Birds of Conservation Concern 5 (Stanbury and others, 2023), great black-backed gull was placed on the Red list and it is rated as Critically Endangered at the UK level. | | |
|--|--|---|--|--|

2.2.3 Appendix B12 to Natural England's Deadline 5a Submission (REP5a-070)

Table 2.9 The Applicant's response to NE's Appendix B12 to Natural England's Deadline 5a Submission: Natural England's comments on the Applicants Lesser Black Backed Gull Compensation Quantum (REP5a-070)

| NE comment | | Applicant response |
|----------------------------------|---|--|
| 1. Major/Complex comments | | |
| REP5a-070-01 | 1.1 Summary Natural England currently considers the Hornsea 3 Part 2 ('H3pt2') method to be the most ecologically complete to calculate the number of breeding pairs that might be required to generate sufficient recruits to compensate for a specified mortality impact. It is of note that the H3pt2 method was conceived to inform the design parameters of artificial nesting structures (ANS) for black-legged kittiwake (kittiwake hereafter). The method is also, in principle, suitable for wider application to other measures and for other seabird species. However, it may not be possible to | The Applicant notes Natural England's (NE's) comments. The Applicant is satisfied that the method proposed by Natural England is appropriate. However, we do not agree that both the upper 95% Confidence Limit (CL) and a 3:1 compensation ratio should be applied when calculating the final compensation value. In this case, this would (by NE's |

| NE comment | Applicant response |
|--|--|
| <p>adequately populate the H3pt2 method for all species as the required demographic information may be lacking, or poorly evidenced.</p> <p>Following testing of the H3pt2 method for guillemot, razorbill and lesser black-backed gull, it has become apparent that lower levels of natal dispersal, compounded by older recruitment ages and lower productivity can produce unrealistic and disproportionate requirements for scaling compensatory measures for other seabird species. Furthermore, it is not clear that some of the necessary demographic information is well evidenced, which can introduce significant uncertainty into any calculations reliant on those data.</p> <p>In such cases and pending further refinement and updates to best practice advice, Natural England consider that given the current absence of a robust alternative option for these species, it is appropriate for the Hornsea 4 ('H4') method to be used, in conjunction with other steps as set out below. Depending on the species, proposed measure(s) and the location(s) they are to be deployed, we advise that the calculations may also need to take account of philopatry.</p> <p>Natural England advises that the scale of implementation of seabird compensatory measures should be sufficient to address the 95% upper confidence limit (UCL) predicted impact value. The mean or central impact value (CIV) should be used to inform and define success criteria, if appropriate.</p> <p>The application of a ratio to address the uncertainty of success should continue to be set on a case-by-case basis, considering the level of impact, the feasibility of the measure, and its potential effectiveness. The ratio should be applied to scale the implementation of a measure, for example by delivering at multiple distinct sites, each capable of addressing the impact alone.</p> <p>Natural England highlight that the application of any method to calculate the scale of compensatory measures with respect to the number of breeding pairs required to compensate a specified annual mortality impact remains somewhat contentious.</p> | <p>calculation) require 10 times the base requirement. We consider that this would over-compensate for the impacts, and that use of the mean (Central Impact Value (CIV)) value plus a 3:1 ratio (equivalent to 30 nests) is appropriate. This aligns with existing approved compensation requirements at the Norfolk Vanguard and Boreas projects. It is noted that the calculation also includes a correction for philopatry (i.e. the extent to which chicks later return to the natal colony to nest, or choose to nest elsewhere). The Applicant is content that this is appropriate, but that it further justifies the Applicant's concerns regarding the risk of over-compensation if the upper 95% CL is applied.</p> <p>The Applicant notes that the proposed compensation area at Steep Holm, as set out in the updated outline LBBG Compensation Implementation and Monitoring Plan (CIMP) (REP5a-013), is much larger (approximately five times) than required to deliver 100 nests. Natural England and the Secretary of State can therefore be confident that the proposed measures would provide more than enough compensation. However, the Applicant considers it important that precedent on this matter is not established, particularly where this could</p> |

| NE comment | | Applicant response |
|---------------------|---|---|
| | <p>The pressing need for independent expert advice on the topic led to the BTO being contracted by Natural England (on behalf of the Collaboration on Offshore Wind Strategic Compensation) to critically review the available methods and determine the most appropriate, or to identify an alternative method. The outputs of this project have not been finalised in time for proper consideration within this examination, and in any case, primarily relate to kittiwake ANS.</p> <p>Our case-specific advice on this topic set out below reflects current knowledge and the application of expert judgement to the potential of the Project's proposed measure to deliver tangible benefits, but we acknowledge the need for greater clarity of advice and guidance in this challenging area.</p> | <p>limit availability of compensation for future projects.</p> |
| <p>REP5a-070-02</p> | <p>1.2 Detailed comments</p> <p><u>Morecambe Bay and Duddon Estuary (MBDE) SPA and Ribble and Alt Estuaries (RAE) SPA lesser black-backed gull (LBBG)</u></p> <p>Predicted impacts – the CIV is 1.02 adults from the two SPAs combined per annum (0.33 from MBDE and 0.69 from RAE), with a 95% UCL value of 3.43 adults (1.11 from MDDE and 2.32 from RAE). Natural England advises that an adverse effect on the integrity (AEOI) of the SPA cannot be ruled out for either site.</p> <p>We are satisfied that the above are appropriate values for the purposes of impact assessment and scaling compensatory measures.</p> | <p>The Applicant notes this response.</p> |
| <p>REP5a-070-03</p> | <p>Natural England's general advice on the proposals</p> <p>Natural England considers that the Applicant has made substantial progress with developing the Steephelm scrub clearance project and we believe an appropriate compensatory measure can be secured for the estimated level of impact. We consider that the exact scale of the minimum area to be cleared is the only major aspect of the project to be resolved. We acknowledge that this is largely because we were yet to give clear advice on this matter to the Applicant, while review of the work being undertaken by the BTO has been ongoing.</p> | <p>Noted, the Applicant welcomes NE's broad support for the progress made on the Steep Holm without prejudice compensation proposals. As above, it is noted that the proposals would provide more than enough compensation, irrespective of the calculation method.</p> |
| <p>REP5a-070-04</p> | <p>Information provided by the Applicant on compensation requirements</p> | <p>The Applicant notes this response.</p> |

| NE comment | | Applicant response |
|---------------------|---|--|
| | <p>In the most recent update to the Without Prejudice Derogations Case [REP3-009], the Applicant has presented a compensation quantum based on the CIV. Following advice from Natural England, the Applicant has attempted to replicate the H3pt2 method but has been unable to do so. Instead, they have proposed an approximate multiplier of 25.6 based on examination of the method's previous outputs. This suggests 26 nest spaces (1.02 x 25.6) as a target for compensation.</p> | |
| <p>REP5a-070-05</p> | <p>Natural England's advice on compensation requirements</p> <p>Natural England considers that the target for the compensatory measure should be set with respect to the CIV of 1.02. We advise the application of the H4 method, with additional consideration being made for philopatry. This is because Steephholm is outside of the NSN for this species. We are confident that adequate scrub clearance on Steephholm, adjacent to an already densely populated area of the existing colony, is highly likely to result in an increase in the number of lesser black-backed gulls nesting at the site. Natal dispersal could feasibly and directly contribute to NSN resilience by supplying recruits (via natal dispersal) into the impacted (or other) SPA populations.</p> <p>We calculate a target colony size of approximately 10 breeding pairs will be required to compensate the projects predicted level of impact (see Calculation 1 below).</p> <p>However, it is important that the compensatory proposals should be able to demonstrate that</p> <ul style="list-style-type: none"> ▪ they could compensate for the UCL value should the impacts of the project 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, and ▪ the measure takes account of philopatry, as only dispersing birds are likely to significantly contribute to NSN coherence (e.g. by recruiting into the site network) and thus compensate for the losses at impacted SPAs. | <p>Noted. The Applicant refers to the response above regarding application of both the Upper Confidence Limit (UCL) and scale ratio in calculating the compensation requirement.</p> |
| <p>REP5a-070-06</p> | <p>Thus, we consider that the compensatory measure should be scaled using the UCL impact value, applying the H4 method with additional consideration of philopatry to derive the quantum, and then applying a 3:1 ratio to generate the number of pairs</p> | |

| NE comment | | Applicant response |
|--------------|--|--|
| | the measure should be able to accommodate. Finally likely nesting densities should be considered to define a minimum area of scrub clearance. | |
| REP5a-070-07 | Natural England would note that the application of a 3:1 ratio inevitably leads to a significant scaling up of the measure, albeit only in terms of the size of the area where scrub clearance should be undertaken (i.e., not the required size or productivity of the colony). In this case, we believe that significant scaling up of the area is justified due to the uncertainty around the level of impacts, and to reduce uncertainty around colonisation and increase the attractiveness of the area. We note that given the small project alone impacts to be compensated, it would not be proportionate to deliver the measure at multiple sites to reduce uncertainty. Thus, a significant scaling of a well-designed plan at an ecologically suitable site is appropriate and given the economies of scale at work, a proportionate approach to reducing uncertainty of success. | |
| REP5a-070-08 | We calculate that this means that the measure should be scaled to provide sufficient space to potentially accommodate at least 100 nesting pairs. This will require the clearance and management of at least 0.21 Ha of scrub to create suitable nesting habitat (see Calculation 2). This equates to an area of approximately a third of a football pitch. | The Applicant's preferred method of calculation (using the mean (CIV) predicted mortality) would result in a requirement for 30 nests, equivalent to the clearance and management of 0.06ha of scrub. Approximately 1.08ha of scrub clearance is proposed under the outline LBBG CIMP submitted at Deadline 5a (REP5a-013), which is 18 times more than that required using the Applicant's preferred method of calculation. |
| REP5a-070-09 | Calculation 1- breeding pairs required to compensate the CIV <ul style="list-style-type: none"> ■ CIV of 1.02 breeding recruits / (0.798 x 0.885 x 0.885 x 0.885 x 0.885) fledglings surviving to breeding age = 2.08 fledglings required ■ To account for philopatry 2.08 / 0.470 = 4.43 fledglings required ■ 4.43 / 0.45 average productivity = 9.85 = <u>10 pairs</u> | Noted. The Applicant agrees that this calculation is appropriate. |

| NE comment | | Applicant response |
|--------------|--|--|
| REP5a-070-10 | <p>Calculation 2 – total scale of measure (minimum area of scrub clearance)</p> <ul style="list-style-type: none"> UCL value of 3.43 breeding recruits / (0.798 x 0.885 x 0.885 x 0.885 x 0.885) fledglings surviving to breeding age = 7.01 fledglings required. To account for philopatry 7.01 / 0.470 = 14.91 14.91 / 0.45 average productivity = 33.13 breeding pairs 3:1 ratio = 33.13 x 3 = 99.4 = <u>100 pairs</u> <p>Calculation of area required for 100 pairs / nesting density 0.0475 = 2105.26m² = <u>0.21 Ha</u></p> <p>Table 1 – Model parameters for calculations, including demographic rates (within the document)</p> | <p>Noted. As above, the Applicant considers that the mean (CIV) value should be used for the calculation, but agrees that application of a 3:1 ratio is appropriate. This would result in a requirement for 30 nests/pairs, equivalent to an area of 0.06ha.</p> |

2.2.4 Appendix I3 to Natural England's Deadline 5a submission (REP5a-071)

Table 2.10 The Applicant's response to NE's Appendix I3 to Natural England's Deadline 5a submission: Natural England's responses to the Examining Authority's further written questions and requests for information (ExQ3) (REP5a-071)

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|---|--------------|--|--|---|
| 2. Biodiversity, Ecology and Marine Processes (BEM): General | | | | |
| 3BEM1. | NE | <p>Outstanding matters – general</p> <p>NE has set out various matters in the latest version of the Risk and Issues Log [REP5-083] as yellow – unlikely to make a material difference to decision making. The applicant has previously provided responses</p> | <p>NE has reviewed the Applicants comments on yellow issues at [REP5-061] and advise that these issues can be considered as resolved, where so noted in this document, and no further action is required for yellow issues where this is indicated This is in line with the colour coding explanation included within the "How to read.." tab of the risk and issues</p> | <p>The Applicant welcomes this response, with no further action on yellow matters required.</p> |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|--------|--------------|--|---|---|
| | | to many of these issues as identified in The Applicant's Comments on Natural England's Risk and Actions Log at Deadline 4 - Revision 01 (Volume 9) [REP5-061] Please can NE review those responses and confirm whether, in its view, any of these matters are now resolved and provide an update. | log which sets out that these R&I, whilst not necessarily agreed, are sufficiently resolved to unlikely make a material difference to the decision making process for this project. | |
| 3BEM2. | NE | Outstanding matters – pre- and post-construction monitoring NE is asked to review the applicant's response to its Relevant Representation [PD1-011] at reference RR-061-25 in respect of its request for pre- and post-construction monitoring of benthic, marine mammal or ornithological interests, with particularly reference to the latest versions of the IPMP [REP5-026] and the draft to ensure that its Risk and Issues Log [REP5-083] is fully up-to-date. If NE is not content with the current | Natural England has reviewed these documents and provided updates to the monitoring issues in our Risk and Issues Log for D5a, in line with the following commentary. Benthic monitoring: Natural England advises that the delivery of the micro-siting requirement is dependent upon inclusion of benthic survey adequate to the task of identifying Annex 1 habitats within the cable corridors. This has not yet been secured in the IPMP [REP5-026], which specifies post construction benthic survey for INNS only. Therefore, our comment for Deadline 5 against issue RI_A8 in the risk and issues log stands. The IPMP does specify that further geophysical survey will be carried out across the site prior to construction. Whilst such survey | Benthic monitoring: The Applicant notes that the In Principle Monitoring Plan_Rev 05 has been updated at Deadline 5A (Document Reference 6.4) to clarify that pre-construction geophysical surveys with drop-down video as required to provide ground-truthing (which are included in the In Principle Monitoring Plan (IPMP)) would be used to identify reef. The Applicant considers this matter therefore resolved. Marine mammal monitoring: The Applicant has considered the comments made by Natural England (NE) and updated the IPMP_Rev 06 (Document Reference 6.4) and Draft |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|------|--------------|--|--|--|
| | | drafting, then this reasoning needs to be fully set out. | <p>is capable of indicating the potential presence of Habitats of Principle Importance/priority habitats, further ground truthing would be required to confirm presence and accurately classify the habitat. This should be specified as a potential action if the geophysical survey indicates potential presence of these habitats in order for NE to have confidence that the micro-siting condition is deliverable.</p> <p>Marine mammal monitoring:</p> <p>RI_D61 – Natural England notes the proposed use of PAM and MMObs as detailed in the Marine Mammal Mitigation Protocol (MMMP) [REP5-028] and advises that the reporting requirements at paragraph 150 should include the recording of observed responses of marine mammals to active sources of noise from different construction activities, including piling, ADD activation and the use of any noise abatement or reduction system. This would be sufficient to monitor the response of marine mammals to underwater noise and to test assumptions made in the ES and RIAA. We note that these measures are considered by the Applicant at Table 2.3 in the IPMP [REP5-026] to not be required. It is Natural England's view that</p> | <p>Marine Mammal Mitigation Protocol (MMMP)_Rev 06 (Document Reference 6.5) for Deadline 6 to clarify that observations made by Passive Acoustic Monitoring (PAM) and Marine Mammal Observers (MMObs) during piling, as outlined in the Draft MMMP would be undertaken. The Applicant considers this matter resolved, with further monitoring, as indicated in the IPMP, considered not to be required.</p> <p>With regard to aerial marine mammal surveys, it is acknowledged that data would only be collected in the winter months, but this is considered to be supplementary information, without a driver for further marine mammal monitoring to assess specific identified impacts from the Project. However, the comparability of winter data to pre-construction data sets over this period would be considered in the development of the final monitoring plan. It is also noted that the Applicant considers that if this monitoring was not conducted for Red-Throated Diver (RTD) or undertaken as part of a strategic RTD programme, there would be no driver for this monitoring to be solely carried out for marine mammals.</p> <p>Offshore ornithological monitoring:</p> <p>RI_B39</p> |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|------|--------------|----------|--|---|
| | | | <p>this will be necessary and should be undertaken during construction.</p> <p>The proposal to acquire marine mammal records during post-construction monitoring for red-throated diver will provide only a partial dataset on the distribution of harbour porpoise post-construction as the surveys are only proposed in the over winter period. Natural England advises that the Applicant should aim to acquire a dataset that is comparable to the pre-application baseline in order to be able to detect any changes.</p> <p>Offshore ornithological monitoring:</p> <p>RI_B39 – Natural England agrees that monitoring for collisions of lesser black-backed gull at this particular site is likely to be difficult and produce limited useful information. We are supportive of the Applicant’s proposal that <i>“strategic work may present options to contribute to industry wide understanding of effects”</i> in the IPMP [REP5-026] and we advise that the Applicant should submit into the examination an overview of the options for this, which can be refined post-consent.</p> <p>RI_B40 – Natural England advises that for red-throated diver monitoring, the Applicant should submit into the Examination an assessment of the</p> | <p>The Applicant welcomes confirmation from NE that site monitoring is unlikely to produce meaningful results. The Applicant can confirm that it has contacted the North West England Gull Project to discuss a potential contribution towards monitoring, however a response has not been received to date. The Applicant has also discussed with Natural England whether other suitable monitoring schemes, towards which the Project could contribute, are being undertaken or proposed. Natural England has confirmed that it will update the applicant should such schemes become available. At this stage, therefore, the Applicant is not able to provide further detail on any such measures, but agrees with NE that the approach can be refined post-consent.</p> <p>RI_B40</p> <p>The Applicant has discussed RTD monitoring with NE at a meeting on 10 April 2025. The following points were discussed:</p> <ul style="list-style-type: none"> ▪ The Applicant has clarified that RTD monitoring would only be undertaken in the event that it was agreed by the Secretary of State (SoS) that AEoI could be ruled out. The monitoring would be |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|------|--------------|----------|--|---|
| | | | <p>likelihood that different monitoring scenarios would have the ability to detect change. This could include scenarios with no, one, or two years pre-construction survey, and options to contribute to site-wide or strategic work should the ability of further site specific survey to detect change be limited. These options can be refined post-consent.</p> <p>Because these monitoring options will not be finalised until after consent, we do not consider them to be fully resolved, and the RAG rating provided reflects this. For the same reason, we do not expect further progress on these issues during examination.</p> | <p>undertaken to provide confirmation that the assessment conclusions (i.e. that there would be no AEoI) were correct, in line with the approach for the Awel y Môr project.</p> <ul style="list-style-type: none"> ■ In the event that the SoS could not rule out AEoI, and the Applicant was required to provide compensation for this species, no Project site monitoring for RTD would be proposed. This is because the Applicant would not be required to confirm that there would be no AEoI on RTD. Monitoring would instead be focussed on demonstrating the success of the compensation proposals. ■ NE agreed that it would not be possible to provide meaningful <i>'assessment of the likelihood that different monitoring scenarios would have the ability to detect change'</i> within the timescale of the Examination. This would require 'power analysis' of RTD monitoring proposals, for which details of monitoring options (which are not finalised to date) would be required. It was agreed between NE and the Applicant that this matter would be appropriately dealt |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|------|--------------|---|--|--|
| | | | | <p>with during the post-consent period, once the need for monitoring was confirmed.</p> <ul style="list-style-type: none"> The Applicant and NE also discussed the availability of suitable strategic RTD monitoring measures. NE advised that the Applicant could consider collaboration with other projects, which would be further discussed and considered post-consent.. |
| As | NE | <p>Pre- and post-construction monitoring</p> <p>Can NE signpost to any made DCOs for other offshore windfarms that incorporate pre- or post-construction monitoring for benthic, marine mammals and ornithology as a standard requirement, regardless of the level of significance of ecological effects assessed?</p> <p>It would also assist the ExA if NE could identify specifically where such monitoring has been required and the level of effect on significance assessed.</p> | <p>Natural England's advice on the requirements for pre and/or post construction monitoring for this project is based upon the level of significance of ecological effects that will potentially result from the project; they are not blanket requirements. Monitoring requirements are advised on a case-by-case basis, and we advise on the appropriate measures that will be necessary for each project, there are no such examples from DCOs for other offshore wind farms because we do not advise that monitoring requirements are included without having regard for the significance of ecological effects expected. Natural England's advice on specific thematic monitoring requirements is provided in the context of In Principle Monitoring Plans and has regard to the outcomes of the 'Review of</p> | <p>The Applicant notes this response and welcomes the further clarity on monitoring expectations provided by NE, which the Applicant considers have been suitably met.</p> |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|-----------------------------|----------------------------|--|--|---|
| | | | environmental data associated with post-consent monitoring of licensing conditions of offshore windfarms' (MMO 1031) - GOV.UK | |
| BEM: Benthic Ecology | | | | |
| 3BEM5. | NE The applicant MMO | Decommissioning Plan NE indicates it requires an outline Decommissioning Plan to be provided and removal of infrastructure at end of life, in line with OSPAR requirements. Could NE please explain the specific OSPAR provisions that require this outcome to be secured and explain whether: i the exception to dumping at Article 1 g(iii) could apply, or ii) a derogation as outlined in paragraph 3 of the OSPAR 98/3 decision could apply? The applicant and MMO are also asked to comment. | Natural England is aware of the recent amendments to the OSPAR Convention requirements in relation to decommissioning. We will provide further comment on this at Deadline 6 following discussion with other SNCBs and the MMO. However, we do highlight that the Applicant will be required under S105 of the Electricity Act to provide a decommissioning plan to the Secretary of State prior to construction and a decommissioning plan at the time of consent could form the foundation for such a document. | The Applicant notes this response and has responded to 3BEM5 in The Applicant's Response to Examining Authority's (ExA's) Written Questions 3 (Document Reference 9.61). |
| 3BEM10. | NE | Outstanding issues raised by NE relating to Benthic Ecology In its Risk and Issues Log [REP5-083] at tab F, NE | F6: This was a summary comment. The other rows in this tab cover the detailed issues that form this summary issue. Therefore, no update is needed for this issue. | The Applicant's response is as follows: <ul style="list-style-type: none"> ▪ RI_E8 (F7): The Applicant notes this response. ▪ RI_E11 (F9): The Applicant notes that additional text was added to |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|------|--------------|--|---|--|
| | | <p>highlights a number of issues in amber, namely items F6, F7, F9 and F11 (RAG Status Rel and Wri Rep) and item F12 in yellow (RAG Status D5).</p> <p>The applicant has previously provided responses to each of these issues as identified in 'The Applicant's Comments on Natural England's Risk and Actions Log at Deadline 4 - Revision 01 (Volume 9)' [REP5-061]</p> <p>Please can NE review those responses and confirm whether, in its view, these matters are now resolved and provide an update. Where in NE's view any issue remains unresolved, please can NE make clear whether it considers this would make a material difference to the outcome of the decision-making process.</p> | <p>F7, F9, F11: Further updates to these issues are covered in tab E under RI_E8, RI_E11 and RI_E13 respectively.</p> <ul style="list-style-type: none"> RI_E8 (F7) – This has been changed to purple status at D4 in order to draw the ExA's attention to the issue for information, but in recognition that further progress on the issue is unlikely to make a material difference to the examination. We do not consider that this needs further action. RI_E11 (F9) – As noted by the Applicant in [REP5_061], NE has discussed this issue with them. It remains unresolved as there is no information on the formation in which cleared boulders will be deposited. This issue can be resolved if the applicant includes a commitment to deposit boulders in a fashion that avoids aggregating boulders or introducing linear features. RI_E13 (F11) – NE is satisfied that these measures are adequately secured, with the exception of micro-siting. In regard to the micro-siting requirement, delivery of this measure depends upon inclusion of benthic survey adequate to the task of identifying Annex 1 habitats within the cable corridors. This has not yet been secured in the IPMP. Therefore, our comment for | <p>Table 7.3 in Chapter 7 Marine Geology, Oceanography and Physical Processes_Rev 05 (REP5a-015), the Schedule of Mitigation_Rev 06 (REP5a-021) (Ref. 7.7) and the Outline Construction Method Statement (CMS)_Rev 03 (REP5a-052) (Table 5.1) at Deadline 5A to clarify that boulders would be placed in a random pattern to avoid creating any artificial linear features. The Applicant considers this matter resolved.</p> <ul style="list-style-type: none"> RI_E13 (F11): The Applicant notes that the IPMP_Rev 05 has been updated at Deadline 5A (REP5a-027) to clarify that pre-construction geophysical surveys (which are included in the IPMP) with drop-down video ground truthing would be used to identify reef. The Applicant considers this matter resolved. |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|----------------------------|----------------------------|--|--|---|
| | | | <p>Deadline 5 against issue RI_A8 in the risk and issues log stands. The IPMP does specify that further geophysical survey will be carried out across the site prior to construction. Whilst such survey is capable of indicating the potential presence of Annex 1 habitats, further ground truthing would be required to confirm presence and accurately classify the habitat. This should be specified as a potential action if the geophysical survey indicates potential presence of these habitats in order for NE to have confidence that the micro-siting condition is deliverable.</p> <p>F12: As per the latest update text, we consider this issue to be resolved. The yellow rating is reflective of the fact that it may become an issue during pre-construction, but we do not believe it is a further material consideration for the outcome of this application and needs no further action.</p> | |
| BEM: Marine Mammals | | | | |
| 3BEM12. | NE MMO The applicant | Noise Abatement Systems If NAS were secured for all piling activity, would this affect the provisions relating to ADD, seasonal restrictions, breaks in piling or soft start procedures? | Natural England advises that the need for NAS is in addition to the other potential mitigation measures listed. Whilst NAS has the potential to enhance those measures through reductions in the volume of noise at the source, it | The Applicant notes this response and has responded to 3BEM12 in The Applicant's Response to ExA's Written Questions 3 (REP5a-056). |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|----------------------------------|------------------|---|---|---|
| | | For example, if NAS were secured, would there still need to be a temporal restriction during the cod spawning season? | cannot be considered to be a replacement or substitute for them. Natural England notes that the MMO has been providing comment on the impacts specific to cod spawning and we refer the ExA to their response to this aspect of the question. | |
| BEM: Offshore ornithology | | | | |
| 3BEM14. | The applicant NE | <p>Outstanding issues raised by NE</p> <p>In its Risk and Issues Log [REP5-083] at tab B, NE highlights unresolved issues in amber (RAG Status D5) relating to</p> <ul style="list-style-type: none"> •use of gap filling data in CEAs (B8, B24) •cumulative displacement effects: approach to gap-filling: guillemot (B14) •CEA: Collision impacts: little gull and herring gull (B16, B18, B37) •CEA: gap filling for LBBG (B19) •Great black-backed gull (GBBG): figures to be used in assessment (interim advice note to the applicant, April 2024) (B20) | <p>Natural England has provided an updated Risk and Issues log at D5a that contains updates to these issues. In brief, we are now content that issues B8, B24, B14, B16, B37, B18, B19 have been satisfactorily addressed and have marked them as resolved.</p> <p>Issue B20 and B21 remain unresolved. Please refer to Appendix B11 with this submission for further commentary. In brief, there is an error in the ES chapter paragraph for B20 that can be easily corrected; and for B21, we are content that the applicant has exhausted potential mitigation options, but a significant cumulative EIA level effect cannot be ruled out for GBBG, so the issue will retain an amber RAG status.</p> <p>We expect that the information submitted by the applicant at D5a will be sufficient to resolve B31 and we will provide an update to our Risk and Issues log D6.</p> | <p>The Applicant welcomes confirmation from NE that the majority of outstanding issues have been resolved. The Applicant can confirm that the errors identified by NE are corrected in an update to Chapter 12 Offshore Ornithology (Document Reference 5.1.12), submitted at Deadline 6. However, the Applicant also reiterates that these are transcription errors, and that correct values have been used for all calculations used in the assessment. Therefore, the assessment conclusions presented in Environmental Statement (ES) Chapter 12 at Deadline 5 (REP5-014) are unaffected and are correct.</p> <p>The Applicant confirms that it agrees with NE's conclusion of moderate adverse cumulative effect on GBBG. As NE indicates, it is the Applicant's view that the mitigation provided (i.e.</p> |

| Ref. | Question to: | Question | Natural England Response | Applicant response |
|------|--------------|--|--------------------------|---|
| | | <p>•GBBG: cumulative effects and further avoidance or mitigation measures (B21)</p> <p>•vessel management plan: ports and further mitigation (B31)</p> <p>Please could both the applicant and NE provide an update. The ExA notes that several of these issues are reported as “in progress”. Where in either party view any issue is resolved, please direct the ExA to the relevant document(s), providing additional reasoning where necessary.</p> | | <p>increase in air gap) is proportionate to the likely effect, particularly when the very small contribution of the Project to cumulative effects is taken into account. Further mitigation would not be justified, and would not provide meaningful benefit to this species.</p> |

2.2.5 Natural England's Deadline 5a Risks and Issue Submission (REP5a-072)

10. The NE Deadline 5A submission of the Risks and Issue log identifies that the following items have been resolved:
 - RI_P3, RI_B8, RI_B14, RI_B18, RI_B19 (ornithology historic project analysis)
 - RI_B16 (collision impacts to little gull)
 - RI_G28 (consideration of mink)
 - RI_D61 (vessel disturbance mitigations for marine mammals, with RI_B31 for rafting birds expected to be resolved at Deadline 6)
11. Other items in progress have been responded to by the Applicant above in response to NE Appendix B11, B12 and I3, or where matters remain unchanged are responded to in the Applicants response to the Risks and Issues log at Deadline 5A (REP5a-060).

2.3 Defence Infrastructure Organisation (REP5a-065)

Table 2.11 The Applicant's response to DIO's ExQ3 response

| ID | ExQ3 question to | Question | DIO's response | Applicant response |
|-------|-----------------------------|--|---|--|
| 3DCO1 | The Applicant CAA DIO | <p>Requirement 3 – Aviation Safety</p> <p><u>To the CAA and DIO</u></p> <p>a) In response to Action Point 26 [REP4-061] the applicant has provided a note as to the applicability of the Air Navigation Order 2016 to the application site, sited as it is outside territorial waters. The CAA and DIO are asked for their views as to the geographical extent of relevant provisions (articles 222 and 223) of the Air Navigation Order 2016.</p> <p>As the parties will be aware, s120 of the PA2008 allows for a DCO to include provision applying and/ or modifying a statutory provision which relates to any matter for which provision may be made in the DCO.</p> <p><u>To the CAA, DIO and the applicant</u></p> | <p>The MOD previously advised that the proposed development falls within Low Flying Area 17 (LFA 17) and will affect military low flying training activities conducted in this area. To overcome this impact, it will therefore be necessary for the Wind Turbine Generators to be fitted with appropriate aviation warning lighting to maintain the safety of military air traffic. The applicant has addressed this through the inclusion of Requirement 3 Aviation Safety at Schedule 2 of the draft DCO. As the applicant has stated, the Requirement wording is the standard wording the MOD would propose, and the MOD has already agreed to the draft wording of Requirement 3 in relation to the Morecambe Offshore Wind Farm. With regards to the geographical extent of the Air Navigation Order (ANO), it would be for the Civil Aviation Authority (CAA) to confirm its definition of article 223</p> | <p>The Applicant has provided wording in the version of the draft Development Consent Order (DCO) submitted at Deadline 5A (REP5a-002 and REP5a-003) which seeks to apply Article 223 of the 2016 Order as an express provision to the authorised development to ensure that this mitigation is secured (Article 17 (Modification of the 2016 Order)).</p> <p>The Applicant therefore considers that the 'standard' aviation lighting requirement (Schedule 2 Requirement 3) does not require any further amendment.</p> |

| ID | ExQ3 question to | Question | DIO's response | Applicant response |
|----|------------------|--|--|--------------------|
| | | <p>b) If either the CAA or DIO takes the view that the geographical extent of the Air Navigation Order does not extend to the application site, should it be applied by express provision in the dDCO?</p> <p>The applicant is asked to liaise with the CAA and DIO in this regard.</p> <p>c) If the answer to (b) is yes, could the applicant consider whether, in addition to the current requirement 3 in Schedule 2, an additional article may be required to expressly apply relevant provisions of the Air Navigation Order (with modifications if necessary) to the dDCO.</p> <p>The applicant may find precedent provisions, for example article 22 of the Norfolk Boreas Offshore Wind Farm Order 2021, of use in drafting.</p> | <p>(b) - which is situated in waters within or adjacent to the United Kingdom up to the seaward limits of the territorial sea. The MOD's requirement for aviation lighting on wind turbine generators is usually exceeded by the CAA's statutory requirements i.e. the ANO. The MOD would therefore defer to the CAA's application of ANO lighting requirements to fulfil the MOD's lighting requirements. However, should the CAA confirm that the ANO provisions do not apply to this application site due to it being beyond the limits of the territorial sea, and there is therefore no CAA lighting requirement, there would still be an MOD lighting requirement due to the application site falling within LFA 17. This will need to be addressed via an aviation safety Requirement within the DCO.</p> | |

2.4 Civil Aviation Authority (REP5a-064)

Table 2.12 The Applicant's response to CAA's ExQ3 response

| ID | ExQ3 question to | Question | CAA's response | Applicant response |
|-------|------------------|---|--|---|
| 3CAR2 | CAA | <p>Alternative Means of Compliance Paragraph 5.20 of Spirit's Comments on any other submissions received at Deadline 3 [REP4-069] states "The Applicant has failed to recognise the crucial point that to obtain an AltMoC, the aviation operator would have to demonstrate an equivalent safety standard to the AMC." The applicant submits [REP5-064] in paragraph 155 that "Spirit is wrong in this regard, and that the equivalent safety standard of the IMC Take-Off Corridor, as to unrestricted IMC access in certain wind directions, is exactly the basis of Anatec's position in proposing the IMC Take-Off Corridor". Could the CAA comment on these statements and, if it prefers one or the other, explain why setting out its reasoning.</p> | <p>In paragraph 155 the applicant appears to be suggesting that the 'IMC Take-Off Corridor' will allow compliance with the legislative requirements. Firstly, with regard to departures, the corridor will not provide sufficient obstacle clearance for departures when the into wind track required is towards the wind farm. Secondly, with regard to IMC approaches, AMC1 to SPA.HOFO.125 paragraph (a) states that "Before commencing the final approach, the pilot-incommand/commander should ensure that a clear path exists on the radar screen for the final and missed approach segments...". In the case of the proposed development, adequate obstacle clearance is not assured for wind directions not close to the axis of the 'IMC Take-Off Corridor' and potentially not for any wind direction in respect of the missed approach segment. So it seems likely that some form of AltMoC would be required and para.</p> | <p>With regards to this response from the Civil Aviation Authority (CAA), the Applicant considers that all parties (the Applicant, Spirit Energy and the CAA) are in agreement. The Applicant understands that in order to grant an AltMoc, the applicant for the AltMoc will need to demonstrate that the alternative approach maintains compliance with Appropriate Means of Compliance (AMC) (i.e. an equivalent level of safety).</p> <p>The Applicant has clearly identified that a take-off towards the wind farm will not be permitted in Instrument Meteorological Conditions (IMC) if sufficient distance is not available. The impact of this restriction was clearly identified in the Appendix 17.1 Helicopter Access Study (REP1-039).</p> <p>The IMC Take-off corridor will mitigate the restrictions clearly identified in Appendix 17.1 Helicopter Access Study (REP1-039) by permitting take-offs in IMC and at night into the prevailing wind. Some take-offs towards the south will not be</p> |

| ID | ExQ3 question to | Question | CAA's response | Applicant response |
|----|------------------|----------|--|--|
| | | | 5.20 of the Spirit Energy statement is therefore preferred by the CAA. | <p>permitted, these have been identified in REP2-032 and REP5-063.</p> <p>The Applicant has taken account of the requirements in AMC to Specific Approval for Helicopter Offshore Operations (SPA.HOFO.125); for example, in Section 2.3 of the Applicant's Response to Spirit Energy Deadline 1 Submissions Appendix C: Helicopter Supporting Information Technical Note (REP2-033), the Applicant applies the exact same wording and requirements to the access assessment. Section 3.1 of the Applicant's Response to Spirit Energy Deadline 1 Submissions Appendix B: Helicopter Access IMC Corridor (REP2-032) shows full compliance with the requirements of AMC 1 to SPA.HOFO.125, including the need to avoid all obstacles laterally by 1nm in IMC. It then identifies the improved helicopter access provided by the IMC take-off corridor. In addition, it notes that some approach and take-off directions are still not available.</p> <p>The Applicants submissions are fully aligned with current and proposed Regulations, AMC and Guidance.</p> <p>It is agreed that to use the IMC take-off corridor an AltMoc would be required. This was the Applicant's clear</p> |

| ID | ExQ3 question to | Question | CAA's response | Applicant response |
|----|------------------|----------|----------------|---|
| | | | | <p>understanding in proposing the corridor mitigation. This was stated in Section 4 of the Applicant's Response to Spirit Energy Deadline 1 Submissions Appendix B: Helicopter Access IMC Corridor (REP2-032) and subsequent submissions. Section 4 of Responses from the Applicant's to Spirit Energy Deadline 1 Submissions Appendix A: Report on Impact to Helicopter Flights (REP3-071) quotes the CAA's CAP 1721: "AMCs are non-binding standards to illustrate means to establish compliance with the Basic Regulations and its Implementing Rules. AMC adopted by the CAA are means by which the requirements in the UK Regulation (EU) 2018/1139 (UK Basic Regulation) and it's Implementing Rules can be met. For example, AMC1 SPA.HOFO. 125 covers airborne radar approaches to offshore locations. An AMC cannot create additional obligations on the regulated persons, who may decide to show compliance with the applicable requirements using other means. Since AMCs are non-binding, regulated persons may choose alternative means to comply with the rule."</p> |

| ID | ExQ3 question to | Question | CAA's response | Applicant response |
|-------|------------------|--|--|--|
| | | | | <p>For the CAA to accept an AltMoC the helicopter operator will need to demonstrate that the alternative approach nonetheless maintains compliance with the law. As an AMC cannot “<i>create additional obligations on the regulated persons</i>”.</p> <p>It is noted that Spirit's paragraph 5.20 is therefore incorrect as any new AMC will not change the Basic Regulations from those currently in place.</p> |
| 3CAR3 | CAA | <p>Alternative Means of Compliance</p> <p>a) Should the proposed CAA ‘rule change’ be brought in, this would restrict all flights within 3nm of a wind turbine generator to daytime VMC access only. In the event the new rules were to apply retrospectively upon their implementation, then for Spirit Energy to use the IMC aviation corridor proposed by the applicant as part of the proposed development, the ExA understands that it may still be necessary for Spirit Energy to secure a CAA dispensation under the</p> | <p>a) It is perhaps worth highlighting at this point that the distance quoted, 3NM, is a recommendation from the offshore helicopter operators who were asked, by the CAA/British Helicopter Association Helicopter Management Liaison Committee, to provide their views. We have sought clarification on some of the assumptions made by the operators, which is part of our ongoing policy development work. The distance value that we will consult on in the proposed AMC may be higher. On the assumption that new AMC is developed as has been described in the ExA documentation, the AMC would likely be made in respect of legislative provisions</p> | <p>The Applicant suggests that there may be a typo within the CAA's response. The CAA's CAP 1721 states: “<i>AMCs are non-binding standards to illustrate means to establish compliance with the Basic Regulations and its Implementing Rules. AMC adopted by the CAA are means by which the requirements in the UK Regulation (EU) 2018/1139 (UK Basic Regulation) and it's Implementing Rules can be met. An AMC cannot create additional obligations on the regulated persons</i>”.</p> <p>As no additional obligations can be imposed by an AMC, then day Visual Flight Rules (VFR) approaches and take-offs will be permitted, with a wind turbine within 1.5nm from a helideck, as these are currently conducted on a daily basis in UK waters. Therefore,</p> |

| ID | ExQ3 question to | Question | CAA's response | Applicant response |
|-------|-----------------------------|--|---|--|
| | | <p>AltMoC process. Can the CAA confirm the ExA's understanding of this is correct and if not advise?</p> <p>b) Should the new rule come into force, in cases where the separation distance between an offshore platform and wind turbine generator is less than 3nm, the ExA understands an AltMoC would not be required unless the aviation operator was seeking access other than under daytime VMC. Again, for the avoidance of doubt, please can the CAA confirm whether the ExA's understanding is correct or advise accordingly.</p> | <p>relating to Visual Flight Rule (VFR) flights over water out of sight of land with helicopters. While the 'IMC corridor' would likely be sufficient to permit day VFR approaches for most/all wind directions, it would be insufficient for departures when the into wind track required is towards the wind farm, without some form of AltMoC.</p> <p>b) Any planned helicopter operation to an oil or gas helideck, where that helideck is situated within the distance that is specified in the new AMC would require an AltMoc. That distance will be at least 3NM.</p> | <p>an AltMoc would not be required for day VFR approaches. It is suggested that the CAA's "<i>day VFR approaches</i>" is a typo and should state "<i>day IFR approaches</i>". If the intent was to state "<i>day IFR approaches</i>", then it is consistent with the Applicant's submissions (and the submissions of all parties to the Examination). See the Applicant's response to 3CAR2.</p> <p>It is agreed that any IMC or night operations within the distance specified in the new AMC would require an AltMoc. Day VMC access would remain unchanged.</p> |
| 3DCO1 | CAA DIO The applicant | <p>Requirement 3 – Aviation Safety</p> <p><u>To the CAA and DIO</u></p> <p>a) In response to Action Point 26 [REP4-061] the applicant has provided a note as to the applicability of the Air Navigation Order 2016 to the application site, sited as it</p> | <p>a) We do not consider that Articles 222 and 223 of the ANO are intended to apply to offshore installations outside territorial waters.</p> <p>b) We have not been approached by the applicant but believe that an express provision in the DDCO should be applied as this provides for (i) potential mitigation to prevent a collision</p> | <p>a) The Applicant notes the CAA's position.</p> <p>b) The Applicant provided wording in the version of the draft DCO submitted at Deadline 5A (REP5a-002 and REP5a-003) which seeks to apply Article 223 of the 2016 Order as an express provision to the authorised development to ensure that this</p> |

| ID | ExQ3 question to | Question | CAA's response | Applicant response |
|----|------------------|---|---|--|
| | | <p>is outside territorial waters. The CAA and DIO are asked for their views as to the geographical extent of relevant provisions (articles 222 and 223) of the Air Navigation Order 2016.</p> <p>As the parties will be aware, s120 of the PA2008 allows for a DCO to include provision applying and/ or modifying a statutory provision which relates to any matter for which provision may be made in the DCO.</p> <p><u>To the CAA, DIO and the applicant</u></p> <p>b) If either the CAA or DIO takes the view that the geographical extent of the Air Navigation Order does not extend to the application site, should it be applied by express provision in the dDCO? The applicant is asked to liaise with the CAA and DIO in this regard.</p> <p>c) If the answer to (b) is yes, could the applicant consider whether, in</p> | <p>between an aircraft and a turbine and (ii) compliance with the international convention on civil aviation.</p> | <p>mitigation is secured (Article 17 (Modification of the 2016 Order)).</p> <p>The Applicant would suggest that Parliament may wish to consider if the 2016 Order requires to be amended so that it should apply to installations outside territorial waters if it is considered required for compliance with international conventions. While s. 120 of the Planning Act 2008 allows for provisions to be included modifying statutory provisions, there is no mechanism available for other offshore consents for projects not consented under the 2008 Act (i.e. offshore wind projects under 100MW which are not nationally significant infrastructure projects and require consent under Section 36 of the Electricity Act 1989).</p> |

| ID | ExQ3 question to | Question | CAA's response | Applicant response |
|----|------------------|---|----------------|--------------------|
| | | <p>addition to the current requirement 3 in Schedule 2, an additional article may be required to expressly apply relevant provisions of the Air Navigation Order (with modifications if necessary) to the dDCO.</p> <p>The applicant may find precedent provisions, for example article 22 of the Norfolk Boreas Offshore Wind Farm Order 2021, of use in drafting.</p> | | |

2.5 The Crown Estate (REP5a-073, REP5a-074 and REP5a-075)

2.5.1 Response to ExQ3 (a) and (b)- REP5a-073 and REP5a-074

Table 2.13 The Applicant's response to the Crown Estate's ExQ3 response (a) and (b)

| ID | ExQ3 question to | Question | Crown Estate's response | Applicant response |
|-------|-------------------|---|--|------------------------------------|
| 3GEN1 | The Applicant TCE | <p>In its response to ExQ2GEN1 the applicant explains the current situation as regards the takeover of the proposed development by Copenhagen Infrastructure Partners fifth flagship fund (CI V), indicating that CI V will assume all funding obligations. Table 2.1 of the National Policy Statements Accordance Report [REP3-010] indicates that the Round 4 leasing process from TCE evaluated the financial capability of bidders.</p> <p>Could the applicant and TCE comment further in relation to the financial arrangements in light of the potential acquisition of the undertaker by CI V and, in the case of TCE, what, if any,</p> | <p>The Crown Estate ("TCE") can confirm that during the Round 4 leasing process the financial capability of bidders was assessed along with other financial, technical, and legal qualifying criteria.</p> <p>The Agreement for Lease (the "AfL") between TCE and Morecambe Offshore Wind Farm Limited (the "Applicant") dated 17th January 2023 includes provisions which allow for change of control – the partial or full change in ownership of the windfarm project. Depending on the specifics of the change of control proposed, this can require consent to be granted by TCE, with TCE undertaking a suite of due diligence checks, including an assessment of the continuing financial capability of the proposed new ownership structure.</p> <p>As these change of control provisions are contained within the AfL, they do not result in any change to the AfL contract – all terms and conditions continue to apply to TCE and the counterparty "Morecambe</p> | The Applicant notes this response. |

| ID | ExQ3 question to | Question | Crown Estate's response | Applicant response |
|----------|-------------------|---|---|------------------------------------|
| | | arrangements are affected within the AfL? | Offshore Wind Farm Limited" under the new ownership structure | |
| 3GEN2(c) | The Applicant TCE | part c) do the terms of the AfL contain any provisions or conditions such as requiring a minimum generating capacity to be delivered as part of the proposed development and, if so, what is this in megawatts? | The Crown Estate ("TCE") can confirm that The Agreement for Lease (the "AfL") between TCE and Morecambe Offshore Wind Farm limited (the "Applicant") dated 17th January 2023 does contain provisions and conditions related to a minimum generating capacity to be delivered as part of the proposed development. The specific details of these conditions are of a commercial and confidential nature between TCE and the Applicant. | The Applicant notes this response. |

2.5.2 Written Representation (REP5a-075)

Table 2.14 The Applicant's response to The Crown Estate's Written Representation

| ID | Crown Estate's comment | Applicant response |
|--------------|---|---|
| REP5a-075-01 | <p>This written representation is submitted on behalf of The Crown Estate ("TCE") in connection with the application by Morecambe Offshore Wind Farm Limited (the "Applicant") for a development consent order (DCO) for the Morecambe Offshore Wind Farm (the "Project").</p> <p>2. Bodorgan Marine Limited ("BML") made several submissions to the Morgan Offshore Wind Farm ("Morgan") Examination as regards the terms of TCE's leasing arrangements in connection with the Project and/or for the co-location of aquaculture projects with the same. TCE</p> | The Applicant notes and welcomes this response from The Crown Estate (TCE). |

| ID | Crown Estate's comment | Applicant response |
|----|---|--------------------|
| | <p>submitted an additional comment to the Morgan examination [EN010136 REP6-102] to provide clarification on a point of law in connection with the same.</p> <p>3. BML has similarly requested that TCE consider allowing for underletting of the Applicant's Lease to enable it to engage in commercial aquaculture. The Examining Authority has requested TCE to provide confirmation of whether the previous clarification in the Morgan Examination (referenced in this examination in applicant's response to ExQ2CF2 and Appendix [REP5-070]) also applies to the Applicant. (ExQ3 Question 3CF1).</p> <p>4. TCE is submitting this response to confirm that this does similarly apply to the Applicant, with this clarification repeated below for completeness.</p> <p>5. An Agreement for Lease was entered into on 17 January 2023 between TCE (1) and the Applicant (2) (the "Agreement for Lease"). The Agreement for Lease provides that, if and when a lease (the "Lease") is entered into pursuant to that Agreement for Lease, TCE will grant the Applicant rights for the installation of a wind farm (with associated on-going rights) pursuant to section 84 of the Energy Act 2004. The wind farm will be located outside UK territorial waters in the UK Renewable Energy Zone ("REZ") (as defined in that same provision). Accordingly, the rights to which the Lease relates are limited to those rights exercisable by the United Kingdom under international law¹ that are incorporated into domestic law by Section 84 of the Energy Act 2004. Those are the rights to exploit the REZ for the production of energy from water or winds; exploring the</p> | |

| ID | Crown Estate's comment | Applicant response |
|----|--|--------------------|
| | <p>REZ in that connection; or for other purposes connected with such exploitation. These rights are vested in the Monarch in right of the Crown and managed by TCE.</p> <p>6. BML has requested that TCE consider allowing for underletting out of the Lease to enable it to engage in commercial aquaculture. As set out above, the Lease will only grant rights pursuant to Section 84 of the Energy Act 2004 and, as such, underletting for BML's intended purposes is not possible pursuant to the Lease. The Section 84 rights do not extend to the rights sought by BML which do not relate to (nor are they in connection with) the exploitation of the REZ to produce energy from water or winds (or related exploration).</p> | |